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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

-----  
**BLACK LOVE RESISTS IN THE RUST, et al.,  
individually and on behalf of a class of  
all others similarly situated,**

Plaintiffs,

-vs-

1:18-cv-00719-CCR

**CITY OF BUFFALO, N.Y., et al.,**

Defendants.  
-----

**ORAL EXAMINATION OF PHILIP SERAFINI**

**APPEARING REMOTELY FROM**

**ERIE COUNTY, NEW YORK**

Monday, December 27, 2021

9:03 a.m. - 5:15 p.m.

pursuant to notice

**PAGES 324 & 325 DESIGNATED CONFIDENTIAL**

REPORTED BY:

Carrie A. Fisher, Notary Public

APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

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DEPAOLO CROSBY REPORTING SERVICES, INC.

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R E M O T E   A P P E A R A N C E S

APPEARING FOR THE PLAINTIFFS:

**CENTER FOR CONSTITUTIONAL RIGHTS**  
**BY: A. CHINYERE EZIE, ESQ.**  
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New York, New York 10012  
(212) 614-6464

APPEARING FOR THE DEFENDANTS:

**CITY OF BUFFALO LAW DEPARTMENT**  
**BY: ROBERT E. QUINN,**  
**ASSISTANT CORPORATION COUNSEL**  
1100 City Hall  
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Buffalo, New York 14202  
(716) 851-4326

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**REPORTED REMOTELY FROM ERIE COUNTY, NEW YORK**

1 THE REPORTER: Good morning. My name is  
2 Carrie Fisher. I am the stenographic court  
3 reporter. I am not physically present in the  
4 deposition room and I will be reporting this  
5 deposition remotely.  
6

7 Will the attorneys participating in this  
8 deposition acknowledge that, in lieu of an  
9 oath administered in person, I will administer  
10 the oath remotely and further consent to waive  
11 any objections to this manner of reporting.

12 Please indicate your agreement by  
13 stating your name, who you represent and your  
14 agreement on the record, starting with the  
15 noticing attorney.

16 MS. EZIE: Good morning. Chinyere Ezie,  
17 attorney for the plaintiffs for Center for  
18 Constitutional Rights and, yes, I so  
19 acknowledge.

20 MR. QUINN: Robert Quinn on behalf of  
21 the defendants, and we do agree.  
22  
23

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1                    P H I L I P     S E R A F I N I ,  
2                    68 Court Street, Buffalo, New York, having been  
3                    first duly sworn, was examined and testified as  
4                    follows:

5  
6                    EXAMINATION BY MS. EZIE:

7                    Q. So good morning, Mr. Serafini. My name is  
8                    Chinyere Ezie. I am an attorney for Center  
9                    for Constitutional Rights. I represent the  
10                    plaintiffs in this case. We're here to  
11                    conduct your deposition.

12                    Do you understand you're testifying  
13                    under oath here today?

14                    A. Yes.

15                    Q. Okay. And is there any reason you are not  
16                    able to give complete, honest answers to my  
17                    questions today?

18                    A. No.

19                    Q. Okay. Have you ever been deposed before?

20                    A. No.

21                    Q. Have you ever been part of a lawsuit prior to  
22                    this?

23                    A. Yes.

PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Q. What were the circumstances of those lawsuits?

2 A. It was a long time ago when I was a young  
3 officer. It never went to court, never -- I  
4 never testified about it. It was settled.

5 Q. It was a matter related to your time as a  
6 police officer?

7 A. Yes.

8 Q. Could you describe the allegation in the  
9 lawsuit?

10 A. I am sorry?

11 Q. Could you describe the lawsuit's allegations?

12 A. We made an arrest and the person claimed that  
13 it was unlawful.

14 Q. Okay. And what was the resolution of that  
15 case?

16 A. It was -- I don't know if it was settled out  
17 of court, but I never heard another thing. I  
18 am assuming -- I am not going to assume  
19 anything, but it was just never called. It  
20 was dissolved. Never heard anything else  
21 about it.

22 Q. Okay. And approximately what year was that  
23 lawsuit?

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1 A. I believe it was 1989, around there.

2 Q. Okay. Now, any other lawsuits that you have  
3 been a part of or is that the last one you  
4 recall?

5 A. No, that's the only one.

6 Q. Okay. And you are a former member of the  
7 Buffalo Police Department, correct?

8 A. Yes.

9 Q. If I refer to the Buffalo Police Department as  
10 the BPD today, will you understand what I  
11 mean?

12 A. Yes.

13 Q. Okay. So, Mr. Serafini, before we start, I'd  
14 like to go over a few ground rules for today's  
15 deposition.

16 The first is that, and I believe this is  
17 true, Ms. Fisher, is this deposition being  
18 recorded and, if not, might we begin  
19 recording?

20 THE REPORTER: It is not being recorded,  
21 but I can start it.

22 (Recording begins.)

23 Q. So this deposition is being recorded and the

PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 testimony you provide today could be used in  
2 this case and at trial. Do you understand  
3 that?

4 A. Yes.

5 Q. Okay. Now, what device are you using to  
6 connect to this deposition today via Zoom?

7 MR. QUINN: A laptop.

8 A. It's a laptop.

9 Q. Okay. Are there any other programs other than  
10 Zoom that are open on the device right now?

11 A. Not that I know of.

12 Q. Okay. Will you agree not to look at anything  
13 on your laptop besides Zoom today while we're  
14 in the deposition?

15 A. Yes.

16 Q. Okay. I noticed that you glanced to your  
17 left. Is there someone else in the room with  
18 you?

19 A. Just the lawyer. My glasses are on the left  
20 here.

21 Q. Okay. So, Mr. Quinn and Mr. Serafini, you're  
22 in the same room?

23 A. Yes.

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—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 Q. Okay. Optical illusion. It looked like you  
2 were in two entirely different places.

3 Okay. And if anyone else enters the  
4 room at any point while you're on the record,  
5 will you all tell me?

6 A. Yes.

7 Q. And if you start having connection issues such  
8 as audio or video freeze, we will pause the  
9 deposition until we can reestablish  
10 connection, okay?

11 A. Okay.

12 Q. Great. I am going to be asking you a number  
13 of questions today. Please wait until I  
14 complete my questions before you answer, just  
15 so we can keep the court reporter and the  
16 transcript clear; is that okay?

17 A. Yes.

18 Q. Okay. You're doing a great job of this so  
19 far, but can you please continue to give  
20 verbal answers when I ask questions just so we  
21 can make a clear record instead of sort of  
22 nodding or responding in a nonverbal manner?

23 A. Yes, I understand.

—DEPAOLO CROSBY REPORTING SERVICES, INC.—

1 Q. Okay. And if you have any questions about the  
2 deposition or documents that you are being  
3 shown, you have to direct them to me, not your  
4 counsel under the local rules for the Western  
5 District of New York. Do you understand that?

6 A. Yes.

7 Q. Okay. Your attorney, Mr. Quinn, he may not  
8 tell you -- he may object to questions that I  
9 ask, but he may not direct you not to respond  
10 to those questions unless they implicate  
11 privilege. Do you understand that?

12 A. Yes.

13 Q. And so even if your counsel objects, you still  
14 must provide an answer to my question unless  
15 the issue and objection is about privilege,  
16 okay?

17 A. Yes.

18 Q. Okay. Now, if at any point you need a break  
19 today because I do anticipate we will be going  
20 the full seven hours allotted to us, and that  
21 is excluding breaks, if you do need a break,  
22 just let me know. My only request is that we  
23 not take a break while a question is pending.

—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1           So in essence if I am asking a question, you  
2           know, please answer it and then if we go -- if  
3           you'd like to go on break, we can do that  
4           immediately after, okay?

5           A. Yes.

6           Q. Great. Now, did you review any documents or  
7           materials to prepare for today's deposition?

8           A. No.

9           Q. Okay. Did you review the complaint or any  
10          documents whatsoever?

11          A. No.

12          Q. Okay. Did you meet with your attorney,  
13          Mr. Quinn, to prepare for the deposition?

14          A. We talked this morning.

15          Q. No time prior to that?

16          A. I was here about five after eight.

17          Q. Okay. And so in preparing for today's  
18          deposition, you spoke to Mr. Quinn today.  
19          Have you discussed this lawsuit with anyone  
20          other than your attorney?

21          A. No.

22          Q. All righty. Mr. Serafini, so are you  
23          currently a resident of Buffalo, New York?

—DEPAOLO CROSBY REPORTING SERVICES, INC.—

PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 A. No.

2 Q. Have you ever been a Buffalo, New York,  
3 resident?

4 A. Yes.

5 Q. When is the last time you lived in Buffalo  
6 city limits as opposed to say a suburb like  
7 West Seneca?

8 A. 1993 I believe.

9 Q. Okay. So during most of your time on the BPD  
10 you lived outside the city of Buffalo?

11 MR. QUINN: Form.

12 A. Yes.

13 Q. Okay. And you're no longer employed at the  
14 BPD, correct?

15 A. Correct.

16 Q. Are you -- when did you join the BPD and when  
17 did you retire from the BPD?

18 A. I joined on August 27th, 1986, and I retired  
19 December 30th, 2018.

20 Q. Congratulations for your service.

21 Why did you decide to join the BPD?

22 A. I wanted to help people.

23 Q. Am I correct that there are -- there is a long

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 history of BPD service in your family?

2 A. No, I was the first.

3 Q. Are there others who followed your footsteps?

4 A. My son. He is a police officer for 12 years  
5 with Buffalo.

6 Q. What's your son's name?

7 A. Philip.

8 Q. Philip Serafini Jr.?

9 A. Yes.

10 Q. Got it. Do you have any other relatives who  
11 have served on the BPD in recent years?

12 A. Yes, my nephew and my wife.

13 Q. What's your nephew's name?

14 A. His name is Matthew Serafini.

15 Q. Okay. And your wife also served?

16 A. Yes.

17 Q. What was your -- what is your wife's name?

18 A. Margaret Serafini.

19 Q. Margaret Serafini, okay.

20 Have you ever worked in the same  
21 district or been involved in the supervision  
22 of those relatives, or are you all dispersed  
23 across the BPD?

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 A. We worked in the same district at one time,  
2 yes.

3 Q. What district was that?

4 A. A District.

5 Q. Okay. A District covers South Buffalo?

6 A. Yes.

7 Q. What would you describe as the geographic  
8 range of the other districts? I believe there  
9 is five in total, A through E?

10 MR. QUINN: Form.

11 A. You want me to describe each district and what  
12 part of the city they patrol?

13 Q. Yes, please, if you might.

14 A. B District is mostly downtown. C District is  
15 the east side. D District is North Buffalo  
16 and E District is -- we used to call it Cold  
17 Springs but it's kind of the east side too, E  
18 District.

19 Q. Got it. That's the E district, okay, and D  
20 District is North Buffalo, okay.

21 And so you and your relatives have all  
22 served at times in the A District?

23 A. Yes.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Q. Got it. Now, Mr. Serafini, since leaving the  
2 BPD -- sorry, prior to joining the BPD had you  
3 had any other job in law enforcement?

4 A. No.

5 Q. And since leaving the BPD, have you had any  
6 other jobs in law enforcement?

7 A. No.

8 Q. Are you enjoying a true retirement, or have  
9 you found employment somewhere besides the BPD  
10 since 2018?

11 A. I have a little business. I have a picture  
12 framing business.

13 Q. That sounds nice.

14 Now, what's the highest level of  
15 education that you have completed?

16 A. Twelfth grade.

17 Q. Where did you attend high school?

18 A. I attended Bishop Timon for a year and a half,  
19 and then the remaining two and a half years I  
20 graduated from Southside High School.

21 Q. Okay. And are there any other courses or  
22 schooling you have received apart from the  
23 police academy?

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 A. No.

2 Q. Okay. Now, I'd like to just briefly go over  
3 your employment history within the BPD. You  
4 stated earlier that you began -- you were  
5 commissioned in August of 1986. What was the  
6 first position you held within the BPD?

7 A. Police officer.

8 Q. And was that in A District or a different  
9 district at that time?

10 A. No, it was in Precinct 10 predominantly.

11 Q. Okay. What did Precinct 10 cover?

12 A. The west side, lower west side.

13 Q. Okay. What district would that be considered  
14 today?

15 A. That's B. B, as in boy, District.

16 Q. Okay. And how long were you a police officer?

17 A. Ten years.

18 Q. Okay. What's the next position that you held  
19 within the BPD?

20 A. Lieutenant.

21 Q. And that was approximately beginning in 1996?

22 A. Yes.

23 Q. And where did you hold the position of

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 lieutenant, what district or precinct?

2 A. I was in Precinct 11 for a year, and then I  
3 was in A District for three years.

4 Q. Okay. What was the next position that you  
5 held within the BPD?

6 A. I was promoted to captain.

7 Q. What year was that approximately?

8 A. 2000.

9 Q. And where were you stationed as captain  
10 beginning in 2000?

11 A. I was in headquarters for a year.

12 Q. Okay.

13 A. Approximately one year.

14 Q. And were you transferred to another location  
15 following headquarters?

16 A. Yes, I was transferred to A District.

17 Q. Okay. How long did you remain captain in A  
18 District?

19 A. I believe it was around five years before I  
20 was transferred.

21 Q. And where were you transferred to at that  
22 time?

23 A. I was transferred to the Mobile Response Unit.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Q. What is the Mobile Response Unit?

2 A. What was it; is that what you asked?

3 Q. Yes.

4 A. We patrolled certain areas of the city and we  
5 conducted traffic safety checkpoints, and we  
6 assisted on search warrants.

7 Q. Does the Mobile Response Unit -- is it fair to  
8 describe it as a predecessor unit to the  
9 Strike Force?

10 MR. QUINN: Form.

11 A. I don't think so. I wouldn't say that.

12 Q. Okay. Did they perform similar duties in the  
13 city of Buffalo?

14 A. Similar duties to the Strike Force; is that  
15 what you're asking?

16 Q. Yes.

17 A. As far as the traffic safety checkpoints, yes.

18 Q. And so how long were you captain of the Mobile  
19 Response Unit?

20 A. I believing it was two years, two or three  
21 years.

22 Q. Okay. And tell me about the Mobile Response  
23 Unit's traffic safety checkpoints. Where were

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1           they operated?

2                   MR. QUINN:   Form.

3           A. They were operated in different parts of the  
4           city.

5           Q. Did any area predominate?

6           A. They had -- they had certain areas they called  
7           them beats. It was actually throughout the  
8           city. We didn't keep -- I didn't keep track  
9           of where exactly they were each day but this  
10          came down from my superiors, where they were  
11          going to be conducted, where they would take  
12          place.

13          Q. Which superiors are you referencing?

14          A. Deputy Commissioner Danny Derenda.

15          Q. Okay. So Danny -- Daniel Derenda would  
16          instruct you on where to operate the  
17          checkpoints?

18          A. Yes.

19          Q. And the Mobile Response Unit checkpoints, did  
20          those take place on approximately a daily  
21          basis?

22          A. Yes.

23          Q. Did you -- you mentioned that you didn't

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 necessarily keep track of locations at that  
2 time; is that accurate?

3 A. That's correct.

4 Q. Was there any paperwork you generated  
5 regarding the Mobile Response Unit  
6 checkpoints?

7 A. I don't believe so. I don't -- not myself  
8 personally.

9 Q. Okay. And was there any log that you or  
10 officers to your knowledge maintained of the  
11 locations of those checkpoints?

12 A. I don't believe we kept a log. As I said, an  
13 email would come down from the deputy  
14 commissioner on what area to be in on a  
15 certain day and that's where they would go.

16 Q. Got it. Did you have any understanding of  
17 what drove the location selections at that  
18 time?

19 A. No.

20 Q. Okay. Now, how many officers were part of the  
21 Mobile Response Unit at that time?

22 A. I don't know exactly but if I had to guess,  
23 maybe 20 officers.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Q. How many -- would you have had in that case  
2 about 20 direct reports, or does that number  
3 include your superiors?

4 A. Each car crew would submit a report and there  
5 were two officers to a car crew, but there  
6 weren't 20 officers working every day. That  
7 was two shifts, so it was ten on each shift  
8 approximately.

9 Q. Got it.

10 MR. QUINN: Object to the form of the  
11 last question.

12 Q. So about how many officers reported to you  
13 during your time as captain there?

14 A. Twenty officers approximately.

15 Q. Okay. And who did you report to besides you  
16 mentioned Daniel Derenda?

17 A. My direct supervisor in the Mobile Response  
18 Unit was Inspector Mike Gaspar.

19 MR. QUINN: Can you spell that last  
20 name, Phil?

21 THE WITNESS: G-A-S-P-A-R.

22 Q. And what was his rank? Was he a chief?

23 A. He was an inspector which is the rank above

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 captain.

2 Q. Okay. Was there a chief over that unit as  
3 well?

4 A. No.

5 Q. Okay.

6 A. There may have been a chief, but he took his  
7 orders from the deputy commissioner.

8 Q. Got it. When you became captain of the Mobile  
9 Response Unit, did you consider that a  
10 promotion?

11 A. No.

12 Q. Okay. Why did you seek out that position as  
13 Mobile Response Unit captain?

14 MR. QUINN: Object to form.

15 A. I was working an undesirable shift in A  
16 District, and the shift at the Mobile Response  
17 Unit was an afternoon shift and that was more  
18 conducive to my other side job that I had.

19 Q. What side job did you have at that time?

20 A. I used to help my brother doing some  
21 remodeling.

22 Q. Got it. And so what was the next position you  
23 held after Mobile Response Unit captain?

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 A. My job was eliminated, and then I transferred  
2 back to A District.

3 Q. When you say that your job was eliminated, was  
4 the Mobile Response Unit eliminated?

5 A. Not at that time. Just my job was eliminated,  
6 the captain's position.

7 Q. Okay. Did you have an understanding as to why  
8 that position was eliminated?

9 A. I just -- I believe it was budgetary.

10 Q. Okay. And so what was the next role that you  
11 had at that time?

12 A. The next role I had after the MRU, I stated I  
13 went to A District.

14 Q. Okay. And as captain of the A District, how  
15 would you describe your role at that time?

16 MR. QUINN: Form.

17 A. I was the Patrol captain, supervised the  
18 lieutenants and the officers on patrol.

19 Q. How many -- how many officers reported to you?

20 A. If I had to guess, approximately 75.

21 Q. As captain of A District, did you and your  
22 officers have to respond to traffic safety  
23 incidents?

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 A. So you --

2 MR. QUINN: Form.

3 Q. I am sorry. There was a verbal response. I  
4 didn't hear it.

5 A. Traffic -- you mean accidents, traffic  
6 accidents?

7 Q. Yes.

8 A. Yes. Yes, I did.

9 Q. Did you respond to DUIs?

10 A. Yes, I did.

11 Q. Okay. Did you respond to incidents of violent  
12 crime?

13 A. Yes.

14 Q. Okay. Were there people in the A District who  
15 trafficked drugs to your knowledge when you  
16 were captain?

17 A. Yes.

18 Q. Are there people in the A District who  
19 unlawfully possess guns?

20 A. Yes.

21 Q. Are there shootings in the A District?

22 A. Yes.

23 Q. Okay. Did you see gang activity in the A

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1 District?

2 A. Yes.

3 Q. Okay. Now, what was the next role that you  
4 held after A District captain?

5 A. I transferred to the Housing Unit. I was the  
6 Housing Unit captain.

7 Q. That was a transfer that you made effective  
8 June 2015?

9 A. Approximately, yes.

10 Q. Okay. At that point, did you accept a second  
11 position as Strike Force captain or did that  
12 happen at a later date?

13 A. No, I was never the Strike Force captain.

14 Q. You were never the Strike Force captain?

15 A. No.

16 Q. There was never a period where you  
17 simultaneously held the designations of Strike  
18 Force and Housing Unit captain?

19 A. Oh, I was the Housing captain. If I could  
20 elaborate, we were housed in the same building  
21 as the Strike Force. I was asked to perform  
22 some administrative duties for the Strike  
23 Force occasionally.

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1 Q. Okay. Was there a different individual who  
2 served as Strike Force captain?

3 A. No.

4 Q. Did the Strike Force have a captain?

5 A. No, they did not.

6 Q. So during -- so between 2015 when you joined  
7 the Housing Unit and 2018 when you left the  
8 force, there was never a captain of the Strike  
9 Force?

10 A. No.

11 Q. Okay. Is it -- is that a typical arrangement  
12 for a unit within the BPD to not have a  
13 captain as part of the structure?

14 MR. QUINN: Form.

15 A. It depends. Some units within the Buffalo  
16 Police Department do not have captains.

17 Q. Okay. And so you provided some administrative  
18 assistance as you described it, but you never  
19 assumed a dual captain role?

20 A. That's correct.

21 Q. Okay. Well, what is the Housing Unit?

22 A. The Housing Unit patrols all the housing --  
23 the Buffalo Municipal Housing units in the

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1 city of Buffalo and they respond to calls of  
2 service within and around those housing units.

3 Q. Do you know approximately when the Housing  
4 Unit was created?

5 A. It was about probably four years before I  
6 arrived there so I arrived in 2015,  
7 approximately 2000.

8 Q. Got it. How did you become the Housing Unit  
9 captain?

10 A. I put a transfer in and I received it based on  
11 seniority.

12 Q. What interested you in working for that unit?

13 MR. QUINN: Form.

14 A. It was a better schedule and there was some  
15 overtime. The Housing captain would receive a  
16 little bit of overtime.

17 Q. Why was that attractive at the time?

18 A. Well, I was planning on retiring in four years  
19 or so and I wanted an opportunity to build up  
20 my pension a little bit.

21 Q. Okay. What was the basis of overtime for the  
22 Housing Unit captain role?

23 A. My overtime, I would usually come in one day a

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1 week and work overtime, you know, sometimes  
2 less, sometimes more.

3 Q. Was the overtime kind of prescheduled?

4 A. Sometimes it was.

5 Q. Which is to say how did you understand when  
6 you were seeking out the transfer that that  
7 would be an opportunity available?

8 A. My direct supervisor was the chief, and he  
9 would ask me what day was convenient for me to  
10 come in.

11 Q. Okay. So there was --

12 MR. QUINN: Just make sure you let her  
13 finish a question before you answer it.

14 THE WITNESS: Sorry.

15 MR. QUINN: You're fine.

16 Q. So there was typically at least one day of  
17 scheduled overtime a week; is that correct?

18 A. Usually, yes.

19 Q. And how would that overtime shift be used?

20 A. When I was -- when I was not -- I would work  
21 normally four days a week. When I was not  
22 working, there wasn't a captain in Housing so  
23 work would pile up those three days or four

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1 days that I was off. So when I would come in  
2 on my -- for overtime, I would address those  
3 issues that came up while I was off and not on  
4 duty.

5 Q. When you were not on duty, would the Housing  
6 Unit officers continue their functions --

7 A. Yes.

8 Q. -- without you?

9 A. Yes.

10 Q. So how was the structure of the unit in the  
11 years that you were there with respect to  
12 officer kind of ranks?

13 A. There were police officers on two shifts, and  
14 there were two lieutenants.

15 Q. And then yourself as captain?

16 A. That's correct.

17 Q. Was there anyone over you in the chief or  
18 inspector role?

19 A. There was a chief, but he was not housed in  
20 the same building as we were.

21 Q. Okay. What was the name -- and I understand  
22 maybe the person holding that role changed but  
23 who served as chief during your time as

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1 captain?

2 A. When I arrived there in 2015, it was Chief  
3 Kevin Brinkworth. And about a year later, it  
4 was Chief Aaron Young.

5 Q. Okay. And you mentioned that they were housed  
6 in a different physical building than the  
7 Housing Unit?

8 A. That's correct.

9 Q. Why is that important to mention?

10 MR. QUINN: Form.

11 A. The Housing Unit wasn't their only  
12 responsibility. They were also what is called  
13 the Schools chief. They were chief of all the  
14 Buffalo Public Schools in addition to the  
15 Housing Unit.

16 Q. Got it. How would you describe -- let's see,  
17 so sorry. Strike that.

18 So during your time as Housing Unit  
19 captain, your only -- the only person you  
20 reported to was -- directly was either Chief  
21 Brinkworth or Chief Young?

22 MR. QUINN: Form.

23 A. That's correct.



1 Q. Okay. And how many details, officer details  
2 were there or platoons if that's a term that  
3 you used?

4 A. There were two platoons.

5 Q. Was that based on shifts or based on  
6 lieutenants or something else?

7 A. One lieutenant was in charge of one platoon,  
8 and the other lieutenant was in charge of the  
9 other platoon.

10 Q. Okay. I would like to introduce as Serafini  
11 Exhibit 1 a consolidated exhibit compromised  
12 of Strike Force and Housing Unit rosters  
13 produced by defendants as COB319433,  
14 COB319434, COB319435, and COB319520.

15 Ms. Fisher, just a process point, can I  
16 initiate the screen share?

17 THE REPORTER: Yes, you're able to do  
18 it.

19 Q. Mr. Serafini, are you able to see my screen?

20 A. I see the screen, yes.

21 Q. Okay. I am just going to try to make this  
22 easier to read. Do you see this roster of  
23 officers?

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1 A. Yes.

2 Q. Do you see the date that appears at the bottom  
3 of the roster; it says updated July 6th, 2017?

4 A. Yes.

5 Q. Does this appear to be a fairly accurate  
6 roster of who was in the Housing Unit as of  
7 July 2017?

8 A. Yes, it is.

9 Q. And so lieutenant -- is this image, is this  
10 graphic depicting the two platoons you  
11 referenced earlier?

12 A. That's correct, yes.

13 Q. Okay. And so one platoon was operated by a  
14 Lieutenant Russo and the other was operated by  
15 a Lieutenant Lynch?

16 A. Yes.

17 Q. Did that remain fairly constant during your  
18 time as Housing Unit captain, or did the  
19 officer who served as lieutenant ever change?

20 A. The lieutenants remained the same from 2017 on  
21 until I left there. Some of the officers had  
22 transferred out, a couple of them. I don't  
23 know exactly how many. But predominantly

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1           remained the same.

2           Q. Got it. Now, is this a roster that you have  
3           seen before? Did you have any involvement in  
4           preparing it?

5           A. Yes, it's a roster I have seen before.

6           Q. Okay.

7           A. And as far as preparing it, either I -- I  
8           didn't prepare it, usually our report  
9           technician did which is like a secretary.

10          Q. Bot it. Do you see that it also contains a  
11          roster of Strike Force officers?

12          A. Yes.

13          Q. Do you have an understanding of why the  
14          Housing Unit and Strike Force rosters would be  
15          included in the same document?

16                   MR. QUINN: Form.

17          A. A lot of times these documents were used for  
18          call-ins for overtime and for payroll and,  
19          again, both the Housing and the Strike Force  
20          were both in the same building, all the  
21          paperwork was done by the same RT so it makes  
22          it easier to fill out the sheet.

23          Q. But you would not describe them as having

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1 shared leadership as far as captain and chief  
2 are concerned?

3 A. They had --

4 MR. QUINN: Form.

5 A. They had the same chief. The chief was in  
6 charge of both units. But as far as the  
7 lieutenants, lieutenants were separate,  
8 Housing lieutenants and Strike Force  
9 lieutenants.

10 Q. Okay. Is this to your recollection an  
11 accurate description of who served as Strike  
12 Force lieutenant as of July 2017?

13 A. Yes.

14 Q. Okay. I am going to advance the page and show  
15 you we have another version of this roster.  
16 This one indicates it was updated as of May  
17 9th, 2018. Is this a document, a form you  
18 recognize?

19 A. Yes.

20 Q. And is this an accurate roster of the Housing  
21 Unit's leadership structure as of May 2018?

22 A. Yes.

23 Q. Okay. And I have a similar document for the

1 Strike Force and it depicts I guess four  
2 lieutenants and then some officers. This has  
3 allegedly been updated as of January 22nd,  
4 2018. To your knowledge, is that more or less  
5 an accurate roster of the Strike Force as of  
6 January 2018?

7 A. Yes.

8 MR. QUINN: Just so I am clear, this is  
9 page 6 of an Excel or whatever the document  
10 is?

11 Q. This is a consolidated document. This  
12 particular sheet was produced as COB319435. I  
13 will make sure that the court reporter has  
14 received our upload of exhibits and I will  
15 make sure that this is marked as Exhibit 1,  
16 okay.

17 And, sorry, I meant to lead with this  
18 one, Mr. Serafini. This is a roster that  
19 bears the date of June 8th, 2016. It depicts  
20 Lieutenant Russo and Lieutenant Strobele as  
21 the lieutenants of the Housing Unit. Does  
22 that strike you as accurate as of that date?

23 A. Yes.

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1 Q. And same question for the Strike Force, would  
2 that be a more or less accurate roster as of  
3 that time?

4 A. Yes.

5 Q. Now, Lieutenant Strobele -- am I correct that  
6 there were two Officer Strobeles that you  
7 worked with?

8 A. There was a Lieutenant Strobele and there was  
9 Officer Strobele.

10 Q. Okay. So Lieutenant Strobele, what was his  
11 first name?

12 A. Brian.

13 Q. Brian, okay. Thank you. I will stop my  
14 screen share.

15 So, Mr. Serafini, am I correct that the  
16 Housing Unit was established pursuant to a  
17 contract with the Buffalo Municipal Housing  
18 Authority?

19 A. Yes.

20 Q. What services did that contract provide for,  
21 if you recall?

22 MR. QUINN: Form.

23 A. We were to patrol and respond to incidents in

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1 the Buffalo -- the City of Buffalo's municipal  
2 housing properties.

3 Q. If I call the Buffalo Municipal Housing  
4 properties BMHA properties, will you  
5 understand what I am referring to?

6 A. Yes.

7 Q. Okay. And where was the mission of the  
8 Housing Unit as you understood it? Who gave  
9 you that mandate or how did you come to that  
10 understanding of your role?

11 MR. QUINN: Form.

12 A. I wasn't there at the beginning of it. As I  
13 said, I came in a few years later and just  
14 picked up with what they had done previously  
15 in the past.

16 Q. Was part of your mandate ensuring a zero  
17 tolerance policy towards crime in BMHA  
18 properties?

19 MR. QUINN: Form.

20 A. I don't agree with that, zero tolerance.  
21 That's not true.

22 Q. What part do you not agree with of that  
23 statement?

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1 A. Well when you say zero tolerance, you're  
2 talking about everybody -- I mean, as far  
3 as -- let me restate this. People weren't  
4 arrested for every single violation. There  
5 was some discretion used.

6 Q. Who exercised that discretion, lieutenants or  
7 officers?

8 A. The officers and the lieutenants.

9 Q. Okay. Were you ever told that part of the  
10 Housing Unit's mission was to maintain strict  
11 enforcement of the mayor's zero tolerance  
12 crime policy?

13 A. No.

14 Q. Are you aware that that description of the  
15 Housing Unit is reflected in documents such as  
16 the BPD Manual of Procedures?

17 A. I am not aware of that, no.

18 Q. Am I correct that one of your missions in the  
19 Housing Unit was also to maintain a highly  
20 visible presence in BMHA properties or at  
21 least certain BMHA properties?

22 A. That's correct.

23 MR. QUINN: Form.

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1 Q. And why was that important?

2 A. The Buffalo -- the BMHA wanted more police  
3 presence. When I say patrol, when I say the  
4 officers patrolled the housing properties,  
5 that was for more visibility in an effort to  
6 deter crime.

7 Q. What steps or strategies did the Housing Unit  
8 take to be highly visible?

9 MR. QUINN: Form.

10 A. They were in marked police cars and they drove  
11 through the housing properties, occasionally  
12 stopping, talking to residents and also  
13 attended community meetings within the housing  
14 projects -- housing properties.

15 Q. And is it accurate that within BMHA the  
16 Housing Unit concentrated its activities on a  
17 few main developments?

18 MR. QUINN: Form.

19 A. They were in charge -- or they patrolled all  
20 of the Housing properties. Some Housing  
21 properties demanded more attention, they're  
22 larger than others, some were small so it  
23 varied.

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1 Q. Is it true that Kenfield-Langfield and Shaffer  
2 Village were BMHA properties that received  
3 special details or focus in the past?

4 A. Sometimes.

5 MR. QUINN: Form.

6 Q. I'm sorry. You may answer.

7 A. I said sometimes they did, yes.

8 Q. Okay. Why was that?

9 A. Kenfield-Langfield was the most heavily  
10 populated BMHA property, number one, and a lot  
11 of the crimes, some of the serious crimes that  
12 were committed on the properties were  
13 committed in those two properties.

14 Q. Okay. Kenfield-Langfield, that's a BMHA  
15 residence that's located on the east side of  
16 Buffalo, correct?

17 A. That's correct.

18 Q. And most of Kenfield-Langfield's residences  
19 are -- residents are Black or Latino?

20 A. I don't know the makeup of all the residents.

21 Q. Is it fair to say there is a large population  
22 of Black and Latino residents at that BMHA  
23 property?

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1 MR. QUINN: Form.

2 A. Possibly.

3 Q. Okay. And there were times where the Housing  
4 Unit operated a detail, a fixed detail at the  
5 Langfield property, Kenfield property; is that  
6 right?

7 A. That's correct.

8 MS. EZIE: Okay. I think now is a good  
9 time to just take a five-minute break if  
10 that's okay, so I will see you back on the  
11 record at -- by my watch it's 9:48 so let's be  
12 back in, again, five minutes. Thank you.

13 (A recess was taken.)

14

15 BY MS. EZIE:

16 Q. So, Mr. Serafini, I'd like to introduce as  
17 Plaintiffs' Exhibit 2 a document that's been  
18 Bates stamped COB077551. Sorry, let me locate  
19 it first.

20 Okay. Mr. Serafini, are you able to see  
21 this document?

22 A. Yes.

23 Q. Okay. It is described as a Job Posting

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1 In-House Transfers dated February 23rd [sic],  
2 2013, and do you see that your name is on it?

3 A. Yes.

4 Q. Is this a document that you authored or at  
5 least reviewed?

6 A. Yes.

7 Q. So describe this document for us, please.

8 A. So the Strike Force was being formed and we  
9 anticipated losing some officers, and this was  
10 at -- I was at A District at this time. And  
11 when we lose officers, sometimes we shift  
12 officers from one platoon to another. So if  
13 an officer at A District wanted to move from  
14 one platoon or shift to another, they had to  
15 fill out a P-73 which was a correspondence and  
16 this is notifying them of that. When we did  
17 that, we had to notify them for 30 days.  
18 That's why the dates are on there.

19 Q. Got it, okay. What do you recall about the  
20 creation of the Strike Force?

21 MR. QUINN: Form.

22 A. The only -- I was in A District at the time.  
23 The only thing -- the only way it affected me

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1           there at A District was that we would maybe  
2           lose some officers and that we would have to  
3           adjust the shifts or the schedules of the  
4           existing officers in our district, A District.

5           Q. Okay. So you were not involved -- you had no  
6           involvement in the formation of the permanent  
7           Strike Force?

8           A. No.

9           Q. Did you understand -- did you have any  
10          understanding of the Strike Force's mission at  
11          the time of its formation?

12          A. No.

13          Q. Did you understand the Strike Force to be a  
14          successor to the Mobile Response Unit?

15                       MR. QUINN: Form.

16          A. No.

17          Q. Okay. At the time of the Strike Force's  
18          creation, was there still a BPD Mobile  
19          Response Unit?

20          A. I don't believe there was. After I was  
21          transferred from Mobile Response Unit, a  
22          couple years after that, I believe it was one  
23          or two years after that, the Mobile Response

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1 Unit was dissolved.

2 Q. Did you understand -- do you have any  
3 understanding of why it was dissolved?

4 A. No.

5 Q. Okay. Now, did you have any understanding at  
6 this time or at any subsequent time of the  
7 mission of the Strike Force relative to, say,  
8 the mission of the Housing Unit?

9 MR. QUINN: Form.

10 A. You're asking me if I knew -- when I was at  
11 the Strike Force if I knew what their mission  
12 was?

13 Q. Were you at the Strike Force in your duties?

14 A. Well, I wasn't there. What I meant was when I  
15 was in the building with the Strike Force.

16 Q. Okay. So, yes, be it from 2013 to the time of  
17 your retirement did you ever come to have an  
18 understanding of the Strike Force's mission or  
19 mandate?

20 A. Yes.

21 Q. How would you describe their mission or  
22 mandate?

23 MR. QUINN: Form.

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1 A. Their mission was to enforce vehicle and  
2 traffic laws and the penal law and they did  
3 conduct traffic safety checkpoints and they  
4 also took in guns if they could confiscate  
5 guns and crime, prevent crime.

6 Q. You understood traffic safety to be part of  
7 the Strike Force's mission?

8 A. Yes.

9 Q. What's the basis of that understanding?

10 MR. QUINN: Form.

11 A. They conducted traffic safety checkpoints  
12 almost on a daily basis.

13 Q. Okay. So they conducted daily checkpoints,  
14 almost daily checkpoints during the time that  
15 you were a Housing Unit captain?

16 A. That's correct, yes.

17 Q. Okay. Did you ever hear that the mission of  
18 the Strike Force was to target high crime or  
19 violent crime?

20 MR. QUINN: Form.

21 A. That is somewhat correct, yes.

22 Q. You say "somewhat correct." Tell me what I am  
23 getting -- what I am misunderstanding.

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1 A. There were times that they were positioned in  
2 high crime areas.

3 Q. Okay. But you didn't understand that to be  
4 necessarily part of their mandate?

5 MR. QUINN: Form.

6 A. It wasn't their -- well, it was varied, their  
7 mandate, as I described. It wasn't just one  
8 item.

9 Q. Okay. I'd like to introduce as Serafini  
10 Exhibit 3 a document that we understand to be  
11 the Buffalo Police Department Manual of  
12 Procedures. Are you able to see that?

13 A. Yes, I am.

14 Q. Okay. I am going to try to improve the fit.

15 Okay. Is this a document that you  
16 recognize? I am going to just scroll slowly  
17 so you can kind of see the table of contents.

18 A. This is the table of contents of the police  
19 manual. I am familiar with some of it, yes.

20 Q. Okay.

21 MR. QUINN: Just so I am clear, is this  
22 the entire manual because I don't think we're  
23 looking through the entire thing; but if

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1           you're representing that it is the entire  
2           thing as opposed to just portions, that would  
3           help clarify.

4           Q. Yes, I am representing that it is the entire  
5           manual. I believe this document is, just for  
6           reference, 325 pages but we will not be  
7           reviewing all 325 pages today. I am  
8           representing that it is the police manual.  
9           And it sounds like, Mr. Serafini, you are --  
10          you have reviewed the police manual before and  
11          are familiar with its contents?

12          A. Yes.

13          Q. Okay. I would like to jump to Section 8.5  
14          which from the table of contents which is  
15          under Patrol Services Housing Unit so let's  
16          head over there.

17                    Are you able to see the section that  
18          begins Housing Unit?

19          A. Yes.

20          Q. Okay. So it states -- do you see that it  
21          states that "the Housing Unit will be housed  
22          at the former BMHA Police Station located in  
23          the Perry Complex"?

1 A. Yes.

2 Q. Is that in fact where -- when you were  
3 describing the Housing Unit and Strike Force  
4 having a shared office, was that its shared  
5 office location?

6 A. That's correct.

7 Q. Okay. Do you see that in sentence 2 it says  
8 "the unit will be responsible for all policing  
9 and security issues in the BMHA housing  
10 complexes located throughout the city"?

11 A. Yes, I do.

12 Q. Do you see in that same sentence it says it  
13 will -- the Housing Unit "will work closely  
14 with the BMHA staff, council, outside  
15 agencies, as well as other units in the BPD to  
16 maintain strict enforcement of the mayor's  
17 zero tolerance crime policy"?

18 A. Yes, I see that.

19 Q. Okay. Was that part of your mandate when you  
20 were captain --

21 MR. QUINN: Form.

22 Q. -- maintaining the strict enforcement of the  
23 mayor's zero tolerance crime policy?

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1 A. I see what it says in the policy but what I am  
2 telling you is it was not in practice. It  
3 wasn't practiced.

4 Q. Okay. And do you see below Section 8.6 says  
5 Strike Force Task Force?

6 A. Yes.

7 Q. Okay. And do you see that it says "the  
8 purpose of the Strike Force," which at that  
9 time was a task force, "is to target and  
10 eliminate high crime areas throughout the  
11 city"?

12 A. Yes.

13 Q. And it states that it "will work jointly with  
14 the ECSD." Is that Erie County Sheriff's  
15 Department?

16 A. That's correct, yes.

17 Q. "and the NYSP," okay, is that New York State  
18 Police?

19 A. Yes.

20 Q. Okay. To your knowledge, did the Strike  
21 Force -- during the years it operated, did it  
22 have those cross-departmental relationships  
23 with Erie County and New York State --

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1 A. During the time I --

2 MR. QUINN: Form.

3 A. During the time I was there, yes, we worked --

4 Q. Okay.

5 A. -- with them occasionally.

6 Q. Okay. And when you say during the time you  
7 were there, what are you referring to?

8 A. During the time that I was stationed in the  
9 same building as the Strike Force.

10 Q. Okay. And then it says, "this force is under  
11 the command of the chief of Schools." Is that  
12 accurate?

13 A. Yes.

14 Q. And that it "will target violent crime areas  
15 as well as other crime hotspots throughout the  
16 city." Was that accurate to your knowledge?

17 A. Yes.

18 Q. Okay. Are there details besides the Strike  
19 Force that you're aware of that operated  
20 without a captain as part of their structure?

21 A. You mean units within the Buffalo Police  
22 Department?

23 Q. Yes.

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1 A. Yes.

2 Q. What are some examples of units that don't  
3 have captains as part of their structure?

4 A. The Sex Offense Squad as it was called then.

5 Q. Okay.

6 A. There are other units, if you can give me a  
7 moment to think. The Underwater Recovery  
8 Team. Traffic had a captain sometimes and  
9 sometimes it didn't, the Traffic Division.

10 Q. Were there -- is there an extent to which you  
11 were viewed as kind of a de facto leader of  
12 the Strike Force by virtue of your role in the  
13 Housing Unit?

14 MR. QUINN: Form.

15 A. No. As I said, I performed their  
16 administrative functions because there was no  
17 captain there, as far as signing papers. And  
18 occasionally the deputy commissioner or the  
19 commissioner would ask me to do something  
20 related to the Strike Force --

21 Q. And when you --

22 A. -- because I was in the building.

23 Q. Okay. Can you give an example?

PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 A. One time a chief in another district, either A  
2 District or D District, wanted traffic safety  
3 checkpoints there so the deputy commissioner  
4 or the commissioner would ask me if I could  
5 tell the Strike Force lieutenants to set up a  
6 traffic safety checkpoint in their districts.  
7 Other times, when there was a serious homicide  
8 or some violence going on in one of the other  
9 districts, same thing, the deputy commissioner  
10 or the commissioner would ask me to tell the  
11 lieutenants to have their cars patrol  
12 predominantly in those areas where the high  
13 crime or the murders occurred.

14 Q. And so those are instructions you would  
15 receive from other people in BPD leadership?

16 A. People in my chain of command. Sometimes our  
17 chief also would recommend places, Chief  
18 Brinkworth specifically.

19 Q. Okay. And places for daily checkpoints?

20 MR. QUINN: Form.

21 A. For daily checkpoints and sometimes for  
22 patrols.

23 Q. Okay. I'd like to turn to another exhibit.

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1                   Just briefly though, who is Patrick  
2                   Roberts?

3                   A. Patrick Roberts was the captain -- he was the  
4                   Housing captain before I arrived there.

5                   Q. Okay.

6                   A. He held the position before I held the  
7                   position.

8                   Q. Was he also captain of the Strike Force, or  
9                   was that also a period where there was no  
10                  captain of the Strike Force?

11                  A. He was the Housing captain but, again, he was  
12                  the Housing captain when they were housed in  
13                  the same building as the Strike Force.

14                  Q. Okay. I'd like to turn to an exhibit that's  
15                  been marked -- produced by defendants and  
16                  marked as COB016124. Let me begin the screen  
17                  share. Sorry, let me make sure you see the  
18                  whole page.

19                  Mr. Serafini, are you able to see this?

20                  A. Yes.

21                  Q. Okay. Do you see it's an email that was  
22                  forwarded to you in July 2015 by a Thomas  
23                  Whelan?

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1 A. Yes.

2 Q. Do you know who Thomas Whelan is?

3 A. He was a lieutenant in the Strike Force.

4 Q. Okay. And why -- what is he forwarding you  
5 exactly? If you need a minute to read it,  
6 feel free.

7 A. Give me a moment to read it, please.

8 Q. You can let me know when you'd like me to go  
9 to the next page.

10 A. Yeah, I am getting there. It's small.

11 MR. QUINN: It is a little small, if you  
12 could zoom in a little.

13 Q. Is that better?

14 A. That's better. Thank you.

15 You can switch the page, please.

16 Q. Okay.

17 A. I have read it. I have completed it, yes.

18 Q. Okay. Thank you.

19 So my questions are as follows: Am I  
20 correct that you received this message right  
21 around the time that you were beginning your  
22 commission as Housing Unit captain?

23 A. That's correct.

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1 Q. Did you understand this to be a description of  
2 the way the Housing Unit and Strike Force were  
3 supposed to operate as of this time?

4 MR. QUINN: Form.

5 A. Well, what this was was Captain Roberts  
6 requesting these overtime details for the  
7 Strike Force and for the Housing Units.

8 Q. Okay.

9 A. These are -- these details are hours. They're  
10 daytime hours most of the them. They talk  
11 about nighttime hours some of them, but the  
12 daytime hours are hours that the Strike Force  
13 and the Housing were not working. They worked  
14 the afternoon shift and there was no coverage  
15 or no officers working those units during the  
16 daytime, and this is requesting that there be  
17 details set up so they can work four or five  
18 hours during the day.

19 Q. Got it. Do you know whether that request was  
20 ultimately approved?

21 A. It was, yes. Part of it was for a period of  
22 time.

23 Q. And so it's true that during your time as

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1 captain the Housing Unit had regular overtime  
2 details?

3 A. Yes.

4 MR. QUINN: Form.

5 Q. Okay.

6 A. When you say "regular," sometimes the overtime  
7 was there and then sometimes it would stop.  
8 It would stop for a few months sometimes, and  
9 then it would start up again. It was  
10 intermittent.

11 Q. Understood. There's also a discussion here  
12 about the Strike Force trying to suppress gang  
13 activity. Did you understand that to be part  
14 of the Strike Force's mission?

15 MR. QUINN: Form.

16 A. I believe it was a residual effect of what  
17 they did as far as enforcing the penal law and  
18 the vehicle and traffic laws and patrolling  
19 the high crime areas.

20 Q. Okay. And did you understand the Housing Unit  
21 and Strike Force to have, apart from being in  
22 the same building, any shared -- any shared  
23 mission or mandate?

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1 MR. QUINN: Form.

2 A. No, they were two separate units.

3 Q. Did they have a similar geographic focus in  
4 the city of Buffalo?

5 MR. QUINN: Form.

6 A. Sometimes. I mean, as I said, the Housing  
7 Unit was responsible for the Housing  
8 properties, things that occurred in those  
9 properties. Sometimes if -- I am sure  
10 sometimes the Strike Force would patrol in  
11 there and police in there.

12 Q. Okay. And how much involvement did you have  
13 in setting the patrols for Strike Force, the  
14 Strike Force team?

15 A. I really didn't have anything to do with it  
16 but occasionally, as I said, I think I said  
17 before, a chief from a district would request  
18 that we set up traffic safety checkpoints in  
19 their district.

20 Q. Were there ever occasions that you were giving  
21 lieutenants on the Strike Force instructions  
22 that extended beyond kind of the "a chief  
23 requested this, please accommodate"?

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1 MR. QUINN: Form.

2 A. The only time I relayed instructions to them  
3 was if I was told by the chief or the deputy  
4 commissioner or the commissioner that he  
5 wanted them to do something or to go into this  
6 area I would relay it. And also when the --  
7 when one of those people, one of my superiors  
8 requested it, they would email it a lot of  
9 times and they would copy me on the email  
10 because I worked in the same building.

11 Q. Do you have a sense of why you would be the  
12 recipient of those emails? It was merely that  
13 you shared a building with them?

14 A. Yes.

15 MR. QUINN: Form.

16 A. Oh, I am sorry. Yes, number one, I share the  
17 building. Number two, I was the person that  
18 signed their overtime slips, if they happened  
19 to work overtime. And if they worked -- if  
20 they worked overtime, I would have to have  
21 knowledge that that shift was actually created  
22 or that detail was actually created. I can't  
23 just sign an overtime slip just to sign it. I

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1 would have to in fact make sure they actually  
2 worked.

3 Q. Fair enough. Fair enough. So let's just take  
4 a step back. With respect to your role as  
5 captain of the Housing Unit, how would you  
6 describe your duties? You know, what did your  
7 duties consist of?

8 MR. QUINN: Form.

9 A. I supervised all of the members in the Housing  
10 Unit. I coordinated details on occasion. I  
11 did most all the administrative duties as far  
12 as staffing and planning and adjusting shifts,  
13 signed overtime slips. I investigated  
14 complaints.

15 Q. Okay. And were you involved in you said the  
16 supervision, did that extend to any training,  
17 officer training?

18 A. Not really. Our academy does all the  
19 training, police academy, but I would  
20 coordinate. If there was a training class at  
21 a certain time when we were working and we  
22 were scheduled to be there to attend it, I  
23 would make sure that the officers were

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1 notified and they attended.

2 Q. Okay. So what did supervision consist of as  
3 you describe it?

4 MR. QUINN: Form.

5 A. What did my supervision of the officers  
6 consist of?

7 Q. Yes.

8 A. Observations and reviewing reports. The  
9 lieutenants directly supervised the officers,  
10 but I was on the peripheral.

11 Q. So the lieutenants reported to you?

12 A. That's correct.

13 Q. And how would you -- with respect to  
14 supervision of the lieutenants, can you  
15 describe some of the roles or functions you'd  
16 perform?

17 MR. QUINN: Form.

18 A. I would supervise the lieutenants' work, their  
19 daily work, and their reports and any --

20 Q. What types of reports -- sorry.

21 A. Supervisor reports. They would make  
22 recommendations on complaints also or their  
23 opinions and their actions.

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1 Q. Did you conduct performance evaluations of any  
2 of the officers you reported -- who reported  
3 to you?

4 A. No. That's the Buffalo Police.

5 Q. You never performed performance evaluations?

6 A. No.

7 Q. Did you say it was BPD policy not to do such  
8 evaluations?

9 MR. QUINN: Form.

10 A. They don't have performance evaluations.

11 Q. Okay. How would you escalate if -- how would  
12 you respond to instances where your officers  
13 had deficits?

14 MR. QUINN: Form.

15 A. What do you mean by "deficits"?

16 Q. Were there ever instances where you thought  
17 your officers could benefit from additional  
18 training or additional supervision?

19 A. I don't believe there was.

20 Q. But there were instances where your officers  
21 would be subject -- the subject of complaints?

22 A. Yes.

23 Q. How did you communicate information to your

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1 officers?

2 A. Mostly through the lieutenants but sometimes  
3 directly.

4 Q. Was it your practice to send emails?

5 A. To the lieutenants occasionally, yes.

6 Q. Not to your officers?

7 A. No.

8 Q. Okay. What about text messages?

9 A. No.

10 Q. Not to lieutenants or to officers?

11 A. Maybe a couple times during -- to lieutenants  
12 during our tour of duty, but mostly it was  
13 done formally through it would be email or  
14 personally verbally.

15 Q. Okay. Did you have any chat system like an  
16 instant messenger, Teams, that you would use  
17 to communicate information --

18 A. No.

19 Q. -- to officers or lieutenants?

20 Did you have daily meetings or briefings  
21 with lieutenants or officers?

22 A. I would informally meet with the lieutenants  
23 every day before the tour.



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1 Q. Okay. What was the purpose of those meetings?

2 A. To update them if there was any updates on  
3 things that were going on with our superiors,  
4 and they would also give me feedback the  
5 things that were happening within their  
6 platoons, within their officers.

7 Q. Okay. Those were in-person meetings?

8 A. Yes.

9 Q. Okay. Was that an opportunity for you to  
10 provide lieutenants instructions on the  
11 details or what you expected of officers?

12 A. Sometimes.

13 Q. Okay. Were there any other ways that you sort  
14 of communicated or engaged in supervision of  
15 your officers that we haven't -- and  
16 lieutenants that we haven't discussed?

17 A. No, none that I can think of.

18 Q. Okay. Do you know whether officers on the  
19 Housing Unit received training on racial  
20 discrimination?

21 MR. QUINN: Form.

22 A. I don't know.

23 Q. Do you know whether they received training on

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1 racial profiling?

2 A. I can't say.

3 MR. QUINN: Form.

4 Q. Do you know whether Housing Unit officers  
5 received training on searches and seizures?

6 MR. QUINN: Form. You broke up a little  
7 bit on our end.

8 Q. Oh, sorry. Do you know whether Housing Unit  
9 officers received training on the  
10 constitutional requirements for searches and  
11 seizures?

12 MR. QUINN: Form.

13 A. No.

14 Q. Do you know whether Housing Unit officers  
15 received any training on the procedures for  
16 conducting traffic checkpoints?

17 MR. QUINN: Form.

18 A. No.

19 Q. And during your time as Housing Unit captain,  
20 did you provide your officers any instruction  
21 on those topics?

22 MR. QUINN: Form.

23 A. No.

—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 Q. Did you take any steps to ensure that your  
2 officers and lieutenants were not engaging in  
3 racial profiling?

4 MR. QUINN: Form.

5 A. No.

6 Q. Okay. Now, am I correct that the Housing Unit  
7 also had an involvement in traffic  
8 checkpoints?

9 A. Sometimes they would conduct traffic safety  
10 checkpoints in or around the Buffalo Municipal  
11 Housing properties.

12 Q. Okay. How often was that the Housing Unit's  
13 practice?

14 A. It was rare.

15 Q. In instances where the Housing Unit did  
16 conduct checkpoints around BMHA properties,  
17 what was the reasoning?

18 MR. QUINN: Form.

19 A. To enforce vehicle and traffic law and penal  
20 law.

21 Q. Since it was rare, what, if anything, would  
22 warrant the creation of a checkpoint to your  
23 understanding?

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 MR. QUINN: Form.

2 A. If we -- if we received a complaint that cars  
3 were speeding through Buffalo Municipal  
4 Housing property, we would conduct a traffic  
5 safety checkpoint to try to curtail that  
6 activity.

7 Q. Are there any other instances you can think of  
8 where -- any other reasons why the Housing  
9 Unit in particular engaged in checkpoints?

10 A. Well, as I said, just in response to  
11 complaints we received from the Housing  
12 residents.

13 Q. Okay. That's different than the Strike Force  
14 checkpoints, correct? Those were not  
15 complaint driven?

16 MR. QUINN: Form.

17 A. No, those -- those the Strike Force conducted  
18 them on a daily basis.

19 Q. Okay. And am I correct that Housing Unit  
20 officers would sometimes assist the Strike  
21 Force in conducting those checkpoints?

22 A. Sometimes.

23 Q. What was the circumstance where the Housing

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1 Unit would assist?

2 A. They required a minimum amount of officers to  
3 conduct a traffic safety checkpoint. For the  
4 safety of the officers it was a minimum amount  
5 of officers. You couldn't conduct it with  
6 just two officers. So sometimes if the Strike  
7 Force was shorthanded, meaning they didn't  
8 have enough personnel, a couple of the Housing  
9 officers would assist them.

10 Q. Were those overtime details for the Housing  
11 Unit?

12 A. Sometimes they -- sometimes -- no but  
13 sometimes they were on overtime and they would  
14 work it, but it wasn't specifically for the  
15 traffic safety checkpoint as far as the  
16 Housing officers are concerned.

17 Q. Got it. Now, you described earlier that you  
18 would receive instructions from higher-ups at  
19 the BPD about the operation of the Strike  
20 Force checkpoints from time to time, correct?

21 A. Yes.

22 MR. QUINN: Form.

23 Q. I'd like to turn to what has been marked as

PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 COB016284. If I am not mistaken, I think that  
2 would make that would be Exhibit 5 so Serafini  
3 Exhibit 5.

4 Okay. Mr. Serafini, are you able to see  
5 this?

6 A. Yes.

7 Q. Okay. Do you see that it's an email that you  
8 authored on April 17th, 2017?

9 A. Yes.

10 Q. And it's a message to several lieutenants as  
11 well as Chief Aaron Young. Do you see that?

12 A. Yes.

13 Q. Am I correct that the distribution list here  
14 consists of both Housing Unit lieutenants and  
15 Strike Force lieutenants?

16 A. That's correct.

17 Q. Okay. And what are you -- what is this email  
18 conveying?

19 A. Let me have a second to read it.

20 Q. Sure.

21 A. This was letting all the lieutenants know that  
22 for one of the traffic safety checkpoints that  
23 the Housing officers would assist the Strike

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1 Force officers.

2 Q. Okay. Were you also instructing the Strike  
3 Force about where their checkpoints would take  
4 place?

5 MR. QUINN: Form.

6 A. That's correct.

7 Q. And you were providing maps to them as well?

8 A. Correct, yes.

9 Q. Okay. How often were you providing the Strike  
10 Force instructions about where they should  
11 conduct checkpoints?

12 A. What I believe happened on this occasion is I  
13 was at headquarters one day and Deputy  
14 Commissioner Lockwood gave me some maps that  
15 he received from the Crime Analysis Unit, and  
16 on the maps were some hotspots where there  
17 were some violent crimes and he wanted -- he  
18 wanted the traffic safety checkpoints  
19 conducted in these sectors, specifically here  
20 it's E2 and the E4 sectors which were in E  
21 District so I distributed them to the  
22 officers. And as I said, he wanted them  
23 conducted in those areas so I made sure they

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1 conducted the checkpoints in those areas.

2 Q. Okay. Is it fair to say it was not uncommon  
3 that you would be tasked with giving  
4 instructions both to the Housing Unit and to  
5 the Strike Force regarding checkpoints?

6 MR. QUINN: Form.

7 A. It happened occasionally. Not all the time,  
8 but once in a while.

9 Q. And how often would you say that the Strike  
10 Force and Housing Unit collaborated on the  
11 operation of checkpoints?

12 MR. QUINN: Form.

13 A. Rarely.

14 Q. By rare, how -- you know, once a year, once a  
15 week, what would you estimate would be the  
16 frequency?

17 A. Well, this email right here was when we had  
18 details during the day, again, outside of our  
19 regular shifts so it's hard to say. As I  
20 said, at nighttime if they were shorthanded we  
21 would assist them. Sometimes they wouldn't  
22 run a traffic -- sometimes the Strike Force  
23 would not run a traffic safety checkpoint

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1           because they didn't have enough officers, but  
2           it was a rare occasion that they would say to  
3           me "we need some Housing officers to assist  
4           us."

5           Q. Okay. Is it fair to say that the checkpoint  
6           program did not really advance the mission of  
7           the Housing Unit?

8                         MR. QUINN: Form.

9           A. Well, the mission of all the officers is to  
10          enforce crime. I think it did help. I think  
11          it worked.

12          Q. In what sense?

13          A. Well, when they would conduct these traffic  
14          safety checkpoints, they would find a lot of  
15          traffic violations, people driving with no  
16          insurance, no licenses, suspended licenses.  
17          Sometimes they would be involved in things.  
18          Sometimes they would even confiscate some  
19          guns.

20          Q. Those were statistics that you tracked during  
21          your time as captain, correct?

22          A. Yes.

23          Q. Why did you make it your practice to track

PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 statistics about the number of arrests made,  
2 summonses issued, guns recovered, etcetera?

3 MR. QUINN: Form.

4 A. Well, the entire department keeps statistics.  
5 Every district keeps statistics on the  
6 summonses they issue, the guns they recovered.  
7 It was just I was in charge of the unit. I  
8 kept the statistics. Every night we sent a  
9 report, the Housing officers and the Strike  
10 Force officers -- lieutenants, I am sorry.  
11 Every night the Housing lieutenants and the  
12 Strike Force lieutenants would send a report  
13 with all these statistics tabulated on them.  
14 I tabulated them also on a monthly basis and  
15 then a yearly basis.

16 Q. And you tabulated both the Housing Unit and  
17 the Strike Force's statistics?

18 A. That's correct.

19 Q. Why did you tabulate the Strike Force's  
20 statistics?

21 A. Because I performed a lot of their  
22 administrative duties. I was in the same  
23 building as them and that was -- that's an

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1 administrative duty. It falls on a captain in  
2 some places.

3 Q. Was one of your administrative duties also  
4 investigating incidences or complaints against  
5 Strike Force officers?

6 A. Yes.

7 Q. You didn't view that as a captain duty; you  
8 viewed it as an administrative duty?

9 MR. QUINN: Form?

10 A. Well, that is a -- a captain's duties are  
11 administrative duties. It's all the same  
12 thing.

13 MS. EZIE: Okay. We have been going for  
14 a little while. Could we take another  
15 five-minute break? Does that work for folks?  
16 We're off the record by my watch at 10:37.  
17 Thank you.

18 (A recess was taken.)

19

20 BY MS. EZIE:

21 Q. It's 10:44. So, Mr. Serafini, right before  
22 the break we were talking about sort of  
23 captain's duties. I'd like to return to an

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1 exhibit that we previously marked as  
2 Exhibit -- the BPD manual. I believe that we  
3 marked it as Exhibit 3; does that sound right,  
4 Ms. Fisher?

5 THE REPORTER: That's correct.

6 Q. So I have pulled up Section 3.7 of the BPD  
7 police manual. Are you able to see that,  
8 Mr. Serafini?

9 A. Yes.

10 Q. And you see that this is the section of the  
11 manual that describes the role of police  
12 captain?

13 A. Yes.

14 Q. Okay. So it's indicating here that the  
15 "police captain is a management position  
16 involving responsibility for directing and  
17 managing activities of a command and/or staff  
18 assignment." Is that accurate to your  
19 understanding --

20 A. Yes.

21 Q. -- of what a police captain does?

22 Okay. That "supervision is exercised  
23 over assigned sworn and support rank

1           subordinates." Is that accurate?

2           A. Yes.

3           Q. And then do you see that Section B is a list  
4           of duties that are held by police captains?

5           A. Yes.

6           Q. Okay. Is this an accurate list of duties that  
7           in your time as police captain that captains  
8           have held?

9           A. Yes.

10          Q. Okay. And was there anyone that performed  
11          these duties for the Strike Force during your  
12          time in the same building as the Strike Force?

13          A. Can you repeat the question?

14          Q. Sure. Was there anyone who was performing the  
15          duties outlined in Section B for Strike Force  
16          officers and lieutenants from 2015 forward?

17                   MR. QUINN: Form.

18          A. I provided some -- some of these applied to me  
19          when I was there.

20          Q. So on this list --

21          A. Things that I did.

22          Q. -- which of these tasks did you perform for  
23          the Strike Force?

1 A. Let me go through them.

2 Number 1.

3 Q. Okay. You had charge of or assisted in the  
4 command of the Strike Force?

5 A. Yes.

6 Q. Okay.

7 A. Number 3.

8 Q. You assigned tasks to personnel to ensured --  
9 and ensured timely, accurate, and thorough  
10 completion of same?

11 A. Yes, as I said, when my superiors ordered me  
12 to.

13 Q. Not otherwise?

14 A. No.

15 Q. Okay. What about with respect to number 4?

16 MR. QUINN: Form.

17 A. No, I wouldn't say that. I wouldn't say 4  
18 applied to me.

19 Q. Do you know of anyone who performed the duty  
20 of training, advising, and evaluating  
21 personnel --

22 A. Well, the training --

23 Q. -- as to accepted methods and procedures?

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1                   Sorry, just a reminder to --

2           A. I am sorry. I thought you stopped. Could you  
3           please repeat it?

4           Q. No, understood. Sure.

5                   Is there anyone -- are you aware of  
6           anyone who assumed the responsibility of  
7           training, advising, and evaluating Strike  
8           Force personnel as to accepted methods and  
9           procedures?

10                   MR. QUINN: Form.

11           A. That would fall under the lieutenant, but as  
12           far as formal training is usually done through  
13           our academy of course. The lieutenant would  
14           evaluate that, but the lieutenants  
15           predominantly for number 4.

16           Q. Okay. You do see here though that training,  
17           advising, and evaluating personnel as to  
18           accepted methods and procedures is listed as a  
19           captain's duty as well?

20                   MR. QUINN: Form.

21           A. Yes, I do see that.

22           Q. And did you understand that to be one of your  
23           duties when -- with respect to the Housing

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1 Unit when you were a Housing Unit captain?

2 MR. QUINN: Form.

3 A. Yes.

4 Q. Okay. It wasn't something that you delegated  
5 solely to lieutenants or to the police academy  
6 trainers; is that correct?

7 MR. QUINN: Form.

8 A. It's not something that I delegated to, but  
9 it's something that the lieutenants would --  
10 they were more directly involved with the  
11 officers. They would have more of an occasion  
12 to train and advise and evaluate them than I  
13 would.

14 Q. Okay.

15 A. They were the direct supervisors. I was their  
16 indirect supervisor.

17 Q. Okay. So with respect to your Housing Unit  
18 officers, how did you fulfill the duties  
19 outlined in B(4)?

20 MR. QUINN: Form.

21 A. Well, if I saw an officer doing something  
22 incorrectly that wasn't in line with the  
23 police department's policies and procedures, I

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1 would correct them and if I saw --

2 Q. Are there any others?

3 A. Well, if I saw them conducting themselves on a  
4 call with their interactions with the public.

5 Q. Were there times that you provided affirmative  
6 guidance to Housing Unit officers on accepted  
7 methods and procedures?

8 MR. QUINN: Form.

9 A. What do you mean by "affirmative guidance"?

10 Q. So instead of responding to an instance of I  
11 guess misbehavior by an officer, something  
12 that requires correction, did you ever provide  
13 them affirmative guidance on what was expected  
14 of officers or the procedures to follow?

15 MR. QUINN: Form.

16 A. I can't remember specifically, but I am sure  
17 there were a couple times when I did.

18 Q. Okay. So let's return to my original  
19 question. So we have gotten up to number 4  
20 with respect to who -- you know, whether these  
21 duties were duties you performed with respect  
22 to the Strike Force. You indicated that  
23 you -- just let me recap. That you did have a

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1           role with respect to number B(1) and also B(3)  
2           on occasion. You were not involved with the  
3           training, advising, or evaluating of Strike  
4           Force personnel as outlined in number B(4)  
5           however; is that correct?

6           A. Yes.

7           Q. Are there any other duties on this list that  
8           you performed with respect to the Strike  
9           Force.

10           MR. QUINN: You just want us to go 1  
11           through 10?

12           MS. EZIE: Yes.

13           A. Number 5, no. Number 6, no. Number 7, no.  
14           Number 8, yes. Number 9, yes. Number 10,  
15           partial. I did review their nightly reports  
16           but they weren't reports on criminal  
17           investigations. They were just their  
18           tabulation of their statistics.

19           Q. Why did you review the statistics?

20           A. Pardon?

21           Q. Why did you make it your practice to review  
22           their daily statistics?

23           MR. QUINN: Form.

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1 A. Because I took all those numbers and I  
2 tabulated them. I kept track of them, you  
3 know. Their daily reports would go on my  
4 monthly reports and my yearly reports so I  
5 would review them.

6 Q. Okay. So this continues on to the second page  
7 and it outlines duties 11 through 18. So with  
8 respect to the Strike Force, did you perform  
9 any of the duties outlined in 11 through 18?

10 A. Okay. Number 11, yes. Number 12, yes.  
11 Number 13, yes. 14, I am not sure what they  
12 mean "prepares and submits." I am not sure  
13 what "reports as requested" means. I wasn't  
14 requested by my superior any specific Strike  
15 Force report besides -- well, I am not sure  
16 about 14, but as far as 15 no with respect to  
17 the Strike Force. 16, 16, I did, yes. We all  
18 shared the same building; I was in charge of  
19 making sure we had enough supplies. 17, yes.  
20 18, no.

21 Q. Was there anyone at the BPD to your knowledge  
22 that performed the functions described at 18  
23 with respect to the Strike Force?

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1 MR. QUINN: Form.

2 A. That would fall under the commissioner or  
3 deputy commissioner.

4 Q. Okay. Do you know whether they actually  
5 performed the role of establishing and  
6 developing goals and objectives for the Strike  
7 Force in line with departmental policy?

8 MR. QUINN: Form.

9 A. Never discussed it with them, so I don't know.

10 Q. Okay. So to confirm, to the extent I am  
11 asking whether you're aware of anyone who  
12 performed the duties outlined in 18 with  
13 respect to the Strike Force, is your answer  
14 no?

15 MR. QUINN: Objection to form. He  
16 previously answered that question.

17 A. My personal knowledge, no.

18 Q. Okay. Were there ever times where when you  
19 looked at the number of administrative or sort  
20 of captain's duties you were performing for  
21 the Strike Force you wondered whether you  
22 should in fact have a dual designation as  
23 captain of Strike Force and Housing Unit?

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1 MR. QUINN: Form.

2 A. No.

3 Q. Why not?

4 MR. QUINN: Form.

5 A. The captain before me -- the captain before me  
6 didn't and I was picking up where he left off,  
7 and it didn't consume my daily activities. It  
8 was a small part of my duties. It didn't  
9 interfere with my Housing duties at all.

10 Q. Okay. But you were fairly involved in  
11 providing instructions to Strike Force  
12 lieutenants about where they should be running  
13 or operating checkpoints, correct?

14 MR. QUINN: Form.

15 A. I was predominantly relaying instructions that  
16 were given to me by either chiefs, my chief,  
17 or the deputy commissioner or the  
18 commissioner.

19 Q. Okay. And sometimes that included  
20 instructions that the Strike Force should be  
21 dispatched to checkpoints, to conduct  
22 checkpoints at certain locations; is that  
23 correct?

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1 A. Yes.

2 Q. At times, it included instructions that the  
3 Strike Force should be involved in policing of  
4 protests; is that correct?

5 MR. QUINN: Form.

6 A. Did you say policing protests?

7 Q. Yes, community protests.

8 A. I can't recall exactly. There may have been a  
9 couple of rallies that we were assigned to. I  
10 believe there were a couple rallies that the  
11 supervisors above me wanted the Strike Force  
12 detailed there for a certain period of time,  
13 yes.

14 Q. And so those would be instructions that you  
15 would relay on to the Strike Force?

16 A. Lieutenants, yes.

17 Q. Okay. That included Black Lives Matter  
18 rallies or protests that the Strike Force was  
19 dispatched to?

20 A. I don't recall that, you know, way back in  
21 2018. I can't exactly recall a Black Lives  
22 Matter protest or demonstration or anything,  
23 but there were some protests. I don't know if

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1           that was -- if it was theirs or not but there  
2           were a couple demonstrations that we assigned  
3           them to. I don't know which specific group  
4           was conducting it.

5           Q. Okay. So let's just take a quick look at a  
6           document that was produced in this litigation  
7           by defendants and stamped COB039419.

8                         Mr. Serafini, can you see this document?

9           A. I see it, yes.

10          Q. Do you see it's an email you sent to the  
11          Strike Force lieutenants in July 2016?

12          A. Yes, I do.

13          Q. Okay. And it's relaying that "the chief wants  
14          us to detail two Strike Force cars to the  
15          Black Lives Matter rally tomorrow in Niagara  
16          Square." Do you see that?

17          A. I do see that. I don't remember it  
18          specifically being Black Lives Matter. I just  
19          remember there being a rally. It was five  
20          years ago.

21          Q. Understood. Who would the chief have been at  
22          that time?

23          A. In 2016? I believe it was Aaron Young. That

1           was about the time when it was either Young or  
2           Brinkworth.

3           Q. Okay.

4           A. It could have been one of them, either one of  
5           them. They changed jobs right around then.

6           Q. Got it. Do you have an -- would you be  
7           surprised if I said that there were -- there  
8           is evidence that these types of requests to  
9           staff Black Lives Matter protests or rallies  
10          happened on more than one occasion?

11                       MR. QUINN: Object to form.  
12                       Specifically "stop".

13          A. It's possible. Like I said, I don't remember  
14          the specific group that was having the rally  
15          but I know there were a few times we detailed  
16          them to rallies and --

17          Q. Did you have --

18          A. -- demonstrations.

19          Q. My apologies for cutting you off.

20                       Did you have any understanding of why  
21          the Strike Force was being deployed to detail  
22          protests?

23                       MR. QUINN: Form.



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1           A. Because the department wanted more manpower  
2           there, more officers.

3           Q. Did you have a sense of how it related to the  
4           Strike Force's mission?

5           A. Well, as far as their mission, I mean,  
6           everything they do was actually assisting  
7           patrol, and this assisted patrol.

8           Q. Okay. But it would not, as you understand it,  
9           be relevant to preventing high crime to police  
10          Black Lives Matter protests?

11          A. Well, whenever you have a protest or a  
12          demonstration, there is always a possibility  
13          for crime, for things to escalate, so it's  
14          certainly proper and prudent to try to have  
15          some extra officers there.

16          Q. Are there rallies that were not Black Lives  
17          Matter rallies that you can recall the Strike  
18          Force being instructed to attend?

19          A. I can't --

20                       MR. QUINN: Form.

21          A. I am sorry. I can't remember exactly but I am  
22          sure there were, yes.

23          Q. Okay. But you don't recall?

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1 A. I can't remember the exact groups.

2 Q. Okay. During your time as captain of the  
3 Housing Unit, you also instructed the Strike  
4 Force to attend and police events such as the  
5 Juneteenth Festival; is that correct?

6 MR. QUINN: Form.

7 A. Yes.

8 Q. Do you know why that instruction was relayed?

9 MR. QUINN: Form.

10 A. Again, additional manpower were needed. We  
11 detailed our -- I believe we detailed -- there  
12 were many times when the Strike Force officers  
13 were detailed to whether it was a carnival in  
14 South Buffalo or Juneteenth or other events  
15 where there were large groups of people and  
16 Patrol needed some assistance.

17 Q. Okay. Strike Force also was instructed to  
18 police high school sports events on the east  
19 side?

20 A. Some --

21 MR. QUINN: Form.

22 A. I am sorry. Yes, some football games and  
23 basketball games we'd have problems with

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1 fights between the students at the football  
2 games and basketball games so they would be  
3 detailed there.

4 Q. And although you were not captain of the  
5 Strike Force, you were involved in relaying  
6 instructions along these lines to Strike Force  
7 lieutenants?

8 A. That's correct.

9 Q. Okay. Now earlier, Mr. Serafini, we spoke  
10 about the Housing Unit running its own  
11 checkpoints from time to time near BMHA  
12 properties. Do you recall that?

13 A. Yes.

14 Q. Over your time as captain, do you have a guess  
15 of how many Housing Unit checkpoints were  
16 conducted?

17 MR. QUINN: Form.

18 A. I don't know.

19 Q. Would it have been more than ten?

20 A. In the three years that I was at Housing?

21 Q. Yes.

22 A. Three and a half years, would it have been  
23 more than ten? It's possible. As I said, it

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1           wasn't on a daily basis like the Strike Force.

2           It was a very -- it was rarely.

3           Q. Okay. Were there -- was anyone -- any of your  
4           higher-ups in BPD providing you guidance or  
5           directives on the Housing Unit checkpoints?

6           A. Sometimes they did. Again, I can't remember  
7           every occasion, but they would send me an  
8           email or call me on the phone and say "I'd  
9           like a checkpoint set up over here."

10          Q. And who is "they" in this instance?

11          A. Deputy Commissioner Lockwood or Chief Aaron  
12          Young or Chief Kevin Brinkworth.

13          Q. Do you -- did you have any recordkeeping  
14          practices related to those checkpoints, the  
15          Housing Unit checkpoints?

16          A. Records of the checkpoints?

17          Q. Yes.

18          A. I don't believe so. I believe for the Housing  
19          Unit I don't think -- it would have been noted  
20          on the activity report. It would have been  
21          noted on the activity report that the  
22          lieutenants submitted every day but as far as  
23          a separate statistic for it, no.

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1 Q. Okay. Now, the Housing Unit in addition to  
2 assisting in checkpoints from time to time, it  
3 also engaged in aggressive traffic and --  
4 vehicle and traffic enforcement?

5 MR. QUINN: Form.

6 A. They enforced the vehicle and traffic law  
7 also, yes.

8 Q. Okay. They issued summonses and impounded  
9 vehicles at times?

10 A. Yes.

11 Q. And issued parking tags as well?

12 A. Yes.

13 Q. What's a parking tag?

14 A. It's when somebody -- it's a summons when  
15 someone parks illegally, but you don't hand it  
16 to the driver of the vehicle when the vehicle  
17 is unoccupied.

18 Q. You leave it on the window?

19 A. Yes.

20 Q. Okay. Now, where did the Housing Unit engage  
21 in this traffic and vehicle enforcement?

22 A. Within the Buffalo Municipal Housing  
23 properties and surrounding areas and even, as

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1 I stated before, when they would travel from  
2 one housing property to another housing  
3 property.

4 Q. So that's to say --

5 A. Within that route.

6 Q. Okay. So that's to say in the broader city of  
7 Buffalo outside of the BMHA?

8 MR. QUINN: Form.

9 A. Inside and outside, yes.

10 Q. Okay. And when officers were engaged in  
11 vehicle and traffic enforcement, they were  
12 operating with your authorization and  
13 permission?

14 A. Yes.

15 Q. Now, is it true that -- isn't it true that  
16 vehicle impounds in the city of Buffalo  
17 increased pretty significantly after the  
18 Strike Force and Housing Units became  
19 operational?

20 MR. QUINN: Form.

21 A. I don't have personal knowledge of that.

22 Q. But you did track impounds among other  
23 statistics year to year, correct?

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1 A. For the Housing Unit and the Strike Force  
2 units, yes, I tracked the impounds.

3 Q. And isn't it true that your production  
4 increased in most years when it came to  
5 summonses and impounds, etcetera?

6 MR. QUINN: Form.

7 A. I don't have it in front of me, but I think  
8 it's safe to say it may have increased. Some  
9 areas of the statistics I compiled may have  
10 decreased, too. I don't have the paperwork in  
11 front of me or the reports.

12 Q. Okay. Now, did you give your officers any  
13 guidance about when to impound vehicles?

14 MR. QUINN: Form.

15 A. The only time they received guidance was there  
16 came a period of time when it came from my  
17 supervisors that where they would normally  
18 impound a vehicle that they wanted the  
19 officers to check if it was -- if they stopped  
20 somebody that was unlicensed in a vehicle,  
21 normally that would be impounded but my  
22 superiors wanted the officers to make an  
23 attempt to locate the owner of the vehicle.

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1           And if he would arrive there on scene in a  
2           short period of time with a valid license,  
3           that he could take the vehicle and it wouldn't  
4           be impounded.

5           Q. Okay.

6           A. I don't know the exact date, but that came  
7           down during my tenure there.

8           Q. Got it. Do you know why that guidance was  
9           given?

10          A. No, I don't.

11          Q. Okay. There are instances where impounding a  
12          vehicle aside from the one you just listed is  
13          prohibited under BPD policy, correct?

14          A. I am not familiar with all the instances, just  
15          a vague -- just I know it vaguely.

16          Q. For instance, isn't it true that vehicles are  
17          not supposed to be impounded solely if the  
18          driver has an expired driver's license?

19                   MR. QUINN: Form.

20          A. I don't know about that. And, again, in the  
21          period of time when I was in the Housing Unit,  
22          it may have changed since then. I am not  
23          sure.

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1 Q. Okay.

2 A. But I know in my time as a police officer, I  
3 know it was a long time ago, we were allowed  
4 to do that. We did it regularly. That was  
5 from 1986 to 1996.

6 Q. And when you were -- when you were a captain  
7 in the Housing Unit, you permitted your  
8 officers to impound vehicles for expired  
9 driver's licenses with the exception that you  
10 described of if another owner is identified  
11 who can drive it away?

12 MR. QUINN: Form.

13 A. Yes. When that came down from my superiors, I  
14 don't know what period of time it was but it  
15 was sometime within my -- maybe the last two  
16 years I was there, that's correct.

17 Q. Did you allow your officers to impound  
18 vehicles that had expired registrations?

19 MR. QUINN: Form.

20 A. Yes.

21 Q. Did you allow your officers to impound  
22 vehicles that had expired inspection stickers?

23 MR. QUINN: Form.

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1 A. Yes.

2 Q. Okay. And except for the directive, you  
3 allowed your officers to impound vehicles that  
4 had -- whose drivers had a suspended license?

5 A. Yes.

6 MR. QUINN: Form.

7 Q. Okay. And, Mr. Serafini, did you allow your  
8 officers to impound vehicles on BMHA  
9 properties itself?

10 A. Yes.

11 Q. Were you ever notified that BMHA properties  
12 might be considered private properties where  
13 parking tags and impounds should not occur?

14 A. Not that I can remember, no.

15 Q. Did you allow your officers to do impounds on  
16 private properties?

17 A. I don't -- I don't remember if they ever  
18 impounded a vehicle on private property, but  
19 it's a possibility that they could have.

20 Q. Okay. But you did allow your officers to  
21 write parking tags at BMHA properties?

22 A. Yes.

23 Q. Okay. And to issue traffic summonses?

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1 A. Yes.

2 MR. QUINN: Form.

3 Q. Okay. Isn't it true that at times you  
4 received complaints that those activities were  
5 illegal?

6 MR. QUINN: Form.

7 A. That it was illegal to issue a summons on BMHA  
8 property?

9 Q. Yes.

10 A. I don't remember ever hearing that it was  
11 illegal, no.

12 Q. Okay. Let's turn to an exhibit that has been  
13 marked -- produced by defendants and marked  
14 COB229281.

15 Ms. Fisher, is this Exhibit 6?

16 THE REPORTER: This is Exhibit 7.

17 Q. I am going to make this bigger because it's  
18 very small.

19 Mr. Serafini, are you able to read this?

20 A. Yes.

21 Q. Okay. Do you see that it's an email you  
22 received from someone at the BPD named Steven  
23 Nichols?

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1 A. Yes.

2 Q. And the subject of this email is Jasper  
3 Parrish?

4 A. Yes.

5 Q. Is Jasper Parrish one of the BMHA's properties  
6 in Buffalo?

7 A. Yes.

8 Q. Okay. And do you see that the email begins,  
9 "we met with Commissioner Helfer and BMHA  
10 today regarding tagging at Jasper Parrish"?

11 A. Yes.

12 Q. And it's describing tagging, parking tags  
13 being issued to people that do not have permit  
14 stickers?

15 MR. QUINN: Form.

16 A. I see that, yes.

17 Q. And do you see that in the final sentence of  
18 the email it says that because the BMHA --  
19 because Jasper Parrish is considered private  
20 property owned by BMHA the BPD can only tag on  
21 the property if they are called to the  
22 property and if the vehicle is described in  
23 the call?

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1 A. I see that.

2 Q. Okay. Are you aware of there being other  
3 occasions where the complaint was raised that  
4 tagging should not be occurring at BMHA  
5 properties because it's private property?

6 A. No, I don't. And in that email, I mean, that  
7 email describes -- I believe we were tagging  
8 some people that may have been visiting nurses  
9 and people that were actual residents there  
10 but didn't have their permits properly shown  
11 or didn't get their permits yet from the BMHA  
12 so, like I said, I think that's what that was  
13 concerning, not about us being allowed to tag  
14 on BMHA property. It said -- didn't it say at  
15 the end that the regular tagging on the other  
16 BMHA properties will continue? That tells me  
17 it's probably allowed or they're okay with it,  
18 I don't know.

19 Q. In any event, it was not your -- it was your  
20 practice to allow tagging on BMHA properties  
21 notwithstanding whether it may or may not be  
22 considered private property?

23 MR. QUINN: Form.

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1 A. It was our practice. They tagged on BMHA  
2 property all the time.

3 Q. Okay. Now with respect to your Housing Unit  
4 officers, you also engaged in what I  
5 understand is called clean sweeps?

6 A. Yes.

7 Q. Can you explain what a clean sweep is?

8 A. They would -- the officers would actually  
9 assist inspection officers, city inspection  
10 officers and BMHA officials and go through  
11 certain housing properties and address any  
12 issues that they had. A lot of the issues  
13 were building issues.

14 Q. When you say "building," are you referring to  
15 like maintenance or something else?

16 A. Yes, maintenance.

17 Q. Okay. So the clean sweep was not a police  
18 activity?

19 A. We assisted them, but it may have resulted in  
20 a police activity. For instance, if someone  
21 was living -- which happened a lot. Someone  
22 would be living in a Housing property that  
23 wasn't supposed to be living there.

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1 Q. Okay. So what occurred during clean sweeps to  
2 your knowledge?

3 A. Well, the officers would go through the  
4 properties with the city officials and, as I  
5 said, if someone was living there that wasn't  
6 allowed, which happened occasionally, someone  
7 that was living there that wasn't on the lease  
8 or the contract and they weren't allowed to  
9 live there, the officers would tell them they  
10 would have to leave.

11 Q. How would they make that determination about  
12 whether they were authorized residents on the  
13 property?

14 A. Well, from my understanding is there is a  
15 lease or a contract between the BMHA and the  
16 tenant and it's very specific as far as who  
17 can reside there.

18 Q. So what role did the Housing Unit play in  
19 making those determinations?

20 MR. QUINN: Form.

21 A. Well, again, on the advice of the city  
22 officials, if someone was there that was not  
23 legally supposed to be there, they would be

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1           advised to leave.

2           Q. So was it the Housing Unit's practice to stop  
3           and question people who were on BMHA  
4           properties to see if they lived there?

5                   MR. QUINN: Form.

6           A. That's -- yeah, I think that's proper, sure,  
7           yes.

8           Q. And that was something that Housing Unit  
9           officers did often?

10          A. Yes.

11                   MR. QUINN: Form.

12          Q. Did they -- did you instruct the Housing Unit  
13          officers to also stop and question people they  
14          believed to be on parole?

15                   MR. QUINN: Form.

16          A. No. They would stop and question people to  
17          make sure they actually lived in the complex  
18          or property or visiting someone in the  
19          complex.

20          Q. Okay. And what about individuals who you  
21          believed to be gang members? Was it your  
22          practice or the Housing Unit's practice to  
23          stop and question those individuals whenever

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1           you would notice them at a BMHA property?

2           A. Not specifically but, as I said, everyone was  
3           supposed to have a lawful purpose or a normal,  
4           plausible purpose for being in a Housing Unit.  
5           You're either visiting somebody or you live  
6           there.

7           Q. And so you would -- your officers would stop  
8           and question people to see whether they were  
9           present for a lawful purpose as part of their  
10          duties?

11          A. Occasionally they may have. I don't know  
12          every specific time. They didn't specifically  
13          stop every single person they saw walking  
14          through a Housing property. But if there was  
15          some suspicious activity and they went over to  
16          talk to them, it's reasonable for them to ask  
17          if they lived there or if they're visiting  
18          somebody.

19          Q. Okay. You agree that asking people whether  
20          they're there for lawful purpose if they're  
21          not doing something suspicious would be  
22          inappropriate?

23                   MR. QUINN: Form.

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1 A. In most cases. I'd have to know each specific  
2 situation.

3 Q. Okay. So I'd like to turn to an exhibit this  
4 will be Serafini Exhibit 8 that was produced  
5 in this litigation by defendants and stamped  
6 COB044624.

7 Mr. Serafini, are you able to see this  
8 document?

9 A. Yes.

10 Q. The title is Housing Unit - Above Baseline  
11 Services. Do you recognize that?

12 A. Is this something I wrote? I don't remember.  
13 I will have to read it.

14 Q. Yes.

15 A. Okay.

16 Q. It concludes with your signature.

17 A. If I can read it.

18 Q. Sure.

19 A. Give me a couple minutes here.

20 Q. My question pertains to page 2 but if you need  
21 some --

22 A. If you want to go down to page 2 then.

23 MR. QUINN: Just for the record, we have

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1 not read the entire document as we sit here  
2 right now.

3 MS. EZIE: Sure.

4 MR. QUINN: If you have a specific  
5 question and you don't want him to read it,  
6 that's okay, too. But, Phil, if you need to  
7 review it, you can.

8 MS. EZIE: Thank you, Mr. Quinn.

9 Q. The first question is just, Mr. Serafini, do  
10 you recognize this now as something that you  
11 have prepared --

12 A. Yes.

13 Q. -- pertaining the Housing Unit.

14 And you're addressing it to someone  
15 named Dawn. Do you recall who Dawn may have  
16 been?

17 A. Dawn was the director of the BMHA at the time.  
18 She was in charge of the BMHA.

19 Q. Okay. And so this document is describing some  
20 of the functions that BMHA -- sorry, that  
21 Housing Unit officers perform in BMHA; is that  
22 correct?

23 A. That's correct.

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1 Q. Okay. So I am now going to zoom in on page 2  
2 of this document. Do you so at the top where  
3 it says "Housing Unit in general," and it  
4 indicates that you "patrol through and respond  
5 to calls for service within the BMHA  
6 properties"? Is that one of the functions  
7 your Housing Unit officers performed?

8 A. Yes.

9 Q. Okay. Did they check the parking lot for  
10 unauthorized vehicles as indicated here?

11 A. Yes.

12 Q. Did they impound vehicles and conduct traffic  
13 stops as well?

14 A. Yes.

15 Q. And do you see here that it says another  
16 function you performed was to "stop and  
17 question gang members and parolees driving  
18 and/or walking through BMHA properties and  
19 ensure that they are there for a lawful  
20 purpose"?

21 A. Yes, I do see that.

22 Q. Was that one of your practices during the time  
23 as --

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1 A. Yes, but --

2 Q. -- Housing Unit captain?

3 A. Yes, but there is a little more meaning to  
4 that. What I probably should have said in  
5 their travels and their duties when they see  
6 suspicious people, they stop and question them  
7 and a lot of them turn out to be gang members  
8 and parolees.

9 Q. And when you say "suspicious people," what do  
10 you mean?

11 A. People doing --

12 MR. QUINN: Form.

13 A. I am sorry. Conducting suspicious activity  
14 they may think are committing or in the  
15 process of committing a crime.

16 Q. You agree that's not what this indicates here?

17 MR. QUINN: Form.

18 A. Well, I should have worded it a little bit  
19 differently. What this is is our services  
20 that we perform above baseline which meant  
21 normal patrol and everything. This is the  
22 result of some of the investigative patrolling  
23 that the officers did. A lot of times when

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1           they did investigate suspicious activity, the  
2           person turned out to be a gang member or  
3           someone that was out on parole.

4           Q. That's to say that after they were stopped and  
5           questioned by officers, these are things that  
6           you would learn at that time?

7           A. I am sorry, can you repeat that, please?

8           Q. Sorry. That after these individuals were  
9           stopped and questioned by your officers, it  
10          might be revealed that they are gang members  
11          or parolees?

12          A. Exactly. After they were investigated, it was  
13          discovered that they were a gang member or  
14          someone out on parole.

15                   MR. QUINN: Form.

16          A. They didn't specifically stop everybody in the  
17          Housing Units. They wouldn't have even had  
18          time to do that, but I am sorry.

19          Q. Okay. Now, your officers also engaged in what  
20          I think is described as vertical patrols; is  
21          that correct?

22          A. I don't know what you mean by vertical  
23          patrols. Oh, I am sorry, they would do

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1 walkups in the high-rises. There is a lot of  
2 high-rises in some of the Housing projects.  
3 Five, six stories high. That's what they mean  
4 by vertical. They would walk through it. A  
5 lot of time there will be people doing  
6 criminal things in those -- or shooting drugs  
7 up in those stairwells and hallways.

8 Q. Okay. So by vertical patrol, that's to say  
9 that your officers would walk up and down the  
10 flights of stairs at the Housing units --  
11 sorry, at the BMHA properties?

12 A. Exactly.

13 MR. QUINN: Form.

14 Q. Okay. And what occurred during the vertical  
15 sweeps or patrols? Were there any protocols  
16 that officers were to follow?

17 MR. QUINN: Form.

18 A. Just regular police duties. If they had  
19 suspicions or had cause to arrest somebody,  
20 just as their normal patrol duties except they  
21 were walking up and down so not patrolling in  
22 the vehicle.

23 Q. Now on two occasions you have described, you

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1 know, your officers being responsible for  
2 stopping people who seemed suspicious or like  
3 they were engaging in something suspicious.  
4 Can you -- did you provide your officers any  
5 guidance about what to look for in terms of  
6 determining whether someone was engaging in  
7 suspicious behavior?

8 MR. QUINN: Form.

9 A. I didn't personally, but they were well aware  
10 and trained on reasonable suspicion and  
11 probable cause as every officer is.

12 Q. But you did not provide them any guidance on  
13 those subjects?

14 A. Personally, no.

15 Q. Okay. Did you provide them any guidance or  
16 instructions on how to determine if someone  
17 was likely a gang member?

18 MR. QUINN: Form.

19 A. No.

20 Q. How would officers upon questioning an  
21 individual determine if they were a gang  
22 member?

23 MR. QUINN: Form.

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1 A. I don't exactly know unless they admitted to  
2 them that they were in a gang.

3 Q. So going back to the Above Baseline Services  
4 where you described officers stopping and  
5 questioning gang members, do you have any  
6 sense of how they might accomplish that  
7 function?

8 MR. QUINN: Object to form. You can  
9 answer.

10 A. How they would have an idea that someone was a  
11 gang member?

12 Q. Yes.

13 A. First of all, if they admitted they were a  
14 gang member. Just some common knowledge, some  
15 gangs have tattoos and some of the officers  
16 knew people that were gang members from  
17 previous arrests or previous assignments or  
18 from previous areas that they worked before  
19 they were transferred to the Housing Unit.  
20 Some officers have a knack for that kind of  
21 thing. Some are very familiar with gangs,  
22 some aren't.

23 Q. Did you provide your officers any guidance

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1 about how to distinguish gang members from  
2 non-gang members?

3 MR. QUINN: Form.

4 A. No.

5 Q. Okay. And when -- did officers stop or  
6 question individuals during the vertical  
7 sweeps or vertical patrols?

8 MR. QUINN: Form.

9 A. Yes, if they had reason to, reasonable  
10 suspicion.

11 Q. If they did not have reasonable suspicion,  
12 they should not have stopped or questioned  
13 BMHA residents during those sweeps?

14 MR. QUINN: Form?

15 A. Again, it's on a case -- it would be on a  
16 case-by-case basis but --

17 Q. Your testimony today though is that the  
18 setting in which it would be appropriate to  
19 stop and question a BMHA resident would be if  
20 they were -- if there was reasonable  
21 suspicion?

22 MR. QUINN: Object to form. You can  
23 answer.

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1 A. Yes.

2 Q. Okay.

3 A. You're talking about stop and question, not  
4 just question, correct?

5 Q. Is your testimony that different procedures  
6 apply?

7 A. Well, you can question anybody anything you  
8 want. I mean, you can't stop them unless you  
9 have reasonable suspicion. I just wanted to  
10 make that clear. There is question, we're  
11 just talking to someone, and there is stop and  
12 question so I just want to make that clear.

13 Q. Okay. When would it be permissible for an  
14 officer to ask someone to provide their name?

15 A. You want to give me every -- you want me to  
16 give you an instance?

17 Q. Yes, in the course of a Housing Unit patrol.

18 A. If someone --

19 MR. QUINN: Form. Object to any  
20 questioning like this as hypothetical and any  
21 other number of reasons. You can answer if  
22 you understand but there certainly are a  
23 number of objections.

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1 MS. EZIE: That's fine, Mr. Quinn. I  
2 think you're familiar with the practice of no  
3 speaking objections but your objections are  
4 noted. You may answer.

5 A. Give you an example?

6 Q. Yes.

7 A. If they're walking through a stairwell and  
8 someone was sleeping, could wake them up, ask  
9 them their name, ask them if they live there.

10 Q. Okay. What if someone is just walking down  
11 the hallway, is that an acceptable  
12 circumstance to ask someone for their name and  
13 if they reside at the location?

14 A. They can always ask for their name. But if  
15 they don't want to give it to them and they  
16 keep walking, they have to let them keep  
17 walking unless they're doing something  
18 suspicious which entails a lot of things.

19 Q. Did you provide your officers guidance on when  
20 it's appropriate to stop and question BMHA  
21 residents?

22 MR. QUINN: Form.

23 A. Any additional guidance from the normal stop

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1 rules, no.

2 Q. Okay. And the normal stop rules would be --  
3 you're referencing any training they received  
4 at the academy, not any instruction that you  
5 provided them?

6 MR. QUINN: Form.

7 A. That's correct.

8 Q. Okay. Now your activities with the Housing  
9 Unit, they were approved by the higher-ups at  
10 the BPD; is that correct?

11 MR. QUINN: Form.

12 A. Yes.

13 Q. For instance, Commissioner Lockwood was one of  
14 the Housing Unit's biggest supporters?

15 MR. QUINN: Form.

16 A. Yes, he was.

17 Q. Why was that the case?

18 A. I think because he -- I don't -- specifically,  
19 exactly, I don't know. I could guess, but I  
20 don't know.

21 Q. What's your guess?

22 MR. QUINN: Well, don't guess, Phil.  
23 You don't have to guess.

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1 MS. EZIE: Unless you're objecting for  
2 privilege, Mr. Quinn, he may answer.

3 MR. QUINN: Inappropriate question to  
4 ask him to guess.

5 Q. What's your understanding of why -- I will  
6 rephrase.

7 What's your understanding of why Deputy  
8 Commissioner Lockwood was a supporter of the  
9 Housing Unit?

10 MR. QUINN: Form.

11 A. He saw a need. He saw a need for more  
12 personnel specifically assigned to the Buffalo  
13 Municipal Housing Authority properties.

14 Q. And so Deputy Commissioner Lockwood,  
15 Commissioner Derenda, the Chiefs Brinkworth  
16 and Young, they all approved and signed off on  
17 your activities during the time that you were  
18 Housing Unit captain?

19 MR. QUINN: Form.

20 A. Yes.

21 Q. Okay. Now, I'd like to switch to the topic of  
22 checkpoints.

23 Mr. Serafini, how often would you say

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1           that Housing Unit officials were involved in  
2           the operation of Strike Force checkpoints?

3           A. When we had the daytime details which were  
4           intermittent, we would have them for a few  
5           weeks and then we wouldn't have them. They  
6           were involved because one of the duties during  
7           the checkpoints -- or during the daytime  
8           details was to conduct one checkpoint,  
9           usually.

10          Q. At least one checkpoint?

11          A. Usually. I say that manpower permitting,  
12          weather conditions permitting.

13          Q. So weather conditions and manpower permitting,  
14          checkpoints -- Strike Force checkpoints were  
15          supposed to occur on a daily basis?

16          A. When we had it -- sorry. When we had a  
17          detail, the daily detail, the five-hour daily  
18          detail was not on a regular daily basis. It  
19          was intermittent.

20          Q. Okay. It's true, however, that there was a  
21          program within the BPD of running daily  
22          checkpoints weather and manpower permitting  
23          for several years, correct?

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1 MR. QUINN: Form.

2 A. That was the Strike Force, not the Housing  
3 Unit.

4 Q. Okay. Are you familiar with the Strike  
5 Force -- the Strike Force's daily checkpoints?

6 MR. QUINN: Form.

7 A. Yes.

8 Q. Okay. So the Strike Force had a practice of  
9 running daily checkpoints for a period of  
10 several years?

11 A. During the time that I was there, yes, weather  
12 and manpower provided.

13 Q. Okay. And the Housing Unit would join those  
14 checkpoints if or when there was a daytime  
15 detail approved?

16 MR. QUINN: Form.

17 A. The Housing performed their own checkpoints if  
18 there was manpower and if the weather was  
19 permitting during the daytime details, the  
20 five hour -- I believe it was five hours a  
21 day.

22 Q. Those were the checkpoints you described as  
23 occurring at BMHA -- at or near BMHA

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1 properties?

2 A. That's correct, yes.

3 Q. Were those checkpoints run in conjunction with  
4 the Strike Force or solely with Housing Unit  
5 personnel?

6 MR. QUINN: Form.

7 A. Again, if there weren't enough Housing  
8 manpower to run that on their own, sometimes  
9 Strike Force would assist them. Sometimes --

10 Q. Okay.

11 A. -- if there wasn't enough manpower, they  
12 wouldn't run it.

13 Q. What's your estimate of how many checkpoints  
14 the Housing Unit ran pursuant to those  
15 overtime details during your time as captain?

16 MR. QUINN: Form.

17 A. That's hard because we would have the detail  
18 for a month or two and then it would stop and  
19 then two months later they would start it  
20 again. Then they would only start it on  
21 Fridays or Saturdays. And then in the summer  
22 it would be all week long. It's hard to  
23 predict. If you look back on all the reports,

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1 the lieutenant's reports you could figure it  
2 out but it's kind of tedious.

3 Q. Earlier we had discussed whether the Housing  
4 Unit had run more than ten checkpoints during  
5 your time as captain. Now that you are  
6 remembering that it was connected to the --  
7 the daytime details being authorized, is it  
8 fair to say that the Housing Unit likely ran,  
9 say, more than a hundred checkpoints during  
10 your time as captain?

11 MR. QUINN: Form.

12 A. I think it would be less than a hundred, if I  
13 had to guess.

14 Q. Okay. But whenever the details were  
15 authorized, the checkpoints would happen on a  
16 daily basis manpower and weather permitting?

17 MR. QUINN: Form.

18 A. Yes.

19 Q. Okay. Now with respect to the Strike Force  
20 checkpoints, how would you describe your  
21 involvement?

22 A. Occasionally my superiors would relay to me --  
23 would want me to relay to the lieutenants if

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1           they wanted a traffic safety checkpoint at a  
2           certain area in a certain location, and I  
3           would relay it to them.

4           Q. Were you also charged with making sure that  
5           daily checkpoints took place on the Strike  
6           Force?

7           A. No, but if I gave them -- if the deputy  
8           commissioner told me for them to have one on a  
9           certain day, you know, I would know if they  
10          did it or not because I reviewed the reports.

11          Q. Were you charged with tracking the locations  
12          of Strike Force checkpoints?

13          A. No.

14          Q. Did you receive information in any event about  
15          the locations of Strike Force checkpoints?

16          A. I don't understand the question. Did I?

17          Q. Receive information about the locations of  
18          Strike Force checkpoints?

19                   MR. QUINN: Form.

20          A. I received information when my superiors gave  
21          it to me. And additionally, sometimes if they  
22          sent it through an email to the lieutenants  
23          and not through me, they would copy me on the

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1 email.

2 Q. Did you ever -- was it ever your practice to  
3 instruct Strike Force lieutenants to  
4 communicate the location of daily checkpoints  
5 to you as well as to others at BPD?

6 A. No.

7 Q. Okay. I am going to show you an exhibit that  
8 was produced in discovery as COB016269. This  
9 will be Serafini Exhibit 9 I believe.

10 Mr. Serafini, are you able to see this  
11 document?

12 MR. QUINN: Make it a little bigger.

13 Q. Is that better?

14 A. I can see it fine.

15 Q. Okay. Do you see this is an email that you  
16 sent to Strike Force lieutenants in March --  
17 on March 16th, 2017?

18 A. Yes, I see that.

19 Q. And do you see that the subject of the email  
20 is checkpoint location [sic]?

21 A. Yes, I do.

22 Q. And do you see that it's instructing Strike  
23 Force lieutenants to email the location of the

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1 traffic checkpoints at the beginning of their  
2 tour to Chief Young as well as yourself?

3 A. Yes, I do. I forgot about this.

4 Q. Okay.

5 A. They sent them to me. I didn't tabulate them.  
6 I guess I forgot.

7 Q. Understood. And then it indicated that if a  
8 checkpoint was not able to be completed, for  
9 instance because of weather or manpower, that  
10 an explanation should be sent to yourself and  
11 the chief explaining the reason for the  
12 cancellation, correct?

13 A. Yes, I see that.

14 Q. Okay. So does this email refresh your  
15 recollection that there was at least a time  
16 where you were tracking on a daily basis the  
17 location of traffic checkpoints that the  
18 Strike Force conducted?

19 MR. QUINN: Form, specifically  
20 "tracking".

21 A. Well, I wasn't tracking. I mean, they were  
22 letting me know where it was. I didn't pay a  
23 lot of attention to it or I would have

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1 remembered it, but this happened in March of  
2 2017. It's about two years after I got there.  
3 I got there in '15, but I forgot about it.  
4 Again, I wasn't tracking or writing it down.

5 Q. Okay. And based on this email, is it fair to  
6 say that in 2017 there was -- this period in  
7 2017 there was still an expectation that  
8 checkpoints occur on a daily basis manpower  
9 and weather permitting?

10 A. Yes.

11 Q. Okay. I'd like to go ahead -- sorry. Do you  
12 recall, having seen that document now, why you  
13 had made the request that checkpoint locations  
14 be communicated to you and the chief?

15 A. I don't. I don't remember. I don't even  
16 remember sending it.

17 Q. Okay. I am going to show you a document that  
18 was produced in discovery by defendants as  
19 COB016306. This will be Serafini Exhibit 10.

20 Mr. Serafini, are you able to see this  
21 document?

22 A. Yes.

23 Q. Do you see that it's an email you authored in

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1           May 2017 to the Strike Force lieutenants  
2           copying Chief Young?

3           A. Yes.

4           Q. And it's title is checkpoint sheets?

5           A. Yes.

6           Q. And it's asking that your officers -- or  
7           rather the lieutenants for the Strike Force  
8           fill out a daily traffic safety checkpoint  
9           sheet, even if checkpoints are not run on that  
10          particular day. Do you see that?

11          A. Yes.

12          Q. And you explain that this will make it easier  
13          for you when you document the locations and  
14          reasons why, it says, we did not conduct a  
15          checkpoint.

16          A. Yes.

17          Q. Do you have any understanding why you were  
18          documenting checkpoint locations and the  
19          reasons why you did or didn't conduct a  
20          checkpoint at that time?

21                   MR. QUINN: Form.

22          A. Well, I think the reason this was sent out  
23          because if my supervisors -- if there

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1           wasn't -- again, every night the lieutenants  
2           would fill out a form and send it to the  
3           powers that be. And if it didn't include --  
4           if it didn't include a location of a  
5           checkpoint, they wanted to know why.

6           Q. So there was an expectation among your  
7           higher-ups at the BPD that checkpoints occur  
8           on a daily basis at the Strike Force?

9           A. Manpower provided and weather permitting, yes.

10          Q. Okay. Do you know why that was an  
11          expectation?

12                         MR. QUINN: Form.

13          A. It was something they did. It was something  
14          the Strike Force did every night if they  
15          could.

16          Q. Okay. And we have been referencing the  
17          checkpoints as being daily but, just to  
18          confirm, there were often cases where more  
19          than one checkpoint took place in a single  
20          day, correct?

21          A. Yes.

22          Q. At times, the Strike Force would conduct as  
23          many as four checkpoints a day?

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1 A. I don't remember -- recall them doing four.

2 Q. Is it true that they would conduct three  
3 checkpoints a day at times?

4 A. Normally, as I remember -- as I recall, if  
5 they had the morning detail, the daytime  
6 detail, they would conduct one then and then  
7 they would conduct one at night, sometimes two  
8 at night.

9 Q. Okay.

10 A. But, again --

11 Q. I'd like to show you a document that was  
12 produced in discovery as COB016315. This will  
13 be Plaintiffs' Exhibit -- Serafini Exhibit 11  
14 I believe.

15 Mr. Serafini, are you able to see this  
16 document?

17 A. I can see it.

18 Q. Do you see that it's an email to the Strike  
19 Force lieutenants --

20 A. Yes.

21 Q. -- copying Chief Young from May 2017?

22 A. I see it, yes.

23 Q. Okay. Do you see that in the second sentence

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1           it states "keep in mind there will be three  
2           checkpoints on the MP4 shift daily"?

3           A. Yes, that's what Deputy Commissioner wanted at  
4           that time.

5           Q. Okay. "Deputy commissioner" being who in this  
6           instance? Lockwood?

7           A. Deputy Commissioner Lockwood, yes.

8           Q. Okay. And do you see that the second to last  
9           sentence states, you know, "please remember to  
10          email the DPC." Is that deputy police  
11          commissioner? Is that what that stands for?

12          A. Yes.

13          Q. "Chief and myself of the checkpoint locations  
14          daily."

15          A. Yes, I see that.

16          Q. Okay. Do you have an understanding of why the  
17          deputy police commissioner had instructed you  
18          to ensure that three checkpoints were being  
19          run on a daily basis by the Strike Force?

20          A. I do. At that particular time, the deputy  
21          commissioner would receive information from  
22          the Crime Analysis Unit of certain hotspots,  
23          high crime locations where crimes were

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1 committed, violent crimes were committed, and  
2 at that time Deputy Commissioner Lockwood  
3 wanted to make sure we put two traffic safety  
4 checkpoints in those areas.

5 Q. So under Deputy Commissioner Lockwood the  
6 traffic safety checkpoints were part of a  
7 crime control and crime prevention strategy?

8 MR. QUINN: Object to form.

9 A. Should I answer it?

10 Q. You may answer it.

11 A. Yes, yes, yes.

12 Q. Okay. We have been going for a little bit of  
13 time and I know that at some point we need to  
14 take a lunch break. Is this a good time to do  
15 all of the above?

16 A. It's up to you.

17 MR. QUINN: Yeah, I want to get it done  
18 as quick as we can so whatever you think.

19 MS. EZIE: Okay. Ms. Fisher, how long  
20 for your purposes would you need?

21 THE REPORTER: Even just 15 minutes is  
22 fine.

23 MS. EZIE: Do we want to take a

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1 15-minute break, put us back on the record at  
2 12:10?

3 MR. QUINN: That's okay.

4 MS. EZIE: Before we go off the record,  
5 just a reminder, Mr. Serafini, for the course  
6 of this deposition, you may not speak with  
7 your attorney about the deposition under the  
8 local rules. So by all means enjoy your break  
9 but please no conferencing about the subject  
10 of the deposition.

11 THE WITNESS: Okay.

12 MS. EZIE: All right. Thank you.

13 (A recess was taken.)

14  
15 BY MS. EZIE:

16 Q. Back on the record, 12:22.

17 Mr. Serafini, are you familiar with what  
18 the BPD police manual says about traffic  
19 checkpoints?

20 A. No, I am not.

21 Q. Okay. Let's quickly review it. This is the  
22 exhibit that was previously marked as  
23 Plaintiffs -- or, sorry, Serafini Exhibit 3

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1 and I am scrolling to Section 10.5 unless I am  
2 looking at a version of it that doesn't have  
3 it. Well, that's not helpful. Give me one  
4 moment.

5 I am going to ask you a question instead  
6 and that is, was it the BPD's policy during  
7 the time that you were captain for checkpoints  
8 to be authorized by either an inspector, a  
9 chief, or a deputy police commissioner?

10 MR. QUINN: Form.

11 A. Yes, that I was aware of.

12 Q. Okay. Was there a time where that became a  
13 policy that was kind of memorialized in  
14 writing, perhaps in an updated version of the  
15 BPD manual?

16 MR. QUINN: Form.

17 A. It may have.

18 Q. Okay. But in any event, it was the practice  
19 for checkpoints including the locations to be  
20 approved by someone in the BPD leadership  
21 structure?

22 A. Yes.

23 Q. Okay. Were you ever directly involved in

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1 approving Strike Force checkpoint locations?

2 MR. QUINN: Form.

3 A. No.

4 Q. Who was involved in approving checkpoint  
5 locations?

6 A. The deputy commissioner or sometimes the  
7 lieutenants determined the locations.

8 Q. Okay. What about Chief Young and Chief  
9 Brinkworth, were they involved in the approval  
10 of the checkpoints?

11 A. In the approval?

12 Q. Yes, the authorization of the checkpoints.

13 A. Yes. Yes, they were.

14 Q. Okay. Did that extend, to your knowledge, to  
15 determining checkpoint locations from time to  
16 time?

17 A. Yes. From time to time they would want us to  
18 do a checkpoint in a certain location.

19 Q. Okay. But in any event, to your knowledge,  
20 every checkpoint that took place under the  
21 Strike Force was approved by either an  
22 inspector or chief or deputy police  
23 commissioner or police commissioner?

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1 MR. QUINN: Form.

2 A. Either the chief, the deputy commissioner, or  
3 the commissioner.

4 Q. Okay.

5 A. Not an inspector. There was no inspector in  
6 the rank -- in the chain of command.

7 Q. Understood, okay. So who selected the  
8 locations, the actual locations of the  
9 checkpoints during your time as captain?

10 A. Well, as I said, it was either the chiefs, the  
11 deputy commissioner, or the commissioner or  
12 the lieutenants. And sometimes chiefs that  
13 means chiefs, my chief, my two chiefs, or  
14 chiefs of other districts.

15 Q. Okay. And there was never a time that you  
16 were involved -- you considered yourself to be  
17 the person who determined the checkpoint  
18 location?

19 A. No.

20 Q. Okay. Who authorized the lieutenants, Strike  
21 Force lieutenants, to designate checkpoint  
22 locations?

23 A. That came through the chief or the deputy

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1 commissioner.

2 Q. Okay. That was not a determination that you  
3 made --

4 A. No.

5 Q. -- that a lieutenant should be provided that  
6 authority?

7 Do you know what guidance, if any, the  
8 lieutenants were provided about choosing  
9 checkpoint locations?

10 MR. QUINN: Form.

11 A. No, I don't.

12 Q. Okay. So -- okay. Is that to say that the  
13 lieutenants had complete and total discretion  
14 about where to locate checkpoints?

15 MR. QUINN: Form.

16 A. I don't specifically know.

17 Q. Okay. Isn't it fair to say that when the  
18 lieutenants chose the locations of  
19 checkpoints, they were operating with some  
20 general guidance or parameters from BPD  
21 leadership?

22 MR. QUINN: Form.

23 A. You said is it fair to say that?

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1 Q. Yes.

2 A. Yes.

3 Q. Okay. I'd like to show you an exhibit that --  
4 this will be Serafini Exhibit 12. It's a  
5 document that was produced in discovery as  
6 COB016252. I am pulling it up right now.

7 Mr. Serafini, are you able to see this  
8 document?

9 A. Yes. Yes.

10 Q. Okay. And do you see that it is an email that  
11 you sent on July 5th, 2016, to the Strike  
12 Force lieutenants copying Chief Young?

13 A. Yes.

14 Q. Okay. And it's called -- I guess it's a typo,  
15 but it's describing the Strike Force daytime  
16 detail?

17 A. Yes, I see that.

18 Q. Okay. And your testimony is that these  
19 daytime details, whether they were Strike  
20 Force or Housing Unit details, were always  
21 overtime details?

22 MR. QUINN: Form.

23 A. Not always. If they were operated during the

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1 day, they were overtime because that was  
2 outside of our normal work schedule and  
3 outside of Strike Force's normal work  
4 schedule.

5 Q. So the daytime detail referenced here was an  
6 overtime detail?

7 A. The daytime details were always overtime, yes.

8 Q. Okay. So this is describing in the first  
9 paragraph that there has been an increased  
10 manpower for the overtime detail, daytime  
11 detail; is that correct?

12 A. Yes.

13 Q. Okay. And then in paragraph 2, it begins by  
14 saying that "Deputy Police Commissioner  
15 Lockwood wants results with this increased  
16 daytime detail." Do you see that?

17 A. Yes.

18 Q. And then it states, "all officers should be  
19 made aware of this, and of what is expected of  
20 them." Do you see that?

21 A. Yes.

22 Q. "In the past, the officers assigned to the  
23 daytime detail have always yielded good

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1 results and we all expect this to continue  
2 into the future." Do you see that?

3 A. Yes.

4 Q. What were you -- what were you describing or  
5 conveying in that paragraph?

6 MR. QUINN: Form.

7 Q. I will rephrase.

8 What were you communicating to officers  
9 here?

10 MR. QUINN: Form.

11 A. Sometimes when officers are on an overtime  
12 detail, not just specific to the Housing and  
13 the Strike Force Units, sometimes when they're  
14 on an overtime detail, they get a little laxed  
15 and they don't perform like they normally  
16 should so this email was just making them --  
17 wanted to make the officers aware that they're  
18 expected to work.

19 Q. And by "work," is that what you mean when you  
20 say results?

21 A. Yes.

22 Q. What does results mean exactly?

23 A. Well --

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1 MR. QUINN: Form.

2 A. Work and results, what I mean by that is what  
3 was expected of them: To patrol all the areas  
4 that they were designated to patrol, to  
5 enforce the vehicle and traffic law, to  
6 investigate suspicious activity whether it was  
7 on the street or by someone operating a  
8 vehicle.

9 Q. And what was expected of officers exactly?

10 MR. QUINN: Form.

11 A. It was expected of them to write some  
12 summonses, some parking tags if it was  
13 warranted, and to make arrests if it was  
14 warranted.

15 Q. And when you say that in the past the officers  
16 have always yielded good results, are you  
17 referring to arrests, summonses, parking tags,  
18 those types of results?

19 A. I am referring to their overall performance --

20 Q. How did you --

21 A. -- not just those specific things.

22 Q. Sorry. How did you measure performance in  
23 that case?

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1 MR. QUINN: Form.

2 A. By the statistics and then by other things  
3 such as sometimes they would develop  
4 information from citizens or from Housing  
5 residents on drug houses or locations or  
6 people that were carrying guns, certain  
7 vehicles. It was a development of information  
8 in addition to the statistics of summonses,  
9 arrests, guns confiscated.

10 Q. Okay. Now, in the third paragraph it states  
11 that Deputy Commissioner Lockwood also wanted  
12 there to be two traffic checkpoints run during  
13 the daytime detail. Do you see that?

14 A. Yes.

15 Q. And then in the second sentence of that  
16 paragraph it states "as you all have done in  
17 the past, the checkpoint locations should be  
18 conducted in and around recent areas of  
19 violence." Do you see that?

20 A. Yes.

21 Q. It goes on to say, "for example, if there was  
22 a shooting during the previous night at  
23 Broadway/Fillmore, then a traffic checkpoint

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1           should be conducted in that vicinity."

2           Correct, that's what it states?

3           A. Yes, I see that.

4           Q. Okay. What was the source of this guidance  
5           that you were providing the Strike Force  
6           lieutenants?

7                       MR. QUINN: Form.

8           A. Well, as I mentioned before, the Strike Force  
9           lieutenants a lot of times determined the  
10          locations of the traffic safety checkpoints.  
11          And if there was a shooting, for example, the  
12          night before or if they had problems while  
13          they were working the night before, if they  
14          heard violence going on in a certain area,  
15          then the next day they were expected to set up  
16          the traffic safety checkpoint in that area or  
17          around that area.

18          Q. Why?

19          A. Because it's been proven where we set up the  
20          traffic safety checkpoint crime would be  
21          curtailed.

22          Q. Got it. So following that strategy allowed  
23          for the checkpoints to be a crime prevention

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1 tool?

2 A. Yes.

3 Q. And lieutenants were expected to use  
4 checkpoints -- when they were determining the  
5 actual locations of checkpoints, they were  
6 supposed to be following this crime control  
7 guidance here?

8 MR. QUINN: Form.

9 A. That's correct.

10 Q. And you state here that "as you have done in  
11 the past, the checkpoint locations should be  
12 conducted in and around recent areas of  
13 violence." Were those the standing  
14 instructions for how Strike Force checkpoints  
15 should be determined unless and until you  
16 received a request from someone, for instance,  
17 at the chief or deputy commissioner level?

18 MR. QUINN: Form.

19 A. That's accurate, yes.

20 Q. Okay. And so although lieutenants had some  
21 discretion about where to place the actual  
22 checkpoint as far as the intersection, they  
23 were expected to use -- to follow this

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1 guidance, correct?

2 A. Yes.

3 Q. And is this guidance that you would have  
4 received from the leadership of the BPD?

5 MR. QUINN: Form.

6 A. Yes.

7 Q. Does that include Commissioner Derenda? Would  
8 Commissioner Derenda have approved these  
9 checkpoint instructions?

10 MR. QUINN: Form.

11 A. It was my understanding, yes.

12 Q. And the same is true for Deputy Police  
13 Commissioner Lockwood?

14 A. Yes.

15 Q. And Chief Young?

16 A. At this period of time, yes.

17 Q. Okay. When Chief Brinkwood [sic] was the  
18 chief ahead of you, was this the same guidance  
19 that was followed as to checkpoint locations?

20 MR. QUINN: Form.

21 A. Yes.

22 Q. I will take this exhibit down.

23 There was also a period where you were

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1 instructed to -- where your practice was to  
2 locate checkpoints near hotspots; is that  
3 correct?

4 A. Yes.

5 MR. QUINN: Form.

6 Q. What's a hotspot?

7 MR. QUINN: Form.

8 A. An area of high crime or violent crime  
9 activity.

10 Q. So hotspot is not a term that is used within  
11 the BPD to describe where you have seen a lot  
12 of cars running red lights, for instance?

13 A. It could be.

14 MR. QUINN: Form.

15 A. It encompasses a lot of things, crime whether  
16 that's vehicular crime or penal law crime.

17 Q. What data is being used to analyze these  
18 hotspot locations? Were you involved in the  
19 data analysis?

20 MR. QUINN: Form.

21 A. In collecting the data, no.

22 Q. Okay. Are you able to identify the types of  
23 crime data that was being analyzed?

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1 A. No.

2 Q. Okay. So you don't know whether traffic  
3 accidents was part of the crime data that was  
4 analyzed when determining what was a hotspot?

5 A. No, I don't.

6 Q. Okay. And at times you relied on maps to  
7 determine where checkpoints should be located  
8 or your lieutenants determined -- relied on  
9 maps?

10 A. I didn't rely on them.

11 Q. Okay. To clarify, there were times that you  
12 provided maps to officers at the instruction  
13 of the BPD's leadership to guide the placement  
14 of checkpoints?

15 MR. QUINN: Form.

16 A. There was a time when the deputy -- Deputy  
17 Commissioner Lockwood gave me a few maps and  
18 wanted me to give them to the Strike Force  
19 lieutenants to relay them to them.

20 Q. Okay. And those were maps of the E District?

21 MR. QUINN: Form.

22 A. They were maps of the hotspots, and they were  
23 highlighted in red and yellow.

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1 Q. Okay. I'd like to take a look at a document  
2 that is Bates stamped COB016284 and that was  
3 produced in discovery by defendants. I  
4 believe we actually marked it up already as an  
5 exhibit. This is Exhibit 5.

6 So this is an email that you were  
7 describing checkpoints being pegged off of  
8 maps showing the E2 and E4 sectors, correct?

9 A. Yes.

10 Q. Okay. Those are both sectors of the E  
11 District which is on the east side?

12 A. Yes.

13 Q. Okay. And let's see, do you recall an  
14 instance where the maps you distributed to  
15 officers showed neighborhoods other than the  
16 east side as a patrol focus for the  
17 checkpoints?

18 MR. QUINN: Form.

19 A. I distributed the maps to the lieutenants and  
20 I didn't look through -- there were -- there  
21 was a bunch of them, maybe 10 to 12 in a  
22 packet. I didn't look through every single  
23 one.

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1 Q. But you did relay the instructions you were  
2 given?

3 A. Yes, I did.

4 Q. Okay. Were some of those maps showing areas  
5 with recent shootings?

6 MR. QUINN: Form.

7 A. Yes.

8 Q. Why would checkpoints be located in areas with  
9 recent shootings?

10 MR. QUINN: Form.

11 A. Because it's been shown that they deter crime.  
12 When a traffic checkpoint is conducted in an  
13 area -- when you have 15 police officers in an  
14 area with six or seven patrol cars and they're  
15 checking registrations, the criminals aren't  
16 going to commit crimes right there. More  
17 likely than not they're not going to commit  
18 crimes there. They're going to -- criminals  
19 are going to stay away from where the police  
20 are if they can see the police.

21 Q. Okay. So were the checkpoints operated in a  
22 manner where only motorists who were involved  
23 in shootings had to pass through them?

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1 MR. QUINN: Form.

2 A. No, it was all motorists.

3 Q. So any motorist in the area, regardless if  
4 they were involved in any suspicious activity,  
5 would be stopped?

6 A. Well, not stopped. They were slowed down so  
7 that the officers could look at the  
8 inspection/registration sticker and some were  
9 stopped but not all of them were stopped.

10 Q. They would all have to pass through the  
11 checkpoint if it was established --

12 A. They would --

13 Q. -- along their commute?

14 A. Yes, drive through it.

15 Q. Okay. What other activities did your officers  
16 or Strike Force officers perform at the  
17 traffic checkpoints?

18 MR. QUINN: Form.

19 A. They slowed down the vehicles. They looked  
20 for vehicular and traffic law violations and  
21 sometimes they came across other things.

22 Q. Did they question the motorists?

23 A. Sometimes if the motorists were stopped. Most

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1 motorists were allowed to go right through.

2 Q. By "right through," what do you mean?

3 A. If a vehicle was slowed down in a traffic  
4 safety checkpoint and their inspection sticker  
5 and registration sticker was valid, they would  
6 just be allowed to pass through.

7 Q. Isn't it true that any checkpoint was going to  
8 add time to a motorist's commute?

9 MR. QUINN: Form.

10 A. I didn't understand the question.

11 Q. If a traffic checkpoint was set up on the  
12 motorist's commute, they are going to have to  
13 slow down at minimum, correct?

14 A. Some of them, yes.

15 Q. If there is cars ahead of them that have been  
16 stopped, that can create a backlog or some  
17 traffic?

18 A. Sometimes for a short period of time.

19 Q. You said a short period of time. Did you make  
20 any attempt to document the length of  
21 checkpoints as far as how long motorists might  
22 be stopped?

23 MR. QUINN: Form.

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1 A. No.

2 Q. Okay. Are you familiar with the complaint in  
3 this case?

4 A. Am I familiar with what complaint?

5 Q. The complaint in this case, the case of  
6 Buffalo -- Black Love Resists in the Rust?

7 A. No, I didn't read it over.

8 Q. You have never reviewed it?

9 A. I believe I was served a few years and years  
10 ago and I looked at it, but I don't remember  
11 any of it.

12 Q. Okay. Are you aware that that complaint  
13 alleges that some of our plaintiffs were  
14 stopped for, you know, up to almost an hour at  
15 traffic checkpoints?

16 A. I don't have knowledge of that, no.

17 Q. Okay. And with respect to secondary stops,  
18 was there any guidance that officers were  
19 provided about when to conduct a secondary  
20 more time consuming stop of a motorist?

21 MR. QUINN: Form.

22 A. Well, if someone was going to be issued a  
23 summons, it would take a little bit of time.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Q. Was there any guidance about when officers  
2 should -- provided to officers about when they  
3 should stop, issue summonses, have a longer  
4 interaction with the motorist?

5 A. Well, they were allowed to use some  
6 discretion, too. They didn't stop every  
7 single person that had a taillight out or a  
8 headlight out but, again, I don't have  
9 personal knowledge of all the details of that.

10 Q. So to your knowledge, there was no guidance  
11 that officers were following with respect to  
12 the operation of the checkpoints; they were  
13 using their discretion?

14 MR. QUINN: Form.

15 A. Yes.

16 Q. Okay. And did you supervise officers or  
17 lieutenants when they were operating  
18 checkpoints?

19 MR. QUINN: Form.

20 A. Once. On one point I was there for about a  
21 half hour or an hour.

22 Q. So in your three years as captain of the  
23 Housing Unit with administrative duties over

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1 the Strike Force, you recall attending one  
2 checkpoint?

3 A. Yes, one.

4 Q. Where was that checkpoint located, if you  
5 recall?

6 A. I forget the street, but it was about three  
7 blocks from Precinct -- or from E District off  
8 of Bailey Avenue. I forget the street. I am  
9 not that familiar with the area.

10 Q. Okay. It was -- it was a neighborhood on the  
11 east side?

12 A. Yes.

13 Q. Do you recall about how long that checkpoint  
14 lasted?

15 A. Maybe an hour.

16 Q. At least 30 minutes --

17 A. Maybe an hour because I was there -- I got  
18 there. I would say an hour.

19 Q. Okay. And why did you decide to attend that  
20 specific checkpoint?

21 A. It was -- I had just arrived at the unit. I  
22 was just transferred in, and I wanted to see  
23 how they conducted it. I was driving around

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1 and I had to speak to a lieutenant about  
2 something, and I stopped and I just observed  
3 for about a half hour, maybe an hour, around  
4 there. I don't know exactly how long.

5 Q. You observed it was a single checkpoint, or  
6 was it multiple checkpoints that occurred in  
7 succession?

8 A. No, it was one checkpoint.

9 Q. Sorry. If you responded, I wasn't able to  
10 hear your answer.

11 A. It was one checkpoint.

12 MR. QUINN: You are breaking up a little  
13 bit on our end.

14 THE WITNESS: I am sorry. I will try to  
15 get closer.

16 MR. QUINN: It's not you, Phil. I think  
17 it's the connection.

18 Q. Okay. Let me know if that happens again,  
19 please.

20 Were you able to observe the motorists  
21 who were passing through the checkpoint?

22 A. Some of them, yes.

23 Q. What was -- what were their ethnicities?

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1 MR. QUINN: Form.

2 THE WITNESS: Should I answer it?

3 MR. QUINN: Yeah.

4 A. They were White -- White people, Black people.  
5 I wasn't real close, but I could see people in  
6 the cars.

7 Q. Okay. Now, isn't it true that the majority of  
8 motorists on the east side are Black or  
9 Latino?

10 MR. QUINN: Form.

11 A. I don't know what the population demographics  
12 are on the east side, and I don't know what  
13 the east side entails, I mean, what streets or  
14 you know. The east side could be a large area  
15 or a small area. I don't know.

16 Q. Over your time as a BPD -- member of the BPD  
17 and a captain, you never learned what the  
18 racial demographics were of neighborhoods in  
19 Buffalo?

20 MR. QUINN: Form.

21 A. In the areas I've worked, yes, I did.

22 Q. When you joined the Housing Unit on Strike  
23 Force, what areas were those -- when you

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 joined the Housing Unit, rather.

2 A. The Housing Unit covered every -- the entire  
3 city, every area.

4 Q. So did that give you a sense of the racial  
5 demographics in the city of Buffalo?

6 MR. QUINN: Form.

7 A. Some areas.

8 Q. Did you ever come to an understanding of the  
9 racial demographics of the east side of  
10 Buffalo?

11 MR. QUINN: Form.

12 A. Yes, in my opinion.

13 Q. How would you describe the racial demographics  
14 of the east side of Buffalo?

15 A. What do you mean by "the east side"?

16 Q. E District.

17 A. E District?

18 Q. Yes. Is it a majority --

19 A. Never --

20 Q. -- minority district?

21 A. Again, I am not the person to ask this. I  
22 don't think I can accurately answer that  
23 question because I didn't work there. I was a

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1 supervisor there in housing. That's the only  
2 time I worked there, and I would drive through  
3 Langfield-Kenfield once a night. So that's  
4 the only part I know. I mean, I know the  
5 lower west side; I worked there for ten years.  
6 I know A District; I worked there for probably  
7 eight years. I don't know places where I  
8 didn't work.

9 Q. Okay. How would you describe the A District,  
10 South Buffalo?

11 A. A District is predominantly White people --

12 Q. Okay.

13 A. -- from what I have learned.

14 Q. And if I said the E District and East Buffalo  
15 was predominantly Black; would you agree?

16 MR. QUINN: Form.

17 A. It's possible.

18 Q. Were the BMHA residences that you patrolled,  
19 were they majority minority?

20 A. It depends which one, which property. There  
21 were a lot of properties.

22 Q. Was Kenfield-Langfield a majority minority  
23 property?

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1 A. From what I saw driving through once a night,  
2 I saw -- probably saw more Black residents  
3 than White residents, yes.

4 Q. Okay. Now, why is it that you only attended  
5 one checkpoint during your time as Housing  
6 Unit captain stationed with the Strike Force?

7 MR. QUINN: Form.

8 A. Well, first of all, that was the Strike Force  
9 checkpoint and Strike Force wasn't really  
10 under my domain except for the administrative  
11 duties.

12 Q. Okay. Was there anyone, to your knowledge,  
13 who was monitoring or observing the Strike  
14 Force's activities at checkpoints?

15 MR. QUINN: Form.

16 A. The lieutenants were.

17 Q. Was there anyone above the lieutenant level?

18 MR. QUINN: Form.

19 A. No.

20 Q. Was there anyone who was supervising the  
21 Strike Force and their operation of the  
22 checkpoints above the lieutenant level?

23 MR. QUINN: Form.

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1 A. No.

2 Q. And did you ever learn that residents of  
3 Buffalo, particularly on the east side, felt  
4 inconvenienced and discriminated against at  
5 checkpoints?

6 MR. QUINN: Form.

7 A. Did I ever learn that? No.

8 Q. Isn't it true that during your time as captain  
9 there were complaints that emerged alleging  
10 that the BPD's checkpoint program was racially  
11 discriminatory?

12 MR. QUINN: Form.

13 A. All the complaints I received, as I recall,  
14 were from -- concerning the checkpoints were  
15 either an officer having bad conduct or people  
16 were upset because they were receiving traffic  
17 summonses or they had their car towed.

18 Q. Are you aware that the -- strike that.

19 So there were citizen complaints that  
20 you received about the operation of the  
21 checkpoints?

22 A. We had a few, yes.

23 Q. And complaints that alleged officer misconduct

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1 at the checkpoints?

2 MR. QUINN: Form.

3 A. Yes.

4 Q. Did you have a responsibility in responding to  
5 or investigating those complaints?

6 MR. QUINN: Form.

7 A. Yes.

8 Q. What was your responsibilities with respect to  
9 complaints as captain?

10 A. I was to contact the complainant, get their  
11 version of the events, contact the lieutenant  
12 and the officer involved, get their version of  
13 the events. They would reduce them to writing  
14 and then I was to type up my recommendations  
15 and send it back to our Internal Affairs Unit.

16 Q. And was that the practice that you followed  
17 during your time as captain?

18 A. Yes, and I -- let me go back. Not just -- I  
19 would type up what transpired and my  
20 recommendations and then send it to Internal  
21 Affairs.

22 Q. Was that your practice even when complaints  
23 alleged that the conduct an officer engaged in

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1 was discriminatory or harassing? Would you  
2 still be the one in charge of investigating  
3 it?

4 MR. QUINN: Form. That doesn't  
5 accurately characterize the prior testimony.  
6 You can answer it.

7 A. Do you want to ask it again? I never  
8 specifically received a complaint that some --  
9 that a citizen was discriminated against by an  
10 officer, number one, and all the complaints I  
11 received were complaints that are generated  
12 with our Internal Affairs Division. The  
13 complaint is taken there. Sometimes we could  
14 take a report, but I don't recall ever doing  
15 it. Our office was not open to the public,  
16 but they were sent to me. The complaints were  
17 sent to me by our Internal Affairs Division.

18 Q. Okay. And your testimony today is that in  
19 your time on the police force you have never  
20 received a complaint that one of your officers  
21 was engaged in discriminatory behavior?

22 MR. QUINN: Form.

23 A. I can't recall any. I was on the job a long

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1 time. I can't recall any one where someone --  
2 that a citizen complained of discrimination.

3 Q. Okay. What about during your time as District  
4 A captain, do you recall receiving complaints  
5 alleging discriminatory behavior by your  
6 officers?

7 A. I can't remember any case in my entire career  
8 when I was a supervisor.

9 Q. I'd like to turn to COB041747. We will mark  
10 this as Plaintiffs' Exhibit 13.

11 Okay. Mr. Serafini, do you see that  
12 this is an email thread that you're copied on  
13 from January 2013?

14 A. I see it.

15 Q. Okay. I am going to scroll down so it's a  
16 little bit easier for you to read. Can you  
17 see that okay?

18 A. Yes.

19 Q. Do you see this is an email that you received  
20 along with some other BPD personnel, subject:  
21 Complaint - Alto Knight?

22 A. Yes.

23 Q. And do you see that it indicates -- and if you

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1 need to take your time to read it, feel free.

2 A. Yeah. Can I read it, please?

3 Q. Sure.

4 A. I read it, but I don't remember it.

5 Q. Okay.

6 A. This was 2013. I don't remember it.

7 Q. Would you agree that the complaint as  
8 described alleges racial discrimination and  
9 racial profiling?

10 MR. QUINN: Form.

11 A. It alleges discrimination.

12 Q. Because the complainant is Black?

13 MR. QUINN: Form.

14 A. That's what the complaint alleges.

15 Q. Okay. Does this refresh your memory that  
16 during your time as a BPD captain you did from  
17 time to time receive allegations that your  
18 officers were engaging in racial  
19 discrimination?

20 MR. QUINN: Form.

21 A. This is evidence of one occurrence, yes. I  
22 was a captain almost 20 years. I had a lot of  
23 complaints but, again, nothing sticks out.

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1 This doesn't stick out either.

2 Q. Sure. And my question wasn't whether it stuck  
3 out but just merely whether you received  
4 allegations that your officers were engaged in  
5 racial discrimination.

6 A. This is proof of one, yes.

7 Q. Okay. When you received a complaint like  
8 this, you said your practice was to  
9 investigate?

10 MR. QUINN: Object to form. That's not  
11 the prior testimony.

12 A. Yes, that's what the department required me to  
13 do.

14 Q. Okay. And what investigative steps would you  
15 typically take as captain if you received a  
16 complaint?

17 A. I would contact the lieutenant, get his  
18 version of the -- or the complainant, I am  
19 sorry. Contact the complainant, get his  
20 version of the events. Contact the officer  
21 involved, get a written statement from him on  
22 what occurred, his version of the events, and  
23 any other officers that were on the scene.

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1           And if a lieutenant was involved, if he was on  
2           the scene or had any knowledge of it, I would  
3           get a written statement from him also.

4           Q. And what would you do from that point?

5           A. I would gather the information, type up a  
6           synopsis, and then I would give my opinion on  
7           how the complaint should be classified.

8           Q. What options did you have when it came to  
9           classifying complaints?

10          A. It could be classified as founded, unfounded,  
11          and then I would send it back to Internal  
12          Affairs, and then they would further  
13          investigate it and they would make the final  
14          determination.

15          Q. Okay. What was your practice when your  
16          officers and citizens gave different accounts  
17          of the facts?

18          A. Well, that was hard to determine. It was a he  
19          said-she said. One person says one thing and  
20          one person says the other. It's hard to  
21          determine unless you have any other facts or  
22          any other witnesses.

23          Q. Was your --

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1 A. It would probably be what we called  
2 unsustained. It wasn't enough evidence to  
3 sustain to prove that this happened.

4 Q. So long as your officers disputed the version  
5 of events, it was your practice to mark the  
6 complaints unsustained?

7 MR. QUINN: Form.

8 A. That's incorrect. That's incorrect.

9 Q. Okay. Help me understand your testimony.

10 A. If the officer said --

11 MR. QUINN: Form.

12 A. If the officer said one thing and the  
13 complaint said other things, I'd try to find  
14 out if there was something else, any evidence  
15 or any -- or another officer or a citizen,  
16 another citizen there that could discredit one  
17 of them or support one of their statements.  
18 If I didn't --

19 Q. Okay.

20 A. -- I mean, again.

21 Q. So unless you could find some outside  
22 corroboration of a citizen complaint in  
23 instances where the officer disagreed, it

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1 would likely be marked unsustainable?

2 MR. QUINN: Object to form.

3 A. More than likely, yes.

4 Q. Okay. I'd like to mark as Plaintiffs' -- I'm  
5 sorry, Serafini Exhibit 14 a document that's  
6 been Bates stamped COB024892. Just give me  
7 one moment.

8 Okay. Mr. Serafini, are you able to see  
9 this document?

10 MR. QUINN: What is this being marked  
11 as?

12 Q. This is Serafini Exhibit 14.

13 You know, I am sorry, I meant to put a  
14 different exhibit. Let me just remove it for  
15 the time being. We're going to jump to  
16 Exhibit 15 which is going to be COB039919.

17 Okay. Mr. Serafini, are you able to see  
18 this document?

19 A. Yes.

20 Q. Okay. This is an email that you drafted on  
21 September 13th, 2016; is that correct?

22 A. That's correct.

23 Q. And you're emailing Harold McLellan of the

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1 BPD?

2 A. Yes.

3 Q. With some CCs on to others. Who is Harold  
4 McLellan?

5 A. He was the inspector of the Internal Affairs  
6 Division at that time.

7 Q. Okay. And so this is an email where you're  
8 contacting officer -- sorry, Inspector  
9 McLellan about a complaint against an officer?

10 A. Yes.

11 Q. That officer is Michael Acquino?

12 A. Acquino, yes.

13 Q. Okay. Who is Officer Michael Acquino?

14 A. Who is he?

15 Q. Yes.

16 A. At this point in time I think he was a Housing  
17 officer.

18 Q. So he was someone on your detail or in your  
19 command?

20 A. He was in the Housing Unit.

21 Q. So this complaint is alleging that -- sorry.  
22 Let me see if we should start from the bottom.

23 Okay. So we will start from the bottom

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1 of the email where you see the actual  
2 complaint. Do you see that it's -- the  
3 complainant stated that an officer came into  
4 the store and took his black bike?

5 A. Yes.

6 Q. And he was complaining about, I guess, the  
7 bike being removed by an officer?

8 A. Yes.

9 Q. Okay. And then in response is this you  
10 reporting back on the findings of your  
11 investigation?

12 A. Yes. Can I read it?

13 MR. QUINN: Form.

14 Q. Of course.

15 A. Okay. I read it.

16 Q. Okay. So you recommended that this complaint  
17 be marked unfounded, correct?

18 A. Yes.

19 Q. What does unfounded mean?

20 MR. QUINN: Form.

21 A. Not credible. There is no evidence to prove  
22 that it happened, to prove the complainant's  
23 accusation is correct and true.

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1 Q. Okay. And the basis of your recommendation  
2 was that you saw no reason not to believe the  
3 officer?

4 MR. QUINN: Form.

5 A. That's correct.

6 Q. Why didn't you see a reason -- sorry. Why was  
7 that sufficient to conclude your  
8 investigation?

9 MR. QUINN: Form.

10 A. Well, Mr. Herrod claims the bike was taken by  
11 Mr. -- by Officer Acquino and he says -- he  
12 said -- he didn't witness it, number one. He  
13 said that a store owner told him the officer  
14 took it, but he didn't know who the store  
15 owner was or where the store was or any  
16 information. When I talked to Mr. Herrod, he  
17 couldn't identify anybody so I think he made  
18 it up.

19 Q. Was it generally your practice to believe your  
20 officers' version of events unless you could  
21 find outside corroboration?

22 A. I'd have to tell you that --

23 MR. QUINN: Form.

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1 A. -- on a case-by-case basis. But on this case  
2 here, yeah, I believe the officer because I  
3 think Mr. Herrod was lying.

4 Q. Now, am I correct that Michael Acquino, the  
5 officer you said you had no reason not to  
6 believe -- Acquino, my apologies -- has been  
7 the subject of other complaints?

8 A. I don't know offhand, but it's possible he had  
9 other complaints.

10 Q. Okay. Is it possible he has been conferenced  
11 by the IAD in the past?

12 A. I have no knowledge of that or can't remember.  
13 I don't remember -- ever recall that.

14 Q. What does it mean to have a conference?

15 A. Sometimes the disposition of a complaint, the  
16 punishment or the resulting action is a  
17 conference and they will have a conference  
18 with the deputy commissioner or the chief  
19 which is essentially a meeting where they will  
20 talk to them about it.

21 Q. Is that a way of indicating that there is a  
22 performance issue or a conduct issue of  
23 concern?

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1 A. No, it's --

2 MR. QUINN: Form.

3 A. -- not.

4 Q. How would you describe it?

5 A. I don't know what takes place in the  
6 conference so I can't answer that, and I don't  
7 have knowledge of what is said at the  
8 conference. I don't get any documentation of  
9 what was transpired in a conference. All I --  
10 the only thing I would receive was that he had  
11 a conference. I don't know what they talked  
12 about. They talked about the complaint, but I  
13 don't know anything else.

14 Q. And that's true even in cases where the  
15 officer or lieutenant is someone in your  
16 direct command?

17 A. That's correct.

18 Q. Okay. I'd like to turn to an exhibit that was  
19 produced by defendants as COB042054. This is  
20 going to be Serafini Exhibit 16. This is a  
21 document where for some reason we did not  
22 receive the full file so what I am able to  
23 share is just your email that is dated April

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1 17th, 2016, and you are contacting several BPD  
2 recipients. Do you see that?

3 A. Yes.

4 Q. Who is Louis Kelly?

5 A. He is a lieutenant that worked in Internal  
6 Affairs.

7 Q. Okay. And this is a -- now, again, I  
8 apologize I don't have the full -- the  
9 originating complaint, but do you see here  
10 that this is describing a complaint related to  
11 a traffic stop?

12 A. If I can -- if you give me a minute, I will  
13 read it, please.

14 Q. Sure.

15 A. Okay. I read it.

16 Q. Okay. So what steps did you take to  
17 investigate the complaint by Ms. Thomas  
18 according to this email?

19 A. Well, I was limited with this. I didn't have  
20 any contact information on the complainant so  
21 it was kind of hard to investigate it  
22 properly, but I investigated what I did by  
23 interviewing the officer.

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—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 Q. And you state in your email that you see no  
2 reason to not believe Officer Howard; is that  
3 correct?

4 A. That's correct.

5 Q. Now, who is Officer Howard?

6 A. Latasha Howard, she was an officer in the  
7 Housing Unit.

8 Q. The Housing Unit as well as the Strike Force?

9 A. She could have been in the Strike Force, too.  
10 Sometimes the officers switched, worked in the  
11 Housing and the Strike Force. It gets  
12 confusing if you had a -- I don't know at that  
13 time where she was, but she used to be in  
14 Housing. That's a definite. She was our  
15 community officer in Housing also for a while.

16 Q. Okay. At the time of this message, I believe  
17 she was only a Strike Force officer. I am  
18 representing that based on the roster we  
19 reviewed together. That roster, Exhibit 1,  
20 indicates that as of both June 2016 and July  
21 2017 Latasha Howard was only a Strike Force  
22 officer on Lieutenant Quinn and Whelan's  
23 detail. Does that sound accurate?

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1 A. If she is on the roster, yes. But as I said,  
2 most of my interactions with her was when she  
3 was in the Housing Unit. She was our  
4 community officer for I believe the last two  
5 years I was there.

6 Q. And it does indicate on this roster that she  
7 was part of Housing Unit effective 2018. Does  
8 that sound right to you as far as your  
9 recollection?

10 A. Sounds right, yes, as I just said.

11 Q. Okay. So at the time of this 2016 complaint,  
12 you were not a direct supervisor for Officer  
13 Howard?

14 A. No.

15 Q. You didn't know her particularly well since  
16 she was not one of your officers?

17 MR. QUINN: Form.

18 A. No.

19 Q. Okay. But you recommended that this complaint  
20 be dismissed because you saw no reason not to  
21 believe Officer Howard?

22 MR. QUINN: Form.

23 A. Correct.

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1 Q. Now, Latasha Howard has been found guilty of  
2 misconduct on the job, correct?

3 A. I don't have any knowledge of that.

4 Q. Isn't it true that Latasha Howard was given a  
5 four-day suspension at one point?

6 A. I don't remember that.

7 Q. Do you have any reason to disbelieve that she  
8 received a suspension?

9 A. I don't have direct knowledge of it. If -- I  
10 don't have direct knowledge that she was  
11 suspended. I don't -- I do not know any time  
12 that she was suspended that I know of.

13 Q. Okay. Do you know of other instances where  
14 she has been accused of misconduct?

15 A. I can't recall. It was a long time ago. I  
16 don't even remember this one.

17 Q. Okay. I'd like to mark as Plaintiffs' Exhibit  
18 17 a document that was produced in discovery  
19 by defendants and Bates stamped COB046600  
20 along with its attachment which was produced  
21 and marked as COB046601.

22 Do you see here, Mr. Serafini, that this  
23 is a notice of a hearing for Officer Howard

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~~PHILIP SERAFINI - BY MS. EZIE - 12/27/21~~

1           that you received in July of 2016?

2           A. Yes.

3                       MR. QUINN: I am sorry, this is a one  
4           page document that's been marked as Exhibit  
5           16?

6           Q. Correct. I am going to show the attachment  
7           next.

8                       This is the attachment which is also  
9           part of Exhibit 17. I will note that because  
10          of the way these documents are produced to  
11          defendants -- sorry, by defendants it does  
12          rewrite this date field so I want to represent  
13          that it is not my belief that this is dated  
14          February 12th -- sorry, February 21st, 2021,  
15          but I believe that's the only field that auto  
16          updates.

17                      So with respect to the other fields, do  
18          you see that it's ordering Officer Howard to  
19          report to Commissioner Derenda for a hearing  
20          on July 27th, 2016?

21          A. Yes, I see that.

22          Q. Was it your practice as captain to receive  
23          notices about officers on your detail who were

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1 being conferenced or investigated for IAD  
2 purposes?

3 A. Yes, I did receive them.

4 Q. Okay. Do you recall the circumstances of this  
5 disciplinary conference regarding Ms. Howard,  
6 Officer Howard?

7 A. No, I don't.

8 Q. Okay. Do you recall now that Ms. Howard was  
9 in fact handed down a multiday suspension?

10 A. I am not aware of that. I don't know the  
11 results of the hearing, and they don't  
12 notify -- they never notified me of the  
13 results of the hearing.

14 Q. Okay. So I would like to mark as Serafini  
15 Exhibit 18 a document that was produced by  
16 defendants as COB046883.

17 Mr. Serafini, let me zoom this out a  
18 little bit. Do you -- can you read this  
19 document okay?

20 A. Yes, I can.

21 Q. And do you see that it's a message concerning  
22 Officer Howard and referencing four suspension  
23 days?

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1 A. Yes, I do.

2 Q. Okay. Am I correct that suspension is a form  
3 of discipline within the BPD?

4 A. Yes, it is.

5 Q. Do you have any understanding of why Officer  
6 Howard was being disciplined at this time?

7 A. No, I don't. And, again, this was -- I don't  
8 remember this, that she was suspended for four  
9 days, but it was an administrative thing.  
10 They sent it to me because I was in that  
11 building and the inspector wanted to know  
12 specifically what days were going to be her  
13 suspension days and I coordinated with the  
14 report technician.

15 Q. Okay. And so it was not your practice during  
16 the time you were either captain or  
17 administrator for the Strike Force to have an  
18 understanding of why officers were being  
19 discharged -- I am sorry, were being  
20 disciplined on the Strike Force or Housing  
21 Unit?

22 MR. QUINN: Form.

23 A. That's correct.

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1 Q. You don't think it would be important to know  
2 the nature of misconduct that Strike Force or  
3 Housing officers may have engaged in while on  
4 the job?

5 A. I think it would be very important to know,  
6 but the department -- that's the way the  
7 department does their business.

8 Q. They never provide captains information about  
9 the conduct or misconduct of the officers on  
10 their charge?

11 MR. QUINN: Form.

12 A. When someone is suspended, they never tell us  
13 why they were suspended.

14 Q. Okay. What about if there are other forms of  
15 discipline that are taken against an officer,  
16 would you learn why an officer may be being  
17 demoted or transferred?

18 MR. QUINN: Form.

19 A. Not specifically, no.

20 Q. Would it have been helpful for you as an  
21 officer -- sorry, as a captain and a  
22 supervisor, manager to have an understanding  
23 of conduct and misconduct that officers in

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1 your charge were engaged in?

2 A. Yes.

3 Q. Did the BPD's policy of keeping that  
4 information private make it harder to  
5 supervise and manage officers --

6 MR. QUINN: Object to form. It doesn't  
7 accurately --

8 A. No.

9 THE REPORTER: I'm sorry. I didn't get  
10 the end of the question. All I got was "did  
11 the BPD's policy of keeping that information  
12 private make it harder to supervise and manage  
13 officers," and then I think you were saying  
14 something else.

15 MR. QUINN: I objected to form.

16 MS. EZIE: I will restate the question,  
17 and I will remind Counsel that these are  
18 supposed to be form objections. The speaking  
19 objections are improper and they are an  
20 attempt, in my mind, to coach the witness  
21 around the restrictions and the Western  
22 District rules so please cease and desist. I  
23 will rephrase the question.

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1 Q. Mr. Serafini, how did the policy of not  
2 providing information concerning sustained  
3 instances of misconduct against your officers  
4 or officers in your charge impact your duties  
5 as a supervisor and manager?

6 MR. QUINN: Form.

7 A. It didn't impact my duties at all.

8 Q. Is that because you did not view your duties  
9 as extending to ensuring that officers engaged  
10 in conduct that comported with BPD policy?

11 MR. QUINN: Form.

12 A. Can you repeat the question, please?

13 Q. Why didn't it impact your duties?

14 MR. QUINN: Form.

15 A. Why didn't it impact my duties if I knew  
16 someone was disciplined or not?

17 Q. Or engaged in --

18 A. Is that what you're asking?

19 Q. -- misconduct that was sustained. Yes.

20 MR. QUINN: Object to form.

21 A. Can you rephrase it, please?

22 Q. Sure. Why wouldn't it impact your duties as a  
23 manager and supervisor if officers on your

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1 charge were engaging in misconduct that was  
2 found to be credible by BPD investigators?

3 MR. QUINN: Form.

4 A. Well, she is a Strike Force officer at that  
5 time, right? Correct?

6 Q. Correct.

7 A. I don't -- I am not in charge of the Strike  
8 Force at that time. It wouldn't impact me at  
9 all.

10 Q. There was a time where Ms. Howard became a  
11 Housing Unit officer, correct?

12 A. Yes.

13 Q. And I believe you stated that she became your  
14 community outreach officer?

15 A. Yes.

16 Q. If a BPD officer had a history of engaging in  
17 misconduct with the public, would you consider  
18 that relevant to whether they should be  
19 assigned the role of community outreach  
20 officer?

21 MR. QUINN: Form.

22 A. If she had a history of confirmed misconduct  
23 with the public, yes.

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1 Q. Am I correct that in an instance where an  
2 officer receives a multiday suspension that is  
3 because there has been a confirmed allegation  
4 of misconduct?

5 MR. QUINN: Form.

6 A. Yes, but you'd have to know the details.

7 Q. So wouldn't it have been important to you as a  
8 supervisor and manager to know the details --

9 MR. QUINN: Form.

10 Q. -- of misconduct allegations?

11 A. If she was under my direct supervision, yes.

12 Q. And she was in fact someone that became under  
13 your supervision, direct supervision,  
14 subsequent to this incident, correct?

15 A. When she transferred to the Housing Unit, yes.

16 MS. EZIE: Okay. I think this is a good  
17 time to take a break. Why don't we do 10  
18 minutes and in which case, it's a little bit  
19 of an odd time, does it make sense just to  
20 come back at 1:45?

21 MR. QUINN: We're taking a lot of breaks  
22 and it's taking a long time, longer than it  
23 should to get through this stuff. Is there

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1 any way that we can sort of press through?

2 MS. EZIE: I am happy to make it a  
3 five-minute break. You know, my clock is my  
4 clock but we will not be here all day.

5 MR. QUINN: All right. I mean, it's  
6 taking quite a while so I just want to make  
7 sure we keep moving forward but a break now is  
8 fine.

9 MS. EZIE: All righty. Let's report  
10 back in five in that case.

11 (A recess was taken.)

12

13 BY MS. EZIE:

14 Q. Let's go back on the record.

15 So, Mr. Serafini, I'd like to show --  
16 I'd like to come back to the subject of  
17 traffic checkpoints and I wanted to confirm  
18 when officers from the Housing Unit or Strike  
19 Force were participating in a checkpoint, were  
20 there any procedures that they were supposed  
21 to follow with respect to dispatch?

22 MR. QUINN: Form.

23 A. Not that I know of. They didn't notify

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1           dispatch as I can remember.

2           Q. Okay. And weren't they supposed to make a  
3           record of the stop in what I have had termed  
4           the ENTCAD or CAD system?

5           A. Well, that's our computer system. Again, what  
6           they would document was on the form. There  
7           was a Strike Force form and a Housing form for  
8           each day and each checkpoint usually.

9           Q. Why were those forms maintained, to your  
10          knowledge?

11                       MR. QUINN: Form.

12          A. To help tabulate the statistics and as a  
13          measure of what work was being performed and  
14          where they were doing checkpoints and if they  
15          had any extraordinary arrests or confiscated  
16          any guns.

17          Q. And with respect to ENTCAD or CAD, however,  
18          there was no procedure that you're aware of  
19          the officers were supposed to follow with  
20          respect to logging their checkpoint  
21          activities?

22          A. Not that I can recall. Not that I can  
23          remember.

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1 Q. What about if they were engaging in a traffic  
2 stop generally? Were they supposed to make an  
3 entry on ENTCAD?

4 A. Well, they would notify the dispatcher and  
5 that in its essence would make the entry into  
6 the computer system.

7 Q. Okay. So there was no requirement to notify  
8 dispatch of a checkpoint, but there was a  
9 practice of calling dispatch for a traffic  
10 stop; is that correct?

11 A. As I remember it, yes.

12 Q. What about those longer stops at checkpoints  
13 that you described, is that something that  
14 would be called in to dispatch?

15 MR. QUINN: Form.

16 A. Not that I can remember.

17 Q. So if a motorist received summonses at a  
18 checkpoint or were pulled over for a secondary  
19 stop, there was no call to dispatch that would  
20 be made as a practice?

21 A. No.

22 Q. Okay. Now, are you familiar with a system  
23 called TraCS?

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1 A. Not really but I think that's the system they  
2 use to write summonses, traffic summonses, or  
3 that's the system with the plate reader?

4 Q. I believe it's one in the same but to confirm,  
5 is that a system that existed during your time  
6 as captain or not at that time?

7 A. It existed during my time as captain, but I  
8 don't have any knowledge of it because I never  
9 used it and I never used it as a patrol  
10 officer.

11 Q. Okay. Did you have access to TraCS as a  
12 captain?

13 A. I never was on the TraCS system ever.

14 Q. It wasn't your --

15 A. I don't know if I had access, but I was never  
16 on it, been on it, viewed it, ever.

17 Q. Okay. So you didn't have -- you didn't  
18 require your officers to code their stops at  
19 checkpoints or tickets at checkpoints in the  
20 TraCS system?

21 A. Again, I don't know. I was never into the  
22 TraCS system. I was never trained on the  
23 TraCS system, on how to operate it, so I was

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1 never on it. They may have.

2 Q. So you never -- you never gave your officers  
3 guidance or instructions about recording stops  
4 or summonses in TraCS?

5 A. No.

6 Q. And you never engaged the TraCS system to make  
7 any observations about ticketing patterns, for  
8 instance?

9 A. No.

10 Q. Okay. And sitting here today, you're not  
11 aware of the extent to which your officers may  
12 have used TraCS to record their checkpoint  
13 activities?

14 A. I don't -- I am not.

15 Q. Okay. Were you aware that TraCS allows  
16 officers to make a notation of the race of  
17 motorists that they stop?

18 A. Again, I don't know anything about the TraCS  
19 system. I was never trained on it, never got  
20 into it.

21 Q. Okay. But it was in use during your time as  
22 Housing Unit captain?

23 A. I don't even know if it was in use, again.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Q. Okay. Now, with respect to the checkpoints  
2 themselves I think over the course of this  
3 deposition your memory has been refreshed that  
4 you did receive information about checkpoint  
5 locations and that your officers recorded  
6 checkpoint locations -- or at least Strike  
7 Force officers recorded checkpoint locations;  
8 is that fair to say?

9 MR. QUINN: Form.

10 A. That's correct.

11 Q. Was there a time that you kept checkpoint  
12 location information in a physical binder?

13 A. No. Like I said, the reports were kept in a  
14 binder and they most likely included the  
15 checkpoint locations within the reports which  
16 included all the statistics.

17 Q. Let's take a look and make sure we're talking  
18 about the same type of document.

19 Ms. Fisher, are we up to Exhibit 19?

20 THE REPORTER: 18 I believe. Let me  
21 just double check, but I believe it's 18.  
22 You're right. It's Exhibit 19. Exhibit 18 is  
23 46883.

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—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 Q. Okay. Mr. Serafini, I am going to mark as  
2 Exhibit 19 a document that was produced in  
3 discovery by defendants as COB -- that was  
4 produced in discovery as COB\_INC\_054 but it  
5 was not produced with a stamp on the document  
6 itself and it's here. And my question is  
7 whether you are familiar with documents of  
8 this type.

9 A. I am familiar with it.

10 Q. You are familiar with it, correct?

11 A. Yes, this is a form that was in the building.

12 Q. Okay. What is this form?

13 A. It's a form where the officers or the  
14 lieutenants would write down the locations of  
15 the traffic safety checkpoints and the times.

16 Q. Okay. And do you see here that there is spots  
17 for up to four locations?

18 A. I do see that.

19 Q. Is it correct that there were times where  
20 officers were conducting up to four  
21 checkpoints a day?

22 A. I don't remember four. But by reading those  
23 emails you showed me, sometimes on the daytime

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1 detail there were two sometimes and sometimes  
2 two at night that would make four. It's  
3 possible.

4 Q. Okay. Do you -- am I correct that you  
5 actually may have created this form or  
6 forms --

7 A. I don't think I --

8 Q. -- of this type?

9 A. I don't think I created this form because this  
10 bottom part, the purpose of the roadblock,  
11 that was at the station, at the stationhouse  
12 when I was there. I can't say for sure. If I  
13 created the box on top, I can't say for sure.

14 Q. Okay. I have another exhibit that seems to  
15 suggest that you may have created this form,  
16 albeit perhaps just the top portion. Would  
17 you like to see that exhibit --

18 A. Yes.

19 Q. -- or would you sort of accept my  
20 representation?

21 A. I will look at it.

22 Q. Okay. I would like to mark as Plaintiffs'  
23 Exhibit 20 a document that was produced in

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1           discovery as COB016309 and I am pulling that  
2           up momentarily.

3                     Okay. Mr. Serafini, are you able to see  
4           this?

5           A. I see it, yes.

6           Q. Do you see that this is an email that you sent  
7           on May 8th, 2017, to a number of BPD personnel  
8           including the Strike Force lieutenants and  
9           Chief Young?

10          A. I see that, yes. As I said, I guess I created  
11          the top portion. I know I didn't create the  
12          bottom portion of that form.

13          Q. Okay. And do you see that it's indicating  
14          that one of the main changes you have made is  
15          that you have space now to write in up to four  
16          checkpoint locations?

17          A. I see that.

18          Q. So you can write all four checkpoint locations  
19          on one sheet?

20          A. That's correct.

21          Q. Does that refresh your recollection that as of  
22          2017 the Strike Force was at times running up  
23          to four checkpoints a day?

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1 A. At that period of time, yes, in 2017.

2 Q. Okay. And it also states that "every week I  
3 will be forwarding a copy of these checkpoint  
4 forms to Deputy Police Commissioner Lockwood's  
5 office so please ensure that all the  
6 information is accurate." Do you see that?

7 A. Yes, I do.

8 Q. Do you have any understanding of why these  
9 forms were being forwarded to Deputy Police  
10 Commissioner Lockwood?

11 A. He instructed me that he wanted the forms.

12 Q. Did he explain why?

13 A. No, he didn't.

14 Q. And who instructed you to maintain checkpoint  
15 location data more generally?

16 MR. QUINN: Form.

17 A. I don't know if it came from Deputy  
18 Commissioner Lockwood or not.

19 Q. But BPD --

20 A. There is -- let me reiterate. They were  
21 keeping track of the locations on a form  
22 before I was transferred there so, I mean,  
23 this just continued when I was transferred

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1           there.

2           Q. And am I correct that you made it your  
3           practice to review the location information at  
4           least on a monthly basis?

5           A. Yes.

6           Q. Why did you do that?

7           A. Because when I was on the form, I was  
8           tabulating -- tabulating the statistics, not  
9           on that form but on another form so I always  
10          wanted to know where they were as I read the  
11          form. I read the entire form.

12          Q. And why did you tabulate statistics?

13                   MR. QUINN: Form.

14          A. Because every unit in the department keeps  
15          their statistics, and it's part of the  
16          administrative duties of a captain.

17          Q. Okay. So as you testified just now, the  
18          practice of both conducting checkpoints and  
19          documenting checkpoint locations with respect  
20          to the Strike Force, that predated your time  
21          as Housing Unit captain, correct?

22          A. That's correct.

23          Q. And it also continued while you were a Strike

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1 Force -- sorry, while you were a Housing Unit  
2 captain?

3 A. Yes.

4 Q. And you would review the location data from  
5 time to time, correct?

6 A. Yes.

7 Q. From your review of that data would you agree  
8 that most of the checkpoint locations took  
9 place on the east side?

10 MR. QUINN: Form.

11 A. A majority of them took place in C District  
12 and D District. That I can attest to.

13 Q. C District and E District?

14 A. C and -- C, D, and E, I am sorry. C as in  
15 Charlie, D as in David, E as in Edward, in  
16 those three districts they were predominantly.

17 Q. Is it fair to say that within those three  
18 districts there was a majority that took place  
19 in Districts C like Charlie and E like Edward?

20 MR. QUINN: Form.

21 A. I never added them all up to determine that so  
22 I don't know. You'd have to add them all up.

23 Q. So I'd like to show you an exhibit that if you

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1 did review the complaint you might have seen  
2 before. It was an exhibit to the original  
3 complaint and it's a checkpoint map from  
4 January 2013 to June 2017 that is showing the  
5 number of police checkpoints through color  
6 coding. And so generally speaking, the darker  
7 the color the more checkpoints that took  
8 place. As you will see from this guide, in  
9 areas that are dark brown there is data from  
10 the BPD showing that more than a 150  
11 checkpoints took place in that region. This  
12 was compiled using information -- I will  
13 represent this was compiled using information  
14 released by the BPD about checkpoint locations  
15 during this time period.

16 Are you able to see this map?

17 A. Yes, I am.

18 Q. Okay. According to this map, where were the  
19 majority of checkpoints taking place -- strike  
20 that.

21 From this map, do you agree this map  
22 reflects that the majority of checkpoints were  
23 taking place on the east side of Buffalo?

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1 MR. QUINN: Form.

2 A. According to this map, yes.

3 Q. And that would correspond with the E District  
4 and the C District?

5 MR. QUINN: Form.

6 A. They're on the east side, yes. They encompass  
7 parts of the east side, both of them.

8 Q. Okay. And are you aware that there were  
9 complaints by Buffalo residents that the  
10 checkpoints were racially discriminatory?

11 MR. QUINN: Form.

12 A. I have no knowledge of any complaints that the  
13 traffic safety checkpoints were  
14 discriminatory.

15 Q. Are you aware that the Buffalo City Council  
16 requested an investigation into whether the  
17 checkpoints were racially discriminatory?

18 MR. QUINN: Form.

19 A. I don't have any knowledge of that either.

20 Q. Are you aware that the New York State Attorney  
21 General's Office began an investigation into  
22 whether the checkpoints were racially  
23 discriminatory?

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1 A. No, no knowledge of that either.

2 Q. Did you ever attempt to review the operation  
3 of the checkpoints, the information you  
4 received, to see if the checkpoints were  
5 having a racially disparate impact on Black or  
6 Latino communities?

7 MR. QUINN: Form.

8 A. No.

9 Q. So from the time you began as captain of the  
10 Strike Force -- sorry, excuse me, the Housing  
11 Unit to present day, today's date, have you  
12 ever heard an allegation that the checkpoint  
13 program had a racially disparate impact on the  
14 Black and Latino communities of Buffalo?

15 MR. QUINN: Form.

16 A. No.

17 Q. Did you see that allegation in the complaint  
18 in this case?

19 A. I read the complaint years ago. It did say  
20 something to that effect, yes. I don't  
21 remember the exact wording but your complaint,  
22 that complaint alleged it, yes.

23 Q. Are you -- Mr. Serafini, do you read the

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1 Buffalo News?

2 A. I don't.

3 Q. I guess that's the benefit of not living in  
4 Buffalo.

5 Are you aware that there has been  
6 reporting in the Buffalo News about the  
7 checkpoint program?

8 A. Do I know if there has been reporting in the  
9 news articles about -- are you talking about  
10 articles about this?

11 Q. Yes.

12 A. I haven't seen any. I don't read the news.

13 Q. And so from the news sources or otherwise, you  
14 have never been aware that there were  
15 investigations afoot about whether the  
16 operation of the checkpoints were unlawful?

17 MR. QUINN: Form.

18 A. No.

19 Q. Were you aware that Buffalo residents created  
20 Facebook groups to try to document where  
21 checkpoints were occurring so they could avoid  
22 them?

23 A. No knowledge of that either.

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1 Q. Do you think as captain of the Housing Unit  
2 and someone who was involved in relaying  
3 instructions to the Strike Force about the  
4 checkpoint program that it would have been  
5 important for you to know whether Buffalonians  
6 believed the checkpoint program was racially  
7 discriminatory?

8 MR. QUINN: Form.

9 A. I don't really understand that question.

10 Q. Sure. I will rephrase.

11 If Buffalonians thought that the  
12 checkpoint program was racially  
13 discriminatory, would that have been important  
14 for you to know?

15 MR. QUINN: Form.

16 A. Yes.

17 Q. Why?

18 MR. QUINN: Form.

19 A. Well, I could have talked to my superiors  
20 about it, the people that make the decisions  
21 about the checkpoints.

22 Q. You never had -- strike that.

23 Have you ever spoken to the higher-ups

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1           about the checkpoint program and whether it  
2           was potentially discriminatory?

3                       MR. QUINN:   Form.

4           A.  No.

5           Q.  You have never had conversations with Daniel  
6           Derenda about whether there were aspects of  
7           the checkpoint program that were unlawful?

8                       MR. QUINN:   Form.

9           A.  Not that I can remember, no.

10          Q.  Did you ever have conversations with Deputy  
11          Police Commissioner Lockwood about whether  
12          there were aspects of the checkpoint program  
13          that were unlawful?

14                       MR. QUINN:   Form.

15          A.  No.

16          Q.  Did you ever have conversations with either  
17          Chief Young or Chief Brinkworth about whether  
18          the checkpoint program might be unlawful?

19                       MR. QUINN:   Form.

20          A.  No.

21          Q.  Did you ever have conversations with your  
22          lieutenants about whether the checkpoint  
23          program might be unlawful?

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1 MR. QUINN: Form.

2 A. No.

3 Q. It's true, however, that at some point in 2017  
4 the Strike Force and Housing Unit received new  
5 guidance about the checkpoint program from  
6 Deputy Police Commissioner Lockwood and Chief  
7 Young?

8 A. I don't know what you're referring to offhand.

9 Q. Okay. Why don't we look at a document that  
10 was produced in discovery as COB016339 and  
11 that will be Plaintiffs' Exhibit 21 -- sorry,  
12 Serafini Exhibit 21.

13 THE REPORTER: Did you want the map  
14 marked? Because if so, the map would be 21  
15 and this would be 22.

16 MS. EZIE: Oh, excuse me, I thought the  
17 map was 20 so I'm behind. So, yes, let's mark  
18 this Exhibit 22 and I will pull it up.

19 Q. Mr. Serafini, are you able to see this  
20 document?

21 A. Yes.

22 Q. Okay. Do you see that it's an email from you  
23 to Strike Force lieutenants copying Chief

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1 Young and Deputy Commissioner Lockwood from  
2 May 29th, 2017, entitled Adjustments to  
3 Checkpoints?

4 A. I see it, yes.

5 Q. Okay. Why don't you take a moment to review  
6 it?

7 A. I have read it.

8 Q. Okay. So do you see here that you're relaying  
9 guidance to the Strike Force lieutenants based  
10 on instructions you received from Deputy  
11 Police Commissioner Lockwood and then Chief  
12 Young?

13 MR. QUINN: Form.

14 A. Yes, I do.

15 Q. And as part of this guidance, you're  
16 indicating that "we will still run three  
17 traffic safety checkpoints a day," correct?

18 A. That's correct.

19 Q. "We," as you use it here, is a reference to  
20 the Strike Force or something -- Strike Force,  
21 the Housing Unit, or both?

22 A. It's to both because I have -- and I know that  
23 because I addressed it to the lieutenants of

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1 the Housing Unit and the Strike Force Unit.  
2 It's to both units.

3 Q. Okay. So at this point in time both the  
4 Housing Unit and Strike Force Unit were  
5 collaborating on checkpoints that happened  
6 three times a day?

7 MR. QUINN: Form.

8 A. Yes.

9 Q. Okay. And the third paragraph begins by  
10 saying for one of the daily checkpoints, four  
11 days a week, that that checkpoint will be in  
12 designated hotspots. Do you see that?

13 A. Yes.

14 Q. And then the next sentence states that "on  
15 Tuesday and Sunday of the week one checkpoint  
16 will be done in an area other than the east  
17 side." Do you see that?

18 A. Yes.

19 Q. What does that sentence -- what were you  
20 trying to convey in that sentence?

21 MR. QUINN: Form.

22 A. These were the instructions I received from  
23 Deputy Commissioner Lockwood.

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1 Q. Okay. And so why was there a distinction  
2 being made between the hotspots and east side,  
3 "in an area other than the east side"?

4 A. I don't understand what you mean.

5 MR. QUINN: Form.

6 Q. Were the checkpoints that were taking place in  
7 hotspots, were those checkpoints that were  
8 taking place on the east side to your  
9 knowledge based on your review of this?

10 A. They were on the --

11 MR. QUINN: Form.

12 A. I am sorry. They were on the -- in the  
13 hotspots, wherever the hotspots were, whether  
14 it was the east side, the west side, North  
15 Buffalo, wherever.

16 Q. Okay. Then it was stating that the other  
17 checkpoint will be done in an area other than  
18 the east side.

19 A. That's -- those were the instructions from the  
20 deputy commissioner, yes.

21 Q. Okay. Then it states that "the other two  
22 daily checkpoints will either be done on the  
23 south, north, or west side of the city." Do

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1           you see that?

2           A. Yes, I do.

3           Q. Was June 2017 the first time that you were  
4           instructed to conduct checkpoints, daily  
5           checkpoints, on the south or north sides of  
6           Buffalo?

7                       MR. QUINN: Form.

8           A. Again, I wasn't instructed to do the  
9           checkpoints at a certain location for the  
10          Strike Force Unit. That came down from the  
11          chief or the deputy or the lieutenants  
12          determined it themselves.

13          Q. Okay. However, you were tasked between 2015  
14          and 2017 with relaying instructions about the  
15          operation of the checkpoints, correct?

16          A. Yes, I was.

17          Q. Is this the first time that you were  
18          instructed by the BPD leadership for daily  
19          checkpoints to take place specifically in the  
20          south or north sides of Buffalo?

21                       MR. QUINN: Form.

22          A. I am not sure. I am sure there were other  
23          times the deputy commissioner had the Strike

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1 Force in the south, the north, or the west  
2 sides. I don't know.

3 Q. Okay.

4 A. But this was -- Deputy Commissioner Lockwood  
5 specifically gave me these instructions on  
6 this date and I relayed them.

7 Q. Did you have any understanding of why you were  
8 given these instructions to relay?

9 MR. QUINN: Form.

10 A. No.

11 Q. And do you see that the final paragraph states  
12 that you should stress to your officers to  
13 remain -- pardon. That lieutenants should  
14 stress to their officers to remain polite,  
15 courteous, and professional in their dealings?

16 A. Yes, I see that.

17 Q. And that "we are going to come under a lot of  
18 scrutiny in the next couple of months due to  
19 the upcoming mayoral election." Do you see  
20 that?

21 A. Yes.

22 Q. What did you mean by that?

23 A. What I meant by that --

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1 MR. QUINN: Form.

2 A. I am sorry. What I meant by that was the  
3 mayor's opponents were criticizing him for the  
4 Strike Force and the Housing Units, and I  
5 wanted just to ensure that all our officers --  
6 all the officers were acting appropriately.

7 Q. What -- what kind of criticisms were  
8 circulating at this time about the Strike  
9 Force and Housing Unit?

10 MR. QUINN: Form.

11 A. What type of criticisms against the units?

12 Q. Yes.

13 A. That they were -- exactly? I can tell you  
14 vaguely. I can't tell you exactly.

15 Q. That's fine.

16 A. That they were enforcing the laws too  
17 severely.

18 Q. By "too severely," what do you mean?

19 MR. QUINN: Form.

20 A. Meaning that they were writing everyone --  
21 everyone that had a violation on their vehicle  
22 they were writing a summons for which wasn't  
23 true because they used a lot of discretion and

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1 let a lot of people go. That was the main  
2 complaint and that we were towing cars  
3 inappropriately that weren't supposed to be  
4 towed.

5 Q. Was this a complaint that was specific to  
6 certain Buffalo neighborhoods?

7 MR. QUINN: Form.

8 A. I don't recall what neighborhood the  
9 complaints came from but I received a couple  
10 of them as my -- you know, when I was -- as  
11 the Housing captain.

12 Q. Did you receive complaints that officers were  
13 not being polite, courteous, or professional?

14 A. Not --

15 MR. QUINN: Form.

16 A. Not specifically that but, again, people would  
17 complain if they didn't have a license and  
18 they got written for unlicensed operation and  
19 they were complaining that they were getting  
20 written for it. And if they had an expired  
21 registration, they were complaining that they  
22 got written for expired registration.

23 Q. Did you also receive complaints about

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1 multiple -- about motorists being issued  
2 multiple tickets at one stop?

3 A. I don't know if I received complaints about  
4 that but that was an occurrence. Sometimes  
5 officers -- you know, someone had six or seven  
6 violations and the officers wrote them tickets  
7 for all those violations.

8 Q. Isn't it true that sometimes officers would  
9 write, you know, four or five or even six  
10 tickets for tinted windows in a single stop?

11 MR. QUINN: Form.

12 A. I don't know. Again, if they had four  
13 severely tinted windows, they could write  
14 that. If they had one tinted window illegal,  
15 they could write that, the one, too. That's  
16 up to the officer's discretion.

17 Q. So the officers -- you did not provide  
18 officers any guidance about how to approach  
19 tinted window ticketing, for instance?

20 MR. QUINN: Form.

21 A. No, I didn't.

22 Q. And you didn't -- officers -- you did not  
23 provide officers guidance about how many

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1 tickets were too many tickets to issue at  
2 once?

3 A. Not that I can remember.

4 Q. Did anyone in the BPD to your knowledge  
5 instruct officers that they should refrain  
6 from issuing four, five, six tickets at a time  
7 to a single motorist?

8 MR. QUINN: Form.

9 A. Not that I can remember.

10 Q. Ultimately, it was just a matter of officer  
11 discretion, how many tickets to issue at a  
12 time?

13 A. It should have been, yes. If a person had  
14 four violations and they wanted to write them  
15 for four violations, they could write them.  
16 If they want to use discretion and only write  
17 them for three and let them go on one, that  
18 was up to their discretion as it is any  
19 officer in the city.

20 Q. You didn't see it as one of your duties as  
21 captain to create standards around how and  
22 when your officers issued tickets or  
23 summonses?

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1 A. Not concerning writing multiple summonses.

2 Q. Okay. There was a point, however, where you  
3 acknowledged that officers were writing tinted  
4 windows in particular -- strike that.

5 There was a time where you acknowledged  
6 that officers were engaging in overkill when  
7 it came to issuing tickets to motorists,  
8 correct?

9 MR. QUINN: Form.

10 A. I didn't say that.

11 Q. Okay. I'd like to turn to an exhibit that was  
12 produced by defendants in discovery as COB --  
13 COB016263. Just give me a moment to pull it  
14 up.

15 Okay. Mr. Serafini, are you able to see  
16 this email?

17 A. Yes.

18 Q. Would you like me to make it larger or is it  
19 okay?

20 A. It's okay.

21 Q. Okay. Why don't you take a look at it.

22 A. I will read it.

23 Q. And let me know when you're finished.

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1 MS. EZIE: Ms. Fisher, just to confirm,  
2 this is Exhibit 23?

3 THE REPORTER: Yes, that's what I have.

4 A. Okay. I have read it.

5 Q. Okay. So, Mr. Serafini, just to clarify,  
6 isn't it true that you acknowledged Strike  
7 Force officers and Housing Unit officers, I  
8 believe you copied both, were engaging in  
9 overkill as far as issuing multiple traffic  
10 summonses for the same offense to one  
11 motorist?

12 MR. QUINN: Form.

13 A. I didn't say they were engaging in overkill.

14 Q. Okay. You said that they should avoid  
15 overkill?

16 A. Yes, but I didn't say they were engaging in  
17 it. We didn't want anyone to be doing  
18 overkill. And what I mention in here about  
19 the six separate traffic summonses or window  
20 tints, I don't ever remembering that  
21 happening, that's just an example. They  
22 shouldn't be doing that. That doesn't mean  
23 they were doing that.

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1 Q. Okay. Now, assuming you have reviewed the  
2 complaint in this case, are you aware that we  
3 allege there are instances where officers did  
4 in fact write four, five, or six traffic  
5 summonses for tinted windows at a time?

6 A. Am I aware of an officer doing that  
7 specifically? No.

8 Q. Are you aware that that's an allegation in  
9 this case?

10 A. That someone is alleging that? I am not aware  
11 that someone is alleging that or was alleging  
12 that.

13 Q. To confirm, there is nothing in the V&T or BPD  
14 policy that requires your officers to issue  
15 separate tickets for each tinted window a  
16 motorist has, correct?

17 A. Not that I know of.

18 Q. So if your officers issued more than one  
19 tinted window ticket, that was an act of  
20 discretion on their part?

21 MR. QUINN: Form.

22 A. Yes.

23 Q. And you also agree that not all tinted windows

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1           violate the vehicle and traffic laws, correct?

2           A. That's correct.

3           Q. Now in this email you're not instructing  
4           officers to issue just a single tinted  
5           window at a ticket -- tinted window ticket at  
6           a time, are you?

7           A. I don't understand the question.

8           Q. Sure. Let me rephrase.

9                         In this email, you are giving your  
10           lieutenants for the Strike Force and Housing  
11           lieutenants guidance on how and when to issue  
12           tinted windows, correct?

13                        MR. QUINN: Form.

14           A. This is information I am relaying from the  
15           meeting with Chief Young and Deputy  
16           Commissioner Lockwood.

17           Q. Okay. So in this email you're relaying  
18           guidance from Chief Young and Deputy Police  
19           Commissioner Lockwood, correct?

20           A. That's correct.

21           Q. And that guidance extends to tinted window  
22           tickets, correct?

23           A. Yes.

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1 Q. And that guidance is that officers should not  
2 issue six separate traffic summonses for  
3 window tints, correct?

4 MR. QUINN: Form.

5 A. Yes.

6 Q. But they're also not saying to issue just a  
7 single ticket if a motorist has a tinted  
8 window, correct?

9 MR. QUINN: Form.

10 A. That's what it says, yes.

11 Q. Instead it's saying that you can issue two  
12 tinted window tickets per motorist, correct?

13 A. From my meeting with the deputy and the chief,  
14 they said that was enough and they said six  
15 separate summonses for tint windows was  
16 overkill.

17 Q. So what do you recall about this meeting you  
18 had with the chief and the deputy police  
19 commissioner?

20 MR. QUINN: Form.

21 A. I recall them -- this is a meeting where they  
22 started to run the overtime detail again, and  
23 they gave me these instructions. I don't

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1           remember physically being at the meeting, but  
2           I was there. I wrote the synopsis of it.

3           Q. Do you recall anything about why they gave you  
4           the instructions to issue two tint summonses  
5           per motorist?

6           A. No.

7           Q. Now when your officers issued tinted window  
8           tickets, most of them did not have a tint  
9           reader, correct?

10          A. I don't have knowledge of that. I know some  
11          officers had tint meters.

12                   MR. QUINN: Form of the last question.

13                   MS. EZIE: I didn't hear that, Rob.

14                   MR. QUINN: I said form of the last  
15                   question. I didn't want to interrupt.

16          Q. Got it, okay.

17                   Isn't it true that during your time as  
18                   captain there were points where Housing and  
19                   Strike Force lieutenants did not have any BPD  
20                   issued tint readers?

21                   MR. QUINN: Form.

22          A. I can't answer that. I don't know if they  
23          were issued tint meters or not and you can --

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1 in my day, again, it's a long time since I was  
2 on the street, you could write the tint  
3 without having a meter. We didn't have  
4 meters. There used to have to be a little  
5 sticker on each window that said it was no  
6 less than 35 percent. That was the standard  
7 then. And if the shop who tinted the window  
8 didn't have that sticker on there, that  
9 authentication sticker, you would write them  
10 for that.

11 Again, I didn't have any knowledge about  
12 tint meters provided from the department or  
13 not or officers buying them on their own.

14 Q. So what was the time period where you were  
15 describing a process of looking at a sticker  
16 to determine if the tints were appropriate?

17 A. A long time ago when I was first a working  
18 policeman in 1986, between 1986 and 1991,  
19 couldn't even buy a tint meter around that  
20 time but around the 90s they came out.

21 Q. Is it fair to say that was not the practice in  
22 2015 to determine if windows had an  
23 appropriate tint?

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1 MR. QUINN: Form.

2 A. I don't know the law at that time as far as  
3 the tint meter is concerned. If it had a  
4 requirement in the law that said you had to  
5 have a tint meter, then they should have been  
6 doing it that way.

7 Q. Did you provide your officers any guidance  
8 about how to determine if windows were  
9 appropriately tinted?

10 A. No, I didn't.

11 Q. You didn't advise them to look to see if there  
12 were stickers from the manufacturer, etcetera?

13 A. No.

14 Q. Okay. I'd like to show you an exhibit that  
15 was produced in discovery by defendants as  
16 COB017753. This will be Plaintiffs' Exhibit  
17 24.

18 Mr. Serafini, do you see this is an  
19 email from you to Kevin Brinkworth dated --  
20 sorry, subject line Tint Meters.

21 A. I see it, yes.

22 Q. Okay. Do you want to take a minute to read  
23 this email?

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1 A. I read it.

2 Q. Okay. Does this refresh your memory that  
3 Strike Force and Housing Unit officers were  
4 not issued tint readers by the BPD?

5 A. Yes. I believe this was in response to me  
6 being asked by the chief if the units had any  
7 tint meters.

8 Q. Okay.

9 A. And as it states --

10 Q. And --

11 A. -- the lieutenant said they weren't given any  
12 tint meters.

13 Q. Okay. So Strike Force and Housing Unit  
14 officers issued tinted window tickets without  
15 the benefit of tint readers at times?

16 MR. QUINN: Form.

17 A. It's possible. I don't have direct knowledge  
18 of that.

19 Q. Certainly as of this time period, if they  
20 issued a tinted window ticket, they would not  
21 have had the benefit of a BPD issued --

22 A. They could have purchased it themselves. I am  
23 sorry I interrupted you, but they could have

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1 purchased them. Some officers purchased them  
2 themselves. It's possible they had purchased  
3 it themselves and it wasn't department issued.

4 Again, in my day, the department didn't  
5 provide them. Officers were buying them  
6 themselves.

7 Q. And this email indicates that just a few  
8 officers have purchased their own tinted  
9 window readers, not all of them, correct?

10 A. Yes, it does.

11 Q. Okay. Are you aware that vehicle inspectors  
12 in New York State have to check to see whether  
13 tinted windows are within a lawful range  
14 before cars pass inspection?

15 MR. QUINN: Form.

16 A. That makes sense, yes.

17 Q. Okay. Do you know whether all cars who  
18 receive tinted window tickets were cars that  
19 also had an invalid or expired inspection?

20 MR. QUINN: Form.

21 A. I don't know.

22 Q. So is it possible that your officers were  
23 issuing tinted window tickets to motorists

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1           whose cars and windows had already passed  
2           inspection?

3                       MR. QUINN:   Form.

4           A. Is it possible? Is that what you asked?

5           Q. Yes.

6           A. Yes, it's possible.

7           Q. Now, I'd like to show you an exhibit that was  
8           marked -- produced in discovery as COB016275  
9           and this will be Plaintiffs' Exhibit 25.

10                   Mr. Serafini, are you able to see this  
11           email okay?

12           A. Yes, I am.

13           Q. Do you see that it's an email that you sent to  
14           the Strike Force lieutenants and I believe  
15           also the Housing Unit lieutenants called  
16           Traffic Checkpoints?

17           A. Yes.

18           Q. And you sent this message in May of -- sorry,  
19           March of 2017.

20           A. Yes, I see that.

21           Q. Okay. Do you see that the first sentence  
22           states "the two daily traffic checkpoints in  
23           the target areas are going fine but we need to

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1 concentrate a little more on South Buffalo for  
2 the third checkpoint"?

3 A. Yes, I see that.

4 Q. Do you recall sitting here today what "the  
5 target areas" meant, when you used that  
6 phrase?

7 MR. QUINN: Form.

8 A. I think that refers to the hotspots from the  
9 maps that the deputy would -- commissioner  
10 would distribute.

11 Q. Okay. And then it states that "we need to  
12 concentrate a little bit more on South Buffalo  
13 for the third checkpoint."

14 A. Yes, this was, again, relayed to me by the  
15 deputy commissioner. That's what they wanted.

16 Q. Okay. And then it also states that the Strike  
17 Force and Housing Unit lieutenants were to  
18 keep alternating the checkpoint daily between  
19 North and South Buffalo, correct?

20 A. Yes.

21 Q. So this is guidance that you received from  
22 higher-ups in the BPD?

23 A. That's correct.

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1 Q. Who gave you this guidance specifically, if  
2 you recall?

3 A. It was either Chief Young or Deputy  
4 Commissioner Lockwood.

5 Q. Okay. Is it fair to say at the time of this  
6 email South Buffalo was not a regular focus  
7 for the Strike Force checkpoints?

8 MR. QUINN: Form.

9 A. You were cutting out there. I didn't get the  
10 whole question.

11 Q. Oh, sure. Is it fair to say that at the time  
12 you sent this email South Buffalo was not a  
13 place where traffic checkpoints were being  
14 concentrated?

15 MR. QUINN: Form.

16 A. What I take from this is South Buffalo wasn't  
17 one of the target areas. South Buffalo/A  
18 District is the lowest crime area in the city  
19 but here the deputy commissioner wanted us to  
20 focus a little more on it than we normally  
21 did.

22 Q. So normally the Strike Force did not focus on  
23 the A District for checkpoints?

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1 MR. QUINN: Form.

2 A. That's not accurate. We did but he wanted us  
3 to focus more on it. Again, I don't have all  
4 the stats of where every single checkpoint  
5 was.

6 Q. Okay. Is it fair to say that the west side  
7 that was not -- the lower west side was also  
8 not a high priority area for the checkpoint  
9 program at the time you wrote this message?

10 MR. QUINN: Form.

11 A. I don't know. Wherever the hotspots were,  
12 that was the main concentration. If they were  
13 in E District or C District or A or B or  
14 whatever.

15 Q. Okay. Am I correct that the guidance you were  
16 relaying at this time was guidance that was  
17 seeking to change the checkpoint program as it  
18 was being operated?

19 MR. QUINN: Form.

20 A. He said he wanted us to concentrate a little  
21 bit more on South Buffalo for the third  
22 checkpoint.

23 Q. These were new instructions that you were

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1 relaying, correct?

2 MR. QUINN: Form.

3 A. These were instructions I received from the  
4 deputy police commissioner in March of 2017.

5 Q. This is not how the checkpoints were  
6 operated -- strike that.

7 Fair to say that prior to March 2017 the  
8 majority of Strike Force checkpoints were not  
9 located in South Buffalo?

10 MR. QUINN: Form.

11 A. I think that's a fair statement, yes.

12 Q. Is it fair to say that prior to March 2017 the  
13 majority of checkpoints were not located in  
14 North Buffalo?

15 MR. QUINN: Form.

16 A. That's fair to say.

17 Q. Okay. Do you know why you were being asked to  
18 relay this guidance to the Strike Force and  
19 housing lieutenants at this time?

20 A. No.

21 Q. You don't have any understanding of why Deputy  
22 Commissioner Lockwood and Chief Young wanted  
23 you to begin locating checkpoints in

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1 increasing numbers in north, south, and the  
2 west side near Elmwood and Delaware?

3 MR. QUINN: Form.

4 A. No. Those are their orders. I didn't  
5 question them, and they didn't elaborate on  
6 why they were -- they wanted this.

7 Q. Was this guidance, guidance you provided also  
8 around the time of or in the lead up to the  
9 mayoral election in Buffalo?

10 MR. QUINN: Form.

11 A. I don't know the exact date of the mayoral  
12 election, when it was but, again, they didn't  
13 give a reason -- they did not give that as a  
14 reason.

15 Q. But you admit that there were complaints being  
16 made about the Strike Force and Housing Unit  
17 around this time?

18 MR. QUINN: Form.

19 A. What do you mean by complaints?

20 Q. Complaints about the Strike Force and Housing  
21 Unit's traffic enforcement activities?

22 A. Yes, people were unhappy --

23 MR. QUINN: Form.

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1 A. People that were violating the vehicle and  
2 traffic law were unhappy that they were  
3 receiving traffic summonses for it.

4 Q. You say that people who were violating the  
5 law. What's your knowledge about whether --  
6 the basis for your knowledge about whether  
7 people who received summonses are violating  
8 the law?

9 MR. QUINN: Form.

10 A. Well, what I personally know is from the  
11 complainants that filed complaints that I  
12 talked to and some of them, a few of them,  
13 were complaining, not because of the officer's  
14 conduct but because they were receiving  
15 traffic summonses. In effect, they would  
16 admit that they violated the vehicle and  
17 traffic law. They would admit that they  
18 violated the law and were guilty, but they got  
19 the summons and they didn't think they should  
20 have got the summons. They thought the  
21 officer should have let them go. That's my  
22 personal knowledge of a few  
23 incidents/complaints.

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1 Q. Were there incidents where people received  
2 tickets that they believed were improper?

3 A. I think there was, yes.

4 Q. Improper --

5 A. For moving violations.

6 Q. Improper as far as there was no basis for the  
7 ticket in the first instance?

8 A. I am sorry, please rephrase. I didn't hear  
9 you.

10 Q. Improper in the sense that there was no basis  
11 for the ticket in the first instance.

12 A. Yes, for moving violations which sometimes can  
13 be arbitrary.

14 Q. And you were not involved in the adjudication  
15 of traffic summonses, correct?

16 A. No, I was not.

17 Q. So you don't know how many people who were  
18 issued summonses by your officers ultimately  
19 were found not guilty of the violation?

20 A. That's correct.

21 Q. Why don't we take a break here. It might be  
22 our last break and I think we're still on  
23 track to finish before 5; in fact, well before

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1           it. All right?

2           A. Thank you.

3           Q. Do you want to take 10 minutes this time?

4           A. That's fine. Thanks.

5           Q. Thanks.

6                               (A recess was taken.)

7

8           BY MS. EZIE:

9           Q. Okay. Mr. Serafini, earlier we were speaking  
10           about TraCS and ENTCAD and I think it's fair  
11           to say you didn't really engage those systems  
12           much. Are you aware that TraCS allows --  
13           sorry, that these systems allow for the race  
14           of motorists to be recorded alongside ticket  
15           information?

16          A. I wasn't aware of that, no.

17          Q. Did you ever -- so fair to say that you never  
18           instructed your officers to try and record the  
19           race of motorists who they stopped?

20          A. No.

21                               MR. QUINN: Form.

22          Q. Okay. And now there were, however, a number  
23           of paperwork practices that you engaged in on

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1           one hand as chief of the Housing Unit and on  
2           the other hand as someone that helped with  
3           administration of the Strike Force, correct?

4           A. Yes, as captain of the Housing Unit, right.

5           Q. Correct, okay. And so that included creating  
6           reports that officers could fill out regarding  
7           the number of arrests they made, for instance?

8           A. Yes.

9           Q. The number of traffic summonses they issued?

10          A. Yes.

11          Q. The number of vehicles they impounded?

12          A. Yes.

13          Q. Among other police functions. And you  
14          documented this both for the Housing Unit as  
15          well as the Strike Force, correct?

16          A. Yes.

17                       MR. QUINN: Form.

18          Q. Okay. And it was your practice to review this  
19          information as well as to report it out to  
20          higher-ups at the BPD?

21          A. Yes.

22          Q. That includes the commissioner of the BPD,  
23          Commissioner Derenda?

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1 A. Yes.

2 Q. As well as Deputy Commissioner Lockwood?

3 A. Yes.

4 Q. Deputy Commissioner Beaty when she -- it's a  
5 she, I believe, when she joined --

6 A. Yes, when she was in that position.

7 Q. Okay. Also Chief Young?

8 A. Yes.

9 Q. And Chief Brinkworth before Chief Young?

10 A. Yes.

11 Q. Okay. Why was it your practice to provide  
12 information of the nature we just discussed to  
13 all of those individuals?

14 MR. QUINN: Form.

15 A. It was my responsibility. It was part of my  
16 duties.

17 Q. And what was the importance of those numbers  
18 as you understood it?

19 MR. QUINN: Form.

20 A. Did you say what was the importance?

21 Q. Yes.

22 A. It's a certain measure of production for  
23 police officers.

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1 Q. It was important for your officers to be  
2 productive and to have high production?

3 A. To show the work they were doing.

4 Q. And that work included, you know, making  
5 arrests and issuing summonses, impounding  
6 cars?

7 A. Yes.

8 Q. Okay. And am I correct that there were times  
9 where -- am I correct that you were expected  
10 to have high production when it came to those  
11 metrics?

12 MR. QUINN: Form.

13 A. Well, I don't know what you mean by "high  
14 production" but you're expected to do some  
15 work during the tour unless there were  
16 extenuating circumstances where you weren't on  
17 patrol.

18 Q. Okay. But work, again, as we're describing it  
19 here is producing arrests, summonses,  
20 impounds, etcetera?

21 MR. QUINN: Form.

22 A. That's a part of it, a part of it.

23 Q. And am I correct that there were times where

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1           your production -- you would apologize for  
2           production that was considered low, you or  
3           your officers?

4           A. I don't remember apologizing. But if there  
5           was a lower production than average or the  
6           normal, there were usually reasons for it.

7           Q. Okay. But that's to say that you were  
8           expected to generate arrests, summonses, and  
9           impounds to be viewed as productive and doing  
10          the work?

11                       MR. QUINN: Form.

12          A. Yes.

13          Q. Okay. And as captain, you focused on trying  
14          to ensure that your numbers would be  
15          consistently high?

16          A. That's not accurate.

17          Q. You wanted to make sure that your numbers were  
18          not affected?

19                       MR. QUINN: Form.

20          A. Wanted to make sure that they had numbers, not  
21          necessarily high or low but that, again, it's  
22          one of the measures of police work.

23          Q. Okay. Isn't it possible that over the course

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1 of a shift police officers would not make  
2 arrests or issue summonses solely because  
3 there was no crime to respond to?

4 MR. QUINN: Form.

5 A. That's quite possible, yes, sure.

6 Q. So what explains the attitude that if you're  
7 not producing results you may not be doing the  
8 work?

9 A. I don't understand the question.

10 Q. Okay. There seems to be an expectation that  
11 if you are doing your jobs and doing the work  
12 that you're also generating arrests and  
13 summonses. Why is that?

14 MR. QUINN: Form.

15 A. Because, like it or not, there is crime out  
16 there. There are people/citizens that are  
17 violating the laws.

18 Q. And the expectation that your units would be  
19 productive was an expectation held by the  
20 higher-ups at the BPD, correct?

21 MR. QUINN: Form.

22 A. That's correct, yeah. Yes.

23 Q. Including Commissioner Derenda and Chiefs

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1 Young and Brinkworth?

2 MR. QUINN: Form.

3 A. Yes.

4 Q. Deputy Commissioner Lockwood as well?

5 MR. QUINN: Form.

6 A. Yes.

7 Q. I would like to mark as an exhibit I believe  
8 this will be Exhibit 26, Serafini Exhibit 26,  
9 a document that's been produced by defendants  
10 and Bates stamped COB042018.

11 Mr. Serafini, let me know if you're able  
12 to see this.

13 A. Yes, I can see it.

14 Q. Okay. Because it's an email chain I am going  
15 to scroll to the bottom, but do you see that  
16 looking at the top that this is an email  
17 that -- an email chain that includes you from  
18 October 2015?

19 A. Yes, I see that.

20 Q. Okay. So, again, I am scrolling down just so  
21 we can read from the beginning of the chain.  
22 So do you see this that the subject of this  
23 message is a new Strike Force Daily Report has

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1           been submitted?

2           A. Yes.

3           Q. What can you tell us about Strike Force Daily  
4           Reports? What were they?

5           A. Well, that's the report I referred to earlier,  
6           we have referred to earlier, that every  
7           night -- every day at the end of the tour the  
8           Strike Force and the Housing would send a  
9           daily report. They would send it through the  
10          computer system. It would go on what they  
11          called our bulletin boards which was a  
12          computer -- again, an area of the computer  
13          system and a report would directly go to me,  
14          the captain, and it would go to the deputy  
15          commissioners, the commissioner, and the chief  
16          of the units.

17          Q. Got it. And that's in part what this  
18          distribution list reflects?

19          A. Yes.

20          Q. Okay. So I am scrolling up and this was not  
21          produced with the underlying report as an  
22          attachment so I don't have that for us to  
23          review, but I am going to just show you the

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1 email chain. So do you see here that Police  
2 Commissioner Derenda responds to this Strike  
3 Force Daily Report?

4 A. Yes.

5 Q. What does his response state?

6 A. If you can scroll it up a little bit more?

7 Q. Sure. It's kind of stretched between two  
8 pages.

9 A. Oh, I am sorry. Commissioner Derenda states,  
10 "not much production."

11 Q. Got it. So is it fair to say that he is  
12 commenting on the results or the numbers that  
13 were submitted in the nightly report?

14 A. Yes --

15 MR. QUINN: Form.

16 A. -- he is commenting on that.

17 Q. Okay. And he is expressing some disapproval  
18 about the performance?

19 MR. QUINN: Form, specifically  
20 "performance".

21 A. I think what he is implying is he wants to  
22 know why.

23 Q. Okay.

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1 A. Why there was no production that evening.

2 Q. Okay. On occasions where your production was  
3 low, that was something you had to explain or  
4 expected to explain?

5 MR. QUINN: Form.

6 A. I don't remember explaining it a lot but  
7 occasionally, once in a blue moon, yes.

8 Q. So do you see here that officer -- sorry, I  
9 believe he is a lieutenant.

10 A. Yes.

11 Q. Thomas Whelan, he is a Strike Force  
12 lieutenant?

13 A. Lieutenant Whelan was a Strike Force  
14 lieutenant, yes.

15 Q. So he responds to Derenda, correct?

16 A. Yes.

17 Q. And his first -- the first sentence of his  
18 email states "the numbers represented are not  
19 indicative of unit performance." Do you see  
20 that?

21 A. Yes.

22 Q. Is it fair to say that the numbers that you  
23 generated were one of the metrics that the

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1 commissioner used to see whether your unit was  
2 performing adequately?

3 MR. QUINN: Form.

4 Q. Or the Strike Force, in this case?

5 A. It was one of the measures, yes.

6 Q. And do you see that he, Lieutenant Whelan,  
7 goes on to try to explain why the performance  
8 on this night was low?

9 A. Yes.

10 Q. And do you see that you went ahead and  
11 forwarded that message to Chief Brinkworth?

12 A. Yes.

13 Q. Why would you have forwarded -- why would you  
14 have had this communication with Chief  
15 Brinkworth?

16 MR. QUINN: Form.

17 A. What I think happened was the deputy  
18 commissioner had talked to the chief about it  
19 but he directly emailed Lieutenant Whelan and  
20 Lieutenant Whelan emailed his response back to  
21 Commissioner Derenda without including our  
22 chief on the report and I wanted to make my  
23 chief aware of it.

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1 Q. So low --

2 A. He is in the chain of command.

3 Q. Understood. Low performance is something that  
4 concerned the commissioner of police as well  
5 as the chief -- the chiefs that you reported  
6 to?

7 MR. QUINN: Form.

8 A. Yes.

9 Q. Okay. Now, is it fair to say that you took  
10 pride in -- strike that.

11 Is it fair to say that when your unit,  
12 the Housing Unit, and when the Strike Force  
13 generated more arrests, summonses, impounds,  
14 parking tags, etcetera, that that was viewed  
15 favorably within the BPD?

16 MR. QUINN: Form.

17 A. Yes.

18 Q. It's something that you took personal pride in  
19 when you saw your officers' arrests and  
20 summonses numbers increasing?

21 MR. QUINN: Form.

22 A. Yes, as long as it was being done properly and  
23 legally.

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—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 Q. Is that something that was tracked on the  
2 reports that you generated?

3 MR. QUINN: Form.

4 A. You're referring to the arrests and summonses,  
5 yes.

6 Q. Yes. Did it indicate whether the arrest was  
7 lawful or unlawful, or did it just say "here  
8 is the number of arrests"?

9 MR. QUINN: Form.

10 A. It just stated the number of arrests.

11 Q. Okay.

12 A. And if they were a felony or a misdemeanor.

13 Q. Okay. So when you saw evidence that  
14 summonses, impounds, arrests were increasing  
15 among the Housing and Strike Force Units, you  
16 saw that as evidence of the good work that  
17 those units were doing in the city of Buffalo?

18 A. Like I said, as long as it was done properly,  
19 yes, and lawfully.

20 Q. But, again, that wasn't something that you  
21 tracked necessarily in any statistics, whether  
22 these arrests or impounds were lawful or  
23 unlawful?

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1 MR. QUINN: Form.

2 A. No.

3 Q. I would like to show you an exhibit that was  
4 produced -- I'd like to show as Exhibit 27 an  
5 exhibit that was produced -- a document that  
6 was produced in discovery by defendants that  
7 was Bates stamped 018512 and its attachment  
8 which is COB018513. Just give me one moment  
9 and I will pull it up.

10 Mr. Serafini, are you able to see this  
11 document? Let me make it a little bigger.

12 A. Yes.

13 Q. Are you able to read that?

14 Okay. Do you see that this is an email  
15 that you're sending to the Strike Force and  
16 the Housing lieutenants as well as Chief  
17 Brinkworth?

18 A. Yes.

19 Q. The subject is Yearly Comparison?

20 A. Yes.

21 Q. And it's stating that you have made a  
22 spreadsheet for the combined Housing and  
23 Strike Force yearly statistics including the

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1 2013, 2014, and 2015 yearly totals?

2 A. That's correct.

3 Q. And do you see that your email states that  
4 "our stats have increased from year to year  
5 due to the fine work of you and your officers.  
6 The chief and I thank you for all of your  
7 efforts"?

8 A. Yes, I see it.

9 Q. Okay. So you're applauding the lieutenants  
10 for the fact that their statistics have  
11 increased year after year?

12 MR. QUINN: Form.

13 A. Yes.

14 Q. Okay. This is the attachment which we're also  
15 marking as part of Exhibit 27. Do you see  
16 the -- sorry, are you able to see these  
17 numbers clearly?

18 A. Yes, I can.

19 Q. Is fair to say according to this chart between  
20 2013 and 2015 many of the statistics almost  
21 doubled, at least with respects to arrests,  
22 summonses, city ordinances, that's probably  
23 closer to tripled, parking tags, guns, cash

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1 seized? Do you see that?

2 A. Yes.

3 Q. So why were you applauding them for these  
4 increased statistics?

5 MR. QUINN: Form.

6 A. Well, I told them they were doing a good job.  
7 The statistics were increasing and, again,  
8 it's one measure of the work the officers are  
9 doing.

10 Q. So when statistics increased, statistics such  
11 as these increased, you viewed it as evidence  
12 of a job well done?

13 MR. QUINN: Form.

14 A. Partially, yes.

15 Q. Okay. I'd like to turn to an exhibit  
16 Plaintiffs' Exhibit -- sorry, Serafini Exhibit  
17 28 which is a document that was produced in  
18 discovery by defendants as COB018565.

19 So do you see that this is an email that  
20 you drafted to Chief Young copying the Strike  
21 Force and Housing Unit officers in March 2017?

22 A. Yes, I do.

23 Q. Okay. And why don't you take a moment to

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1 review it since it's a little long?

2 A. Okay. I have read it.

3 Q. Okay. So is it fair to say that in the first  
4 paragraph you are providing Chief Young an  
5 update about some of the difficulties you have  
6 encountered trying to compile the annual  
7 statistics for the Strike Force and Housing  
8 Units as of 2016?

9 MR. QUINN: Form.

10 A. Yes.

11 Q. Why did you feel it was important to let Chief  
12 Young know that you were having trouble with  
13 these statistics?

14 A. Well, previous to this year, to 2017, I would  
15 receive a yearly -- someone at headquarters  
16 would compile the stats and give me the yearly  
17 totals, and all of a sudden they stopped.  
18 They weren't doing it anymore. I don't know  
19 why but as you can read. So because they  
20 stopped, I figured I should do it on my own  
21 and that's what I started to do.

22 Q. Got it. So is it fair to say in paragraph 2  
23 you're providing some explanation for why

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1           these statistics are important to track?

2                   MR. QUINN:   Form.

3           A.   Yes.

4           Q.   What do you provide as the explanation?

5                   MR. QUINN:   Form.

6           A.   I don't understand the question.

7           Q.   Sorry.   So in paragraph 2 what are you  
8                indicating about the numbers, these numbers  
9                and --

10          A.   That they're an important barometer, meaning a  
11               measure, to help the department understand the  
12               amount of work both the Housing and the Strike  
13               Force officers do and that they --

14                   MR. QUINN:   Form.

15          A.   They have increased since 2013.

16          Q.   Got it.   And your view here, and I think  
17               expressed elsewhere, is that when the numbers  
18               increase, that's evidence of your officers'  
19               hard work and dedication?

20                   MR. QUINN:   Form.

21          A.   That's part of it, yes.   That's a part of it.

22          Q.   And what's the other part of it?

23                   MR. QUINN:   Form.

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1 A. Their interactions with the public is a big  
2 part of it, complaints, if there is a rise in  
3 complaints or a decrease in complaints.

4 Q. Is that information that you track in the same  
5 manner that you track arrests and summonses?

6 MR. QUINN: Form.

7 A. No.

8 Q. Okay. So, let's see, now is it true that you  
9 tried to develop strategies to avoid seeing  
10 your numbers drop within the Strike Force and  
11 Housing Units?

12 MR. QUINN: Form.

13 A. No, that's not true.

14 Q. Were there occasions where you debated whether  
15 officers should attend trainings because of  
16 the ways it might impact your numbers?

17 MR. QUINN: Form.

18 A. Not that I can remember, no.

19 Q. Okay. I'd like to mark as Serafini Exhibit 29  
20 a document that's been Bates stamped and  
21 produced in discovery by defendants as  
22 COB042029. Just give me a moment to pull it  
23 up, please.

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1                   Let me know when you have been able to  
2                   read it.

3           A. Oh, I can read it. I have read it.

4           Q. Okay. So do you see here that this is an  
5           email between you and Lieutenant Whelan of the  
6           Strike Force?

7           A. That's correct.

8           Q. And the title is Strike Force training  
9           January 2016?

10          A. Yes.

11          Q. Sorry, January 10th, 2016.

12                   And are you indicating here that  
13           Lieutenant Whelan can send officers to a  
14           training "as long as your people," as in  
15           Lieutenant Whelan's officers, "can still get  
16           some stats"?

17          A. That's correct.

18          Q. And if they -- to the extent that Lieutenant  
19           Whelan felt that the stats would be adversely  
20           affected, then only one of the Strike Force  
21           platoons should attend?

22          A. That's correct.

23          Q. So is it fair to say that in this email you

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1           were concerned that if the Strike Force  
2           officers were all able to -- all decided to  
3           attend a training, that it might adversely  
4           impact your production as a unit?

5                   MR. QUINN: Form.

6           A. Can you repeat that question, please?

7           Q. Sure. Is it fair to say that in this email  
8           you were expressing a concern about the way  
9           training might impact -- a scheduled training  
10          might impact the Strike Force's production and  
11          statistics?

12          A. Yes, I was. Yes.

13                   MR. QUINN: Form to the last question.

14          Q. And your view was that your production of  
15          statistics were to be the priority?

16                   MR. QUINN: Form.

17          A. That's incorrect.

18          Q. How would you describe it?

19          A. We didn't -- we didn't and my supervisors  
20          didn't want a time when there were no Strike  
21          Force officers working. This is a day where  
22          there were two platoons scheduled to work.  
23          It's what we call our double-up day, and most

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1 of the time we send one platoon to the  
2 training and the other platoon will stay on  
3 the street and work. We didn't want to  
4 send -- this was telling the lieutenant that  
5 we didn't want all the officers going to the  
6 training and nobody on the street.

7 Q. Okay. Now to confirm, in this email you  
8 didn't ask whether there would be officers  
9 that would still be on duty, correct?

10 A. No, but it was implied.

11 Q. You just talked about the stats and the impact  
12 on the statistics?

13 MR. QUINN: Form.

14 A. It was implied. I didn't specifically, but I  
15 am sure the lieutenant knew what I meant.

16 Q. Okay.

17 A. Because this was our past practice.

18 Q. Your past practice was to make sure that  
19 trainings didn't interfere with your ability  
20 to generate production?

21 MR. QUINN: Form.

22 A. To make sure all the officers that were on  
23 duty that night didn't attend the training,

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1           that some officers, usually half the officers  
2           were left to patrol.

3           Q. Okay. I'd like to introduce as Plaintiffs'  
4           Exhibit 30 -- one moment -- a document that  
5           has been produced in discovery by defendants  
6           and Bates stamped COB1 -- sorry, 017667.  
7           Sorry, I am having a little trouble locating  
8           it so I am going to go to another document,  
9           one that's easier to locate. So Exhibit 30  
10          will actually be a document produced in  
11          discovery as COB016260.

12                        Mr. Serafini, are you able to see this  
13           email?

14           A. Yes, I can see it.

15           Q. Why don't you take a quick look at that and  
16           let me know when you have finished reading it.

17           A. Yes, I read it.

18           Q. Okay. So is it fair to say that from this  
19           email that one of your focuses at captain --  
20           as captain of the Housing Unit was ensuring  
21           that Strike Force and Housing Unit statistics  
22           remained consistent?

23           A. Well, not consistent. What I am meaning here

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1 is I wanted to assure the commissioner that we  
2 would still be on duty for most of the tour.  
3 Even though we wouldn't be on duty at night,  
4 we would be on duty during the daytime after  
5 we had a little training lecture. The  
6 commissioner and the chief did not want a day  
7 to go by that our unit was not operating,  
8 Strike Force or the Housing.

9 Q. And they did not want a day to go by where  
10 checkpoints were not being conducted as well?

11 MR. QUINN: Form.

12 A. Yes.

13 Q. And you're indicating -- you're advising Chief  
14 Young that your numbers would not suffer as a  
15 result of the holidays and your holiday party  
16 if they approved this arrangement?

17 MR. QUINN: Form.

18 A. Yes.

19 Q. And that was something you thought it was  
20 important for the commissioner, Commissioner  
21 Derenda, to know?

22 A. It was important for him to know that we would  
23 still be conducting our regular duties that we

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1           conducted and that entailed some statistics,  
2           arrests or summonses or towed vehicles or  
3           whatever.

4           Q. Okay. Now, Mr. Serafini, are you familiar  
5           with the Buffalo BTVA, the Buffalo Traffic  
6           Violations -- what does the A stand for,  
7           adjudication? Sorry, Buffalo Traffic  
8           Violations Agency.

9           A. That's where they adjudicate the traffic  
10          summonses, where the officers -- officers and  
11          the complainants go. There is an  
12          administrative judge there. Yes, I am  
13          familiar with it.

14          Q. Okay. Is it okay if I refer to it as BTVA  
15          going forward today?

16          A. Yes.

17          Q. Okay. Now, during your time as a BPD captain,  
18          did the BTVA always exist or was it created at  
19          some point along the way?

20          A. It's existed as long as I was a police  
21          officer, yes.

22          Q. Is there a time where they began adjudicating  
23          traffic tickets in Buffalo instead of another

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1 agency like the DMV?

2 A. I don't know what you mean by that.

3 Q. Are you aware that there was a point where the  
4 mission of the BTVA changed and they began  
5 adjudicating traffic tickets that previously  
6 were adjudicated by the State?

7 A. Yes.

8 Q. When approximately did that change occur?

9 A. I don't know when it happened but in my tenure  
10 probably as the captain it happened, they  
11 changed it.

12 Q. If I said that it happened in June or July of  
13 2015, would that sound accurate to you?

14 A. That makes sense, yes.

15 Q. Okay. How did you become aware that the BTVA  
16 had begun taking over the traffic adjudication  
17 that state agencies had done in the past?

18 MR. QUINN: Form.

19 A. I believe there was a departmental-wide  
20 message sent out because it affected all the  
21 districts and it affected any officers that  
22 wrote traffic summonses. Previously they  
23 would go there, and now they would go

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1            somewhere else, a different location.

2            Q. Is that the only way it impacted the BPD as  
3            far as where you would report for a traffic  
4            hearing or were there other impacts?

5            MR. QUINN: Form.

6            A. As far as I know, that's the only way it  
7            impacted the officers.

8            Q. Are you aware that beginning with that 2015  
9            change the City of Buffalo began keeping the  
10           revenue from traffic summonses for itself and  
11           for city purposes --

12           A. I had heard that, something to that --  
13           something to that respect. Previously I  
14           believe they kept only a percentage of the old  
15           system.

16           Q. If you recall, how did you become aware of  
17           that change?

18           MR. QUINN: Form.

19           A. As I said, they sent a message out.

20           Q. So the fact that the City of Buffalo could  
21           keep the revenue from traffic tickets was  
22           something communicated within the BPD?

23           MR. QUINN: Form.

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1 A. Yes. I don't know exactly how it was  
2 communicated, but it was knowledge. There was  
3 common knowledge of it.

4 Q. Do you remember what, if anything, was  
5 communicated about the significance of that  
6 change?

7 MR. QUINN: Form.

8 A. Again, the only way it affected me or the  
9 officers under my command was that they would  
10 be going to a different location to adjudicate  
11 their summonses.

12 Q. Okay. Isn't it true that another impact of  
13 the change is that when the Housing Unit and  
14 Strike Force issue traffic summonses, it was  
15 now going to generate revenue for the City?

16 MR. QUINN: Form.

17 A. If it is as you say, that would be a byproduct  
18 of it.

19 Q. Okay. Is it true that your officers were  
20 aware at various points that generating  
21 traffic summonses was a way of the BPD  
22 generating revenue for the City?

23 MR. QUINN: Form.

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1 A. That's accurate to say, yes.

2 Q. Okay. And that was viewed as a positive?

3 MR. QUINN: Form.

4 A. I don't think the officers cared one way or  
5 the other.

6 Q. Okay. I am going to mark as an exhibit a  
7 document that was produced in discovery as  
8 COB047751. Just give me a moment to pull it  
9 up. I am also going to close my door. I am  
10 hearing background noise.

11 Okay. Mr. Serafini, do you see this  
12 document?

13 A. Yes, I do.

14 Q. Can you see it clearly?

15 Okay. Do you see the subject is plate  
16 car reader [sic]?

17 A. I am reading it.

18 Q. Okay.

19 A. I read it.

20 Q. Okay. So who is Peter Nigrelli?

21 A. He was an officer at A District at the time.  
22 He is currently a lieutenant.

23 Q. Okay. He was an officer who was underneath

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1           you when you were captain of -- is this  
2           District A?

3           A. This is A District, yes.

4           Q. Okay. And his email which is at the bottom of  
5           the chain he is asking for a replacement to a  
6           car reader car; is that right?

7           A. That's correct, yes.

8           Q. And he is noting that the car reader -- sorry,  
9           the reader car generates revenue for the City  
10          with impounds and tickets?

11          A. Yes.

12                       MR. QUINN: Form.

13          Q. And he is asking for your help getting a new  
14          car issued that has lower miles?

15          A. That's correct, yes.

16          Q. And you responded by forwarding on his request  
17          and asking if it could be accommodated?

18          A. Yes.

19          Q. Who is Henry Baranski, if that's how you  
20          pronounce it?

21          A. Henry Baranski was the other captain at A  
22          District. I was on nights and he was on days,  
23          and he took care of these cars. He took care

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1 of the vehicles on days. That was under his  
2 purview so that's why I forwarded it to him.

3 Q. Got it. Now, isn't it -- is it true that  
4 through issuing summonses and impounds the  
5 officers you worked for did generate  
6 increasing revenue for the City and, for  
7 instance, the bureau of parking?

8 MR. QUINN: Form.

9 A. That's correct, yes.

10 Q. Okay. Do you know how that increased revenue  
11 was used?

12 MR. QUINN: Form.

13 A. I have no idea.

14 Q. Do you know whether the increases to your  
15 production helped make the case for overtime  
16 for Strike Force officers?

17 MR. QUINN: Form.

18 A. I don't know specifically, no.

19 Q. Do you consider -- did you consider overtime  
20 to be a reward for good work performed by your  
21 officers?

22 MR. QUINN: Form.

23 A. Did I consider it to be a reward? No.

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1 Q. Okay. Now, we have already spoken about how  
2 traffic -- traffic tickets went up over the  
3 time that you were Housing Unit captain, at  
4 least in years 2015 and 2016. Let's see. Do  
5 you -- are you aware that tinted window  
6 tickets were among the tickets that were  
7 issued most frequently by your officers?

8 A. No, I am not. No, I wasn't.

9 Q. Were you aware that between 2014 and 2017 BPD  
10 officers issued more tinted window tickets  
11 than any other traffic citation?

12 A. No, I wasn't aware of that.

13 Q. So I assume that means you weren't aware that  
14 the Buffalo News issued an article about how  
15 tinted window tickets were Buffalo's most  
16 issued traffic ticket between 2014 and 2017?

17 A. No, I didn't see the article.

18 Q. But do you have any reason to believe that's  
19 untrue?

20 MR. QUINN: Form.

21 A. No.

22 Q. And you were a part -- a party to  
23 conversations where there were discussions

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1           about the volume of tinted window tickets that  
2           were being issued by officers?

3           A. Yes.

4           Q. And the guidance that you received was that it  
5           should not be overkill?

6                       MR. QUINN: Form.

7           A. In that meeting I had, yes, the commissioner  
8           stated -- the deputy commissioner stated that.

9           Q. And that was guidance that you relayed to the  
10          Strike Force and Housing Unit officers with  
11          the expectation that they would -- sorry, with  
12          lieutenants with the expectation that they  
13          would relay it to their officers?

14                      MR. QUINN: Form.

15          A. Yes.

16          Q. Did you do anything after relaying those  
17          instructions to make sure that Strike Force  
18          and Housing Unit officers were not engaged in  
19          overkill with respect to tinted window  
20          tickets?

21                      MR. QUINN: Form.

22          A. I am sure I talked about it with the  
23          lieutenants after that to make sure.

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1 Q. Were tinted window tickets something you  
2 attempted to track through statistics?

3 A. No, they weren't.

4 Q. So personally were there any steps you took to  
5 monitor how many tinted window tickets were  
6 being issued at a stop following that  
7 directive you provided?

8 A. Besides talking to the lieutenants about it,  
9 no.

10 Q. Do you recall a conversation where you spoke  
11 to the lieutenants about those statistics, or  
12 are you speculating that maybe a conversation  
13 occurred?

14 MR. QUINN: Form.

15 A. Well, you were talking about the officers  
16 specifically issuing too many tinted windows.  
17 I know I talked to them about that after.

18 Q. So you gave them the guidance to make sure  
19 they're not issuing too many tinted window  
20 tickets, correct?

21 A. Yes.

22 MR. QUINN: Form.

23 Q. Were there follow-up conversations you had or

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1 steps you took to ensure that your guidance  
2 was being followed?

3 MR. QUINN: Form.

4 A. The follow-up was the conversations I had with  
5 the lieutenants about it.

6 Q. Which lieutenants did you speak to?

7 A. Lieutenant Russo and I believe Lieutenant  
8 Lynch. I know for sure it was Lieutenant  
9 Russo. He was a Housing lieutenant. I don't  
10 know if it was Lieutenant Strobele also or  
11 Lieutenant Lynch, but it was one of those  
12 because they had both worked there.

13 Q. What do you recall discussing with those  
14 lieutenants?

15 A. Well, I don't recall exactly but it was  
16 something to the effect of "are you guys  
17 making sure that your officers aren't writing  
18 multiple, you know, six tints for one citizen  
19 or one motorist," and they assured me it  
20 wasn't being done.

21 Q. Got it. Did you ever ask for their ticketing  
22 data as a backup to confirm that the number of  
23 tickets had been reduced?

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1 A. No.

2 Q. Was that a time where you tried to learn how  
3 to use the TraCS system to see if there were  
4 any changes to the ticketing practices of your  
5 officers?

6 MR. QUINN: Form.

7 A. I never tried -- I never attempted to learn  
8 the TraCS system. I was never trained on it.  
9 Never knew how to work it or use it.

10 Q. Okay.

11 A. They didn't train me on that.

12 Q. So you relied -- to the extent that you were  
13 involved in the enforcement of the directive  
14 not to do overkill with tickets, you relied on  
15 the lieutenants to just indicate whether they  
16 were following that policy?

17 A. Yes.

18 MR. QUINN: Form.

19 Q. Now, there came a time, Mr. Serafini, where  
20 the Strike Force was disbanded by the BPD  
21 leadership, correct?

22 A. Yes.

23 Q. What did you understand about the disbandment

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1 of the Strike Force?

2 A. It was at the tail end of my tenure in the  
3 Housing Unit. And as I remember it, I don't  
4 remember exactly but the deputy commissioner  
5 said that they wanted to go into a different  
6 direction, whatever that meant. I am  
7 paraphrasing.

8 Q. Did you know what that meant? I understand  
9 that you're paraphrasing, but when you say  
10 "different direction" what do you mean?

11 A. No, no.

12 Q. Were you surprised that the Strike Force was  
13 being disbanded?

14 MR. QUINN: Form.

15 A. Yes, I was.

16 Q. Why were you surprised?

17 A. Because I thought they did a good job in the  
18 two years -- the three years I was there.

19 Q. Were there complaints about the Strike Force  
20 and their activities in the lead up to the  
21 disbandment?

22 MR. QUINN: Form.

23 A. I received complaints on the Housing and the

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1 Strike Force Units. There wasn't an increased  
2 amount of complaints. There was a few  
3 complaints as normally happened in my three  
4 years there, but not an increase or decrease.  
5 It's about the same. No change in my opinion.

6 Q. Isn't it true that the deputy police  
7 commissioner expressed concern about the way  
8 Strike Force officers interacted and treated  
9 the public?

10 MR. QUINN: Form.

11 A. There was one incident that happened on a  
12 traffic safety checkpoint that he was  
13 concerned about. That's the only one I know  
14 of.

15 Q. Can you describe that incident?

16 A. One of the motorists was -- one of the  
17 motorists was complaining about the traffic  
18 safety checkpoint and the officer said  
19 something, again, to the extent that "this is  
20 what the mayor does."

21 Q. Was your understanding that the mayor had  
22 approved and signed off on the BPD's decision  
23 to run the daily checkpoints?

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1 MR. QUINN: Form.

2 A. I don't know personally but -- I don't know if  
3 the commissioner talked to him about it, but I  
4 don't know what his feelings were on it. I  
5 don't know.

6 Q. Okay. Did you understand the decommissioning  
7 of the Strike Force to be a response to  
8 concerns that the deputy commissioner had  
9 about the Strike Force and its interactions  
10 with the public?

11 MR. QUINN: Form.

12 A. As I said, the only thing that was told to me  
13 was they wanted to go in a different  
14 direction, something to that extent.

15 Q. Okay. Now, it's true that over the time that  
16 you were captain of the Housing Unit, both the  
17 Housing Unit and Strike Force relied heavily  
18 on overtime; is that correct?

19 MR. QUINN: Form.

20 A. As I said, there were stints where there was a  
21 great deal of overtime, but it was  
22 intermittent. Of course there was always  
23 minimum staffing for the lieutenants. There

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1 had to be a lieutenant on duty both units.  
2 But as far as for the officers, we would have  
3 those daytime details for a couple months and  
4 then they would stop them for a couple months.  
5 It was intermittent.

6 Q. You sought and requested overtime details  
7 though on behalf of your officers?

8 A. Yes.

9 MR. QUINN: Form.

10 Q. And that's a -- you requested overtime to --  
11 sorry, both on behalf of Housing Unit and the  
12 Strike Force?

13 A. Yes, I did.

14 Q. Okay. And it's fair to say that over your  
15 time as captain you made those requests more  
16 than once?

17 A. More than once? Yeah, I believe it was more  
18 than once.

19 Q. Okay. And when there were moments where  
20 overtime details were paused or suspended, am  
21 I correct that you would lobby the leadership  
22 to see if they could be reinstated for the  
23 benefit of your officers?

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1 MR. QUINN: Form.

2 A. That's correct.

3 Q. Why did you view overtime as important for the  
4 Strike Force and the Housing Unit?

5 A. Because it gave -- in my opinion, there should  
6 have been around-the-clock. There was no  
7 coverage during the days. There was only  
8 coverage from 3:30 to 1:30 -- 3:30 in the  
9 afternoon to 1:30 in the morning. I would  
10 have liked to see us work day shift also.  
11 Crime happens in the day, too, not just from  
12 3:30 to 1:30.

13 Q. Is it true that your officers and lieutenants  
14 benefited from overtime as far as their --

15 A. I am sorry, the whole beginning of that I  
16 didn't hear.

17 Q. Oh, sorry. I will repeat.

18 Isn't it true that when your officers  
19 were approved for overtime it had a financial  
20 benefit for them?

21 MR. QUINN: Form.

22 A. For the officers, yes. They made overtime.  
23 They made more money.

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1 Q. Okay. And is it true that there were concerns  
2 about the amount of overtime that the Strike  
3 Force and Housing Unit collected within the  
4 BPD?

5 MR. QUINN: Form.

6 A. What do you mean by "concerns"?

7 Q. Were there attempts to restrict the amount of  
8 overtime that you collected?

9 MR. QUINN: Form.

10 A. I don't know of any attempts to restrict it.  
11 It was either there when they approved it, and  
12 it wasn't when they said stop it --

13 Q. Okay.

14 A. -- by my superiors.

15 Q. Is it true that without the incentive of  
16 overtime it would have been difficult for the  
17 Strike Force to maintain its staffing levels?

18 MR. QUINN: Form.

19 A. There always would have been officers  
20 transferring there because they like to do the  
21 work, but some officers were incentivized by  
22 the overtime, the periodic overtime, yes.

23 Q. Okay. I would like to introduce as

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1 Plaintiffs' Exhibit 32 a document that has  
2 been Bates stamped COB039181 and produced in  
3 discovery by defendants. I am going to make  
4 it a little bigger and give you a peek. Why  
5 don't you take a moment to read this?

6 A. Okay. I am going to read it.

7 Yes, I read it.

8 Q. Okay. So in this message you are relaying a  
9 conversation that you had with Deputy Police  
10 Commissioner Lockwood to the Housing and  
11 Strike Force lieutenants; is that correct?

12 A. Yes.

13 Q. And you're CCing Aaron -- Chief Young?

14 A. That's correct.

15 Q. Okay. And so from this email do you agree  
16 that you had contacted Deputy Police  
17 Commissioner Lockwood about trying to approve  
18 overtime details for the Strike Force?

19 A. That's correct.

20 Q. Now, given that you were not actually captain  
21 of the Strike Force, why did you feel it was  
22 important to advocate for the Strike Force to  
23 have overtime details?

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1 MR. QUINN: Form.

2 A. Well, it was twofold. I believed in the work  
3 they were doing, number one. And, number two,  
4 a lot of Housing officers, officers in my  
5 unit, would work the Strike Force overtime.  
6 When the Strike Force couldn't fill their  
7 overtime, which happened on a regular basis,  
8 it would immediately go to the Strike Force  
9 officers because they were in what the union  
10 calls the same house. They were housed in the  
11 same building so any overtime -- even though  
12 it wasn't for the Housing Unit, even though  
13 the overtime was for the Strike Force Unit, if  
14 the Strike Force couldn't fill it with their  
15 officers, then it was available to our Housing  
16 officers and the same thing goes for the  
17 lieutenants.

18 Q. Got it. And so if Strike Force details were  
19 discontinued, Housing Unit officers would have  
20 a negative financial impact as well?

21 A. Well --

22 MR. QUINN: Form.

23 A. I am sorry. It's possible they could

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1 benefit -- they benefited -- the Housing Unit  
2 benefited from the Strike Force overtime. If  
3 there is no Strike Force overtime, Housing  
4 Unit wouldn't benefit.

5 MR. QUINN: Form of the last question.

6 Q. Now, do you see here that Deputy Police  
7 Commissioner Lockwood indicated that he was  
8 concerned about the way officers treat the  
9 public?

10 A. Yes, I do.

11 Q. That's a reference to Strike Force officers?

12 A. Yes.

13 MR. QUINN: Form.

14 Q. And earlier you had referenced one incident  
15 that you knew of at a traffic stop, but you  
16 see here that you're stating that "besides the  
17 one incident, he stated there were other  
18 problems with the way officers talk to the  
19 public."

20 A. Yes, he did but he didn't elaborate. He only  
21 told me about the one incident which I  
22 discussed earlier with you.

23 Q. Okay. And you see here that according to this

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1 email you warned Deputy Police Commissioner  
2 Lockwood that you had a fear that officers may  
3 transfer away from the Strike Force  
4 permanently -- may transfer away from the  
5 Strike Force if overtime was suspended for a  
6 long time or permanently?

7 A. That's correct.

8 Q. And it sounds like even with that -- after  
9 expressing that concern, Commissioner Lockwood  
10 was not willing to approve more overtime for  
11 your officers at that point in time?

12 MR. QUINN: Form.

13 A. Yes.

14 Q. Now, he also instructed -- you also instructed  
15 the lieutenants to tell their officers to  
16 "remain courteous and professional in all  
17 their dealings with the public." Do you see  
18 that?

19 A. Yes, I do.

20 Q. [Inaudible] -- that directive or that  
21 guidance?

22 THE REPORTER: I'm sorry. I didn't hear  
23 your last question. You started cutting out.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Can you hear me? I'm sorry, I'm not hearing  
2 anyone.

3 MR. QUINN: I can hear you, Carrie.  
4 We're not getting anything.

5 MS. EZIE: Okay. I think it's my  
6 internet. Can you hear me now?

7 THE REPORTER: Yes.

8 THE WITNESS: Yes.

9 Q. Sorry about that. I will repeat the question.

10 I am not sure if this is the question  
11 you heard or the question you didn't so I will  
12 just start here: You see that you were  
13 instructing the lieutenants to remain  
14 courteous and professional -- sorry, to  
15 instruct their officers to "remain courteous  
16 and professional in all their dealings with  
17 the public"?

18 MR. QUINN: Form.

19 A. Yes, I see that.

20 Q. Was that instruction an instruction you're  
21 providing based on the concerns Deputy Police  
22 Commissioner Lockwood expressed?

23 MR. QUINN: Form.

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1 A. That's correct.

2 Q. Did you take any steps after relaying that  
3 guidance to ensure it was being followed?

4 MR. QUINN: Form.

5 A. I did that by informally talking to the  
6 lieutenants about it afterwards.

7 Q. Tell me about those conversations, please.

8 MR. QUINN: Form.

9 A. I wanted the lieutenants to have immediate  
10 direct supervisory power over the officers,  
11 and a lot of times with their interactions I  
12 didn't. Again, captain is more of an  
13 administrator so, like I said, I would talk to  
14 the lieutenants after that just to make sure  
15 the officers were being courteous.

16 Q. And how would you measure whether they were  
17 being courteous or professional?

18 MR. QUINN: Form.

19 A. I would have to trust the lieutenants, and  
20 there were no problems from what they told me.

21 Q. Okay. So sitting here today you don't have  
22 any understanding about why the Strike Force  
23 was dissolved?

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1 MR. QUINN: Form.

2 A. No.

3 Q. Do you know what happened to Strike Force  
4 officers after the Strike Force was disbanded?

5 A. Yes, they all put transfers in to other units  
6 or districts and they were transferred.

7 Q. Do you know whether they went to any districts  
8 or units in particular?

9 A. No, they were dispersed throughout the city.  
10 It was based on seniority.

11 Q. Would you be surprised if some number of  
12 officers were assigned to the Traffic  
13 Enforcement Unit?

14 A. I know some officers went there.

15 Q. During your time as captain, did the Traffic  
16 Enforcement Unit have any role in the  
17 administration of traffic safety checkpoints?

18 A. I don't really know. That wasn't my unit and  
19 I have no knowledge of it. I worked nights.  
20 They were working days at the time.

21 Q. You're not aware of any times they  
22 collaborated with the Strike Force or Housing  
23 Unit on a detail?

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1 A. I don't think there was. There may have been,  
2 but I can't remember any time.

3 Q. Do you have an understanding of why the  
4 operation of checkpoints fell to units like  
5 the Strike Force and Housing Unit as opposed  
6 to traffic safety -- or Traffic Enforcement?

7 MR. QUINN: Form.

8 A. On why Strike Force and not -- if I understand  
9 your question, you want to know why the Strike  
10 Force conducted the traffic safety checkpoints  
11 and Traffic didn't?

12 Q. Correct.

13 A. I can't speak for Traffic why they didn't do  
14 it but, again, it was part of our duties when  
15 I arrived at the Strike Force/Housing Unit.

16 Q. Okay. And am I correct that during your time  
17 at the Housing Unit/Strike Force, if we can  
18 call it that, that you did have collaborations  
19 with other law enforcement agencies such as  
20 the New York State Parole Division or the  
21 Cheektowaga Police, New York State Police?

22 A. The New York State Police and the Parole  
23 Division, yes. I don't remember Cheektowaga.

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1 Q. Okay. What did your collaborations with the  
2 New York State Police and the Parole Division  
3 consist of?

4 A. Well, they would assist on some of the  
5 checkpoints sometimes. And with the Parole,  
6 they would take a couple officers with them as  
7 they made their rounds checking on parolees.

8 Q. Okay. Do you understand why the New York  
9 State Police assisted with the checkpoints?

10 A. I don't know why. God bless you.

11 I don't know why. We were just told  
12 they're going to assist and that was that.

13 Q. Okay. Now, is it true that the Housing Unit  
14 was ultimately disbanded as well?

15 A. After I retired, yes, it was.

16 Q. Do you have any -- were you surprised that the  
17 Housing Unit was disbanded?

18 MR. QUINN: Form.

19 A. Yes, I was.

20 Q. Why were you surprised?

21 MR. QUINN: Form.

22 A. I thought they did a good job and they were  
23 very -- you know, I thought they did a good

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—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 job.

2 Q. Did you have any forewarning that the Housing  
3 Unit might be disbanded before your  
4 retirement?

5 A. I didn't have any forewarning, no, but there  
6 was a contract between the City and them and,  
7 you know, contracts expire and can not be  
8 renewed so I guess it was a possibility.

9 Q. Okay. Is it true that there was a campaign  
10 launched to terminate the Housing Unit's  
11 contract with the BMHA?

12 MR. QUINN: Form.

13 A. I don't know specifically, but I did hear some  
14 rumblings about that. Some of the officers  
15 and lieutenants were concerned. I don't have  
16 any personal knowledge of anyone starting a  
17 petition, you know, about it.

18 Q. Did you understand the dissolution of the  
19 Housing Unit to be a response to criticism of  
20 the Housing Unit's activities?

21 MR. QUINN: Form.

22 A. It was well after I retired. I don't have any  
23 idea why they disbanded it. I can't guess.

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1 Q. Okay. Are you aware that the checkpoint  
2 program was also suspended beginning in  
3 November 2017?

4 A. I was working at the time when they stopped  
5 the checkpoints, when the deputy commissioner  
6 stopped them, yes.

7 Q. Why -- how were you informed about that  
8 decision and what were you told?

9 A. I believe he called -- if I can remember  
10 correctly, I believe he called me on the phone  
11 and told me that he wanted to stop them. I  
12 don't know if he sent a formal email out to  
13 me, but I think he called me on the phone and  
14 told me.

15 Q. When you say "he," is that Deputy Police  
16 Commissioner Lockwood?

17 A. Yes.

18 Q. Did he explain why he was suspending the  
19 checkpoints?

20 A. He didn't --

21 MR. QUINN: Form.

22 A. He didn't explain, but there was this  
23 incident, as I mentioned before, and he was

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1           upset about the incident where the officer  
2           said -- when someone questioned him about it,  
3           the officer said something concerning the  
4           mayor. He was concerned about that, upset  
5           about it.

6           Q. What officer was involved in that incident?

7           A. That was -- I forget his name. I know exactly  
8           who he is but for some reason right now I  
9           can't -- Salamone. It was Bob Salamone.

10          Q. Was he a Strike Force officer?

11          A. Yes, he was.

12          Q. Do you know if that incident led to an IAD  
13          investigation of any kind?

14          A. I can't remember, but I don't think it did.

15          Q. Okay. So is it fair to say that you  
16          understood the checkpoint suspension to be a  
17          response to criticisms or concerns about  
18          officer conduct at the checkpoints?

19                   MR. QUINN: Form.

20          A. I don't know exactly. As I said, the deputy  
21          commissioner was upset about that one incident  
22          and he said that they wanted to go in a  
23          different direction, something to that effect.

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~~PHILIP SERAFINI - BY MS. EZIE - 12/27/21~~

1 "We're going in a different direction."

2 MS. EZIE: Okay. I know I said I  
3 thought this would be my final break, but  
4 let's just take one more. I might be done and  
5 if I have ten minutes, I can make sure we are.  
6 So can we get back on the record at 4:20?

7 MR. QUINN: Fine by me. You doing okay,  
8 Carrie?

9 THE REPORTER: Yes, that's fine.

10 (A recess was taken.)

11

12 BY MS. EZIE:

13 Q. Back on the record.

14 Earlier, Mr. Serafini, we looked at an  
15 exhibit. It was Plaintiffs' Exhibit 16 I  
16 believe, yes, concerning then Strike Force  
17 Officer Latasha Howard. I'd like to go back  
18 to that briefly. This was an IAD complaint  
19 that came -- that originated in April of 2016,  
20 correct?

21 A. Yes.

22 MR. QUINN: Form.

23 Q. Okay. And after looking at this email, we

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1 looked at Exhibit 18 which was the following  
2 document confirming that Latasha Howard  
3 received a four-day suspension from the IAD,  
4 correct?

5 A. Yes.

6 Q. Okay. Do you know whether this was the same  
7 disciplinary charge as the prior case or  
8 likely two different cases?

9 MR. QUINN: Form.

10 A. There is no way to know. It's possible it  
11 was. This is an arbitrator's decision holding  
12 up the four days.

13 Q. Okay. So your testimony is still that that's  
14 not information you ordinarily were privy to  
15 as --

16 A. Well, this is -- I am sorry. Well, this is on  
17 the bulletin boards and I would read these  
18 every day but, again, when did this come up?  
19 In January of the next year. When the IAD --  
20 when Internal Affairs suspended her for four  
21 days, I had no knowledge of what that was  
22 about.

23 Q. Okay.

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1 A. That's what you're asking?

2 Q. You can't tell whether it relates to the  
3 charge that you recommended be dismissed as  
4 unfounded?

5 A. I can't tell. There is no marker on here.  
6 There is no like case number or anything.

7 Q. Okay. Now in your time as captain,  
8 approximately how many complaints would you  
9 say you have had a role in investigating? How  
10 many complaints against officers?

11 A. As a captain?

12 MR. QUINN: Form.

13 Q. Yes.

14 A. In my whole 18, 19 years as a captain, how  
15 many complaints?

16 Q. Yes.

17 A. Well, it's hard to say but if there was one a  
18 month that'd be 12 a year so maybe over --  
19 maybe around 200 cases.

20 Q. Okay.

21 A. And of those 200 -- approximately 200 cases,  
22 approximately how many complaints do you think  
23 you investigated involving Strike Force or

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1 Housing Unit officers?

2 MR. QUINN: Form.

3 A. It's hard to tell but, like I said, if I was  
4 there three years, I guess a fair thing would  
5 be to say I received one a month so 36  
6 approximately. It's hard to guess.

7 Q. Okay. It was not an uncommon occurrence to  
8 receive complaints against officers?

9 A. No.

10 MR. QUINN: Form.

11 Q. Okay. And is it true that during your time as  
12 captain of the Housing Unit there were  
13 complaints and IAD investigations against  
14 Strike Force or Housing Unit officers  
15 concerning issues such as the improper use of  
16 force?

17 MR. QUINN: Form.

18 A. Yes.

19 Q. Instances where officers were alleged to have  
20 violated BPD directives or policies?

21 MR. QUINN: Form.

22 A. Yes.

23 Q. Instances where BPD -- sorry, Strike Force or

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1           Housing Unit officers were alleged to have  
2           engaged in harassment?

3           A. Yes.

4                       MR. QUINN: Form.

5           Q. Instances where Strike Force or Housing Unit  
6           officers were alleged to have engaged in  
7           misconduct at traffic stops?

8           A. Yes.

9                       MR. QUINN: Form.

10          Q. And there were also complaints alleging other  
11          forms of officer misconduct on and off duty?

12                      MR. QUINN: Form.

13          A. Yes.

14          Q. When complaints like that were issued, would  
15          you always have a role in conducting some part  
16          of the investigation or did it depend on the  
17          case?

18          A. They handled complaints -- Internal Affairs  
19          handled complaints a little bit differently as  
20          the years went on, but most of the time I  
21          would be involved.

22          Q. Okay.

23          A. Especially at the end. You saw the procedure,

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1 the policy, the way they did things in those  
2 complaints you showed me.

3 Q. Okay. Now, there were also complaints that  
4 were issued about Strike Force or Housing Unit  
5 officers' conduct with respect to towing and  
6 impounds?

7 MR. QUINN: Form.

8 A. Yes.

9 Q. Okay. And is it fair to say that there were  
10 so many complaints that it occasioned a policy  
11 change over time with respect to how impounds  
12 were done?

13 MR. QUINN: Form.

14 A. That's not accurate, no. Not to my knowledge  
15 were there any policy changes because of  
16 conduct complaints.

17 Q. Okay. Is it true that you were reminded to  
18 provide guidance to officers about the proper  
19 procedures for towing and impounds?

20 MR. QUINN: Form.

21 A. Yes.

22 Q. Because there were repeated issues of  
23 misconduct by officers with respect to towing

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1 and impounds?

2 MR. QUINN: Form.

3 A. I wouldn't say that, no. I wouldn't think  
4 that's accurate.

5 Q. You were asked by IAD to give guidance --  
6 officers guidance about the impound procedure  
7 however?

8 MR. QUINN: Form.

9 A. That's accurate, yes.

10 Q. In response to citizen complaints?

11 MR. QUINN: Form.

12 A. I don't know what it was in response to  
13 specifically, on a case-by-case basis.

14 Q. I'd like to show as Exhibit 33 a document that  
15 was Bates stamped COB228909 and produced by  
16 defendants in discovery.

17 Okay. The font is a little small but  
18 are you able to see this?

19 A. I see it.

20 Q. You see that it's an email from --

21 A. Yes.

22 Q. -- Harold McLellan and it's copying you along  
23 with some others?

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1 A. Yes, I see it.

2 Q. I will acknowledge the date appears to be a  
3 little before you joined the Strike Force but  
4 do you see that it's -- sorry, the Housing  
5 Unit but do you see that it's indicating that  
6 lieutenants need to be reminded not to impound  
7 vehicles for expired inspection stickers and  
8 expired registration stickers?

9 A. I am reading it right now, miss.

10 Q. Okay.

11 A. Well, I received this but, as I said, we did  
12 impound vehicles for expired inspection  
13 stickers and registrations very commonly.

14 Q. And this wasn't guidance -- you didn't follow  
15 this guidance, this IAD guidance?

16 MR. QUINN: Form.

17 A. I don't remember this, but I see I am on here.  
18 This was 2014. I was at A District, but I  
19 don't remember it.

20 Q. Okay. But to be clear, this was not -- this  
21 did not capture your -- strike that.

22 During your time as captain, this was  
23 not guidance that the Housing Unit or Strike

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1 Force followed?

2 MR. QUINN: Form.

3 A. It was not guidance that they followed? Is  
4 that what you --

5 Q. Yes, refraining from impounding vehicles where  
6 the issue was an expired inspection or  
7 registration sticker.

8 MR. QUINN: Form.

9 A. No, I believe they did impound for that.

10 Q. Okay.

11 A. Especially for expired registration.

12 Q. Okay. And I'd like to show you next a  
13 document that was produced by defendants in  
14 discovery and Bates stamped COB027472.

15 Okay. So it's an email chain that  
16 copies you. Do you see that?

17 A. I see it. I see it, yes.

18 Q. I am going to scroll down so you have the  
19 benefit of seeing the original message in the  
20 thread.

21 So this is an email that was not  
22 produced with an attachment but it's a  
23 two-page document and it appears to be

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1 connecting -- or, sorry, forwarding a  
2 complaint by -- against the Strike Force by a  
3 citizen named Michelle Harris. Do you see  
4 that?

5 A. Yes.

6 Q. And that's in October of 2015?

7 A. Correct.

8 Q. Okay. And you have a response from the IAD  
9 Inspector McLellan here at the bottom of the  
10 page, correct?

11 A. I see it. Do you want me to read it?

12 Q. If you haven't been able to, please.

13 A. Yeah, I will quickly read it.

14 Yes, I read it.

15 Q. Okay. Is this the policy you referenced  
16 earlier where Strike Force and Housing  
17 officers were to refrain from impounding  
18 vehicles where the owner showed up with a  
19 valid operator's license?

20 MR. QUINN: Form.

21 A. Yes, that is what I was referring to earlier.

22 Q. Okay. This policy was created in response to  
23 a citizen complaint?

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1 MR. QUINN: Form.

2 A. I don't know why it was created, but it's  
3 something that came from my superiors.

4 Q. Okay. There were instances where vehicles  
5 were being impounded even when the vehicle  
6 owner showed up with a valid license prior to  
7 this being communicated?

8 A. Yes.

9 Q. And following this complaint, you relayed to  
10 the Housing and Strike Force Unit lieutenants  
11 that this was to be the policy of the Housing  
12 Unit and Strike Force going forward, correct?

13 A. Yes.

14 MR. QUINN: Form.

15 A. Do you know whether this policy was followed  
16 by Strike Force and Housing Unit officers  
17 thereafter?

18 MR. QUINN: Form.

19 A. What policy are you referring to?

20 Q. The policy of allowing vehicles to be  
21 retrieved by their owners if they had a valid  
22 operator's license.

23 A. I know for a fact that the officers did do

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1           that.

2           Q. How do you know that for a fact?

3           A. Because I was told by the lieutenants.

4           Q. You were told that they had begun following  
5           this policy?

6                         MR. QUINN: Form.

7           A. Yes.

8           Q. Okay. Did you do anything else beyond relying  
9           on your lieutenants to confirm this was in  
10          fact how Housing and Strike Force officers  
11          were conducting themselves?

12          A. No.

13                         MR. QUINN: Form.

14          Q. Now, Mr. Serafini, when you -- earlier we  
15          spoke about how you did receive complaints  
16          against officers on a variety of subjects  
17          including Housing and Strike Force officers  
18          during your time as captain of the Housing  
19          Unit. Can you recall a time where you ever  
20          completed an investigation and recommended  
21          that an officer be subject to discipline?

22                         MR. QUINN: Form.

23          A. A few times I recommended training, more

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1 training for the officer, but I don't remember  
2 a time when I recommended discipline.

3 Q. What are some of the occasions where you  
4 recommended training, if you recall, and what  
5 officers were involved?

6 MR. QUINN: Form.

7 A. When I was in -- if I understood the question  
8 correctly, you were talking about in my duties  
9 as a captain, not just in Housing or Strike  
10 Force?

11 Q. I was speaking specifically about Housing and  
12 Strike Force.

13 A. Okay. I apologize. Then the answer is no.  
14 There is not one time that I can remember that  
15 I requested discipline, that one of my  
16 officers be brought up on disciplinary  
17 charges.

18 Q. And there is no occasions where you  
19 recommended that an officer receive additional  
20 training?

21 A. I don't believe so.

22 MR. QUINN: Form.

23 Q. Are there any instances where you recommended

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1           that a charge against a Strike Force or a  
2           Housing Unit officer be sustained?

3           A. No.

4                       MR. QUINN: Form.

5           Q. And are there any instances where you found a  
6           complaint to be founded when -- strike that.

7                       Mr. Serafini, who is -- sorry.

8                       Who is Officer Pitts?

9           A. Brad Pitts Jr.?

10          Q. Yes.

11          A. I believe he was -- he was either a Strike  
12          Force or a Housing officer.

13          Q. Okay. And who were -- who is Officer Tom Zak?

14          A. Officer Tom Zak, I don't believe he was ever  
15          in the Housing or the Strike Force but he was  
16          in the Mobile Response Unit when I was there.

17          Q. Okay. So you were his captain at the point  
18          when he was in the Mobile Response Unit?

19          A. Yes. I don't think he was ever in the Strike  
20          Force or the Housing, but he definitely was in  
21          the Mobile Response Unit when I was there.

22          Q. Okay. If I represented that Thomas Zak was in  
23          the Strike Force as of January 2018, would

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1           that refresh your memory or would you like to  
2           see the staff roster?

3           A. If he is on the roster, he was assigned there.  
4           I don't know if he ever worked there.

5           Q. Okay.

6           A. He may have been assigned there, but I don't  
7           believe he ever worked there. He was on leave  
8           for a while.

9           Q. Okay.

10          A. But I don't remember him being there. January  
11          of '18? I don't remember.

12          Q. Yes, okay. If disciplinary charges were  
13          brought against Officer Zak, Pitts, and -- I  
14          am sorry, did I ask you about Jared Domaracki?  
15          And I might be pronouncing that incorrectly.

16          A. No, you didn't.

17          Q. Okay. Do you know who Jared Domaracki is?

18          A. Yes. He was in the Housing Unit when I was  
19          there.

20          Q. Okay. If charges were brought against Strike  
21          Force -- or Officers Zak, Pitts, and Domaracki  
22          during your time as captain, would you have  
23          been involved in the investigation?

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1 A. Yes.

2 MR. QUINN: Form.

3 Q. Do you recall ever sustaining disciplinary  
4 charges against Officers Zak, Pitts, or  
5 Domaracki?

6 MR. QUINN: Form.

7 A. No, I don't remember any particular complaint  
8 offhand concerning them either.

9 Q. Okay. But is it true that they were  
10 disciplined and received suspension days from  
11 the IAD?

12 A. I don't remember it. It was a few years ago.  
13 It's possible they were suspended.

14 Q. Okay. Were there instances where the IAD  
15 disagreed with your recommendation on how to  
16 handle a disciplinary charge?

17 A. There may have been, yes. I don't have  
18 knowledge of it. As I said before, they never  
19 told us what their results were, what their  
20 determination was.

21 Q. Okay. I'd like to quickly show you a document  
22 that has been produced in discovery and Bates  
23 stamped as COB42322. I believe we are up to

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1 34?

2 THE REPORTER: I have 35.

3 Q. Yes, I see, it is Plaintiffs' Exhibit 35.

4 Mr. Serafini, are you able to see this?

5 A. Yes.

6 Q. Do you see that it's a message from you to a  
7 Robert Rosenswie and Chief Young?

8 A. Yes.

9 Q. Who is Robert Rosenswie?

10 A. At this time, he was the inspector in charge  
11 of the Internal Affairs Division.

12 Q. Okay. And do you see that you're  
13 communicating that Officers Zak, Pitts, and  
14 Domaracki were all going to be serving  
15 suspension days in January?

16 A. Yes.

17 Q. Sitting here today do you recall -- pardon.

18 Am I correct that suspension days in the  
19 IAD context are a form of discipline?

20 A. Yes.

21 Q. And sitting here today, do you recall what  
22 disciplinary charges Mr. Zak, Pitts, and  
23 Domaracki were facing or had been sustained

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1           against them?

2           A. I don't remember the incident. And, again,  
3           this email is an administrative thing that  
4           Internal Affairs wanted to know the certain  
5           dates that they were suspended. They could  
6           have been suspended for something that  
7           happened before they were at the Housing Unit  
8           for all I know.

9           Q. Is it your expectation that if you were --  
10          that the disciplinary charges against them  
11          would have ever been communicated to you if  
12          you were their captain?

13                   MR. QUINN: Form.

14          A. In my experience as a captain, no. They did  
15          not tell us what the charges were. Again,  
16          when I sent my response, they did not tell me  
17          if they agreed with me, disagreed with me, if  
18          the person was being suspended for two days  
19          because of it or anything.

20          Q. Okay. So even when you made -- even when you  
21          were asked to make recommendations to the IAD  
22          about discipline, it wasn't always the case  
23          that you would hear back from IAD about the

PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 results --

2 A. That's --

3 Q. -- of their investigation?

4 A. That's correct.

5 MR. QUINN: Form.

6 Q. Now, I see here that you signed your email  
7 "Captain Philip M. Serafini, Housing/Strike  
8 Force." Do you see that?

9 A. That's correct.

10 Q. Was it your convention to sign emails in this  
11 manner?

12 A. If it concerned a Strike Force officer and a  
13 Housing officer or something that concerned  
14 both of the units, I would sign it that way.

15 Q. Okay.

16 A. And in this case, it concerned a Housing  
17 officer and Strike Force officers.

18 Q. But your testimony is that even in this  
19 instance you were not acting as Strike Force  
20 captain?

21 A. Well, I wasn't their captain but, again, I  
22 would perform duties for their unit and this  
23 is one of them. I wasn't assigned their unit.

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1 I wasn't designated as the Strike Force  
2 captain. I was the Housing captain. That was  
3 the job title, and I was on the peripheral of  
4 the Strike Force.

5 Q. Were you ever mistaken as the captain of the  
6 Strike Force or would -- was the BPD  
7 leadership aware that there was no captain of  
8 the Strike Force during your time as Housing  
9 Unit captain?

10 A. The BPD leadership was certainly aware that I  
11 was not the Strike Force captain.

12 Q. Okay. And did officers on the Strike Force,  
13 did they treat you as though you were part of  
14 their command structure or did you see  
15 yourself as peripheral even when it came to  
16 exercising authority or command?

17 MR. QUINN: Form.

18 A. Yes, but a captain -- you know, I was a  
19 captain. They still had to respect me as a  
20 captain, even though I was not their, per se,  
21 captain.

22 Q. Okay. Now, Mr. Serafini, who is Joseph  
23 Acquino and Tedesco? Who are they?

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 A. They were Housing officers.

2 Q. Justin Tedesco.

3 Those were Housing officers that were  
4 part of your command during the time you were  
5 captain?

6 A. Yes.

7 Q. And am I correct that they were involved in a  
8 fatal officer-involved shooting of an unarmed  
9 Buffalo resident?

10 MR. QUINN: Form.

11 A. They were involved in a shooting. I don't  
12 know about armed or unarmed.

13 Q. They were involved in a shooting that was  
14 fatal involving a Buffalo resident?

15 MR. QUINN: Form.

16 A. That's correct, yes.

17 Q. Okay. And this shooting did not take place on  
18 BMHA property, correct?

19 A. That's correct.

20 Q. And just for the avoidance of doubt, we're  
21 both referring to the shooting involving a  
22 Mr. Hernandez-Rossy; is that correct?

23 A. I think that was his name, yes.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Q. A shooting that took place in June of 2017?

2 A. Approximately, yes.

3 Q. Okay. Do you have an understanding of why --  
4 pardon. Strike that.

5 Is it true that the shooting took place  
6 during a traffic stop that Officers Acquino  
7 and Tedesco were conducting?

8 MR. QUINN: Form.

9 A. Yes.

10 Q. Were BMHA officers authorized to conduct  
11 traffic stops away from BMHA properties?

12 MR. QUINN: Form.

13 A. Yes.

14 Q. Who gave them the authorization to conduct  
15 traffic stops outside of either the BMHA  
16 context or the checkpoint context?

17 A. Well, they're Buffalo police officers. Just  
18 like a district officer from A District, if he  
19 happens to be driving in the B District, he  
20 could stop someone in B District. He is a  
21 police officer. No matter where he works, he  
22 can stop anyone in the city of Buffalo.

23 Q. Okay. Now, am I correct that you recommended

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1           that Officer Joseph -- I am forgetting now  
2           whether you pronounce his name Acquino or  
3           Acquino so forgive my pronunciation, that he  
4           receive a commendation for his role in the  
5           shooting?

6           A. Yes, I did.

7           Q. Do you recall sitting here today why you  
8           recommended that Officer Acquino receive a  
9           commendation from the BPD for --

10          A. Yes.

11          Q. -- being involved in a fatal shooting?

12          A. Yes, I do.

13                       MR. QUINN: Form.

14          Q. What was your reasoning?

15          A. Well, it was an involved innocent but to put  
16          it succinctly, the vehicle he was trying to  
17          stop was a little bit out of control and was  
18          going towards an 11-year-old girl that was  
19          driving a bike. And by Officer Acquino  
20          stopping this man and diverting his attention  
21          where the man ended up crashing into a house,  
22          he avoided the girl. That was all in the  
23          record, too.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 Q. And when you say "all in the record," what are  
2 you referring to?

3 A. All of the statements of the incident from  
4 citizens and from officers and from  
5 eyewitnesses.

6 Q. Now, so your testimony is that at the time of  
7 the shooting the motorist was operating the  
8 vehicle in an erratic manner?

9 MR. QUINN: Form.

10 A. I don't exactly remember why they stopped the  
11 motorist, but there was some violation and  
12 that was the purpose of the stop.

13 Q. Okay.

14 MR. QUINN: Relevancy of this question.

15 MS. EZIE: I didn't hear you but I  
16 suspect that was a speaking objection and I  
17 will remind you --

18 MR. QUINN: No, it's a question to you.  
19 What is the relevancy of this question?

20 MS. EZIE: Okay. Well, then I will  
21 remind you that I am the one examining the  
22 witness and not answering questions today.

23 MR. QUINN: I am sorry?

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1 MS. EZIE: Then it's my turn to remind  
2 you that I am the examiner, not the deponent  
3 so I don't answer your questions, Mr. Quinn.

4 MR. QUINN: The position is you don't  
5 have to answer any questions?

6 MS. EZIE: Yes.

7 MR. QUINN: You are beyond questioning?

8 MS. EZIE: I am beyond questioning.

9 MR. QUINN: Okay. I don't know that I  
10 agree with that. You have to establish  
11 relevancy. It's not a form objection. It's  
12 not unbounded discovery.

13 MS. EZIE: Okay. Well, you cannot  
14 instruct people not to answer questions based  
15 on relevancy as you know well so I will carry  
16 on in hopes that we can wrap this up and get  
17 us out of here.

18 MR. QUINN: Well, I will note my  
19 objection because I think you're refusing  
20 to --

21 MS. EZIE: Sure. Please object with  
22 respect to form. Relevancy is a form  
23 objection.

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 BY MS. EZIE:

2 Q. So I'd like to go ahead and share what I  
3 believe is the commendation that you drafted  
4 for Mr. Acquino.

5 Do you recognize this, Mr. Serafini?

6 A. Yes, I do.

7 Q. This is the commendation letter that you wrote  
8 to Daniel Derenda, the commissioner of police,  
9 regarding this incident?

10 A. Yes.

11 Q. And do you see that it contains a recitation  
12 of facts that allegedly occurred during this  
13 incident?

14 A. I see that, yes.

15 Q. And the statement is dated June 20th, 2017?

16 A. Yes.

17 Q. Now, among the statements that you make in  
18 this letter of commendation you state that the  
19 suspect who I believe is Mr. Hernandez-Rossy  
20 shot Police Officer Acquino in his right ear.  
21 Do you see that?

22 A. What part is it in? The first paragraph?

23 Q. I am looking at the second sentence of the

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 second paragraph.

2 A. Let me read it real quick, please.

3 Yes, I remember that.

4 Q. Okay. And what was your basis for your  
5 statement that Police Officer Acquino was shot  
6 in his right ear by the suspect?

7 A. That's what we thought happened.

8 Q. Isn't it true that it was later discovered  
9 that the suspect was unarmed?

10 MR. QUINN: Form.

11 A. Well, he was unarmed at the time he was  
12 recovered. We don't really know. As far as I  
13 am concerned, it appeared to be that Officer  
14 Acquino was shot in his right ear which was,  
15 as I said, almost detached, coming off.  
16 Officer Acquino --

17 Q. But you --

18 A. -- stated that he heard a gunshot.

19 Q. So you base this recitation of events on  
20 Officer Acquino's -- his statement about what  
21 transpired?

22 MR. QUINN: Form.

23 A. And his partner's. His partner confirmed it

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1           also at the same -- just about the same  
2           version, Officer Tedesco.

3           Q. So you were not relying on any forensic  
4           information, correct?

5           A. We didn't have any forensic information at  
6           that time, just the shot that was heard and  
7           Officer Acquino's ear being half blown off.

8           Q. Okay. And there was never a gun or bullets  
9           recovered confirming that Officer Acquino was  
10          shot?

11          A. That's correct.

12          Q. So is it fair to say that at the time you  
13          sought this commendation for the officers, it  
14          was based on their account of what took place,  
15          not third-party corroboration?

16          A. Well, it's their accounts --

17                       MR. QUINN: Form.

18          A. -- and witnesses' accounts.

19          Q. It was not based on forensic information?

20                       MR. QUINN: Form.

21          A. That's correct.

22          Q. And are you aware that a lawsuit was  
23          subsequently filed alleging that

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1 Mr. Hernandez-Rossy was unarmed when he was  
2 fatally shot by your Housing Unit officers?

3 A. I heard there was a lawsuit filed.

4 Q. Did you ever undertake to learn whether  
5 Mr. Hernandez-Rossy was unarmed during this  
6 incident?

7 MR. QUINN: Form.

8 A. Well, there is no way to tell that, if he was  
9 armed or unarmed. There is no way we can tell  
10 that.

11 Q. Is there a way to tell whether Mr. Acquino was  
12 actually -- actually suffered a gunshot wound?

13 MR. QUINN: Form.

14 A. The first report we had was from -- I remember  
15 one of the statements from the doctors saying  
16 that he thought it was a gunshot wound, the  
17 doctor that treated him at ECMC. I was on the  
18 scene. I was there.

19 Q. Now, as captain did you ever teach your  
20 officers de-escalation tactics?

21 MR. QUINN: Form.

22 A. Personally, no.

23 Q. Do you know whether they received any training

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1 from any source about de-escalation tactics?

2 A. There was --

3 MR. QUINN: Form.

4 A. I am sorry. There was a standard training  
5 that the police academy did on de-escalation  
6 and on verbal judo. I think it was all in one  
7 training.

8 Q. Is your -- would you agree that if there are  
9 ways for officers to resolve interactions with  
10 civilians short of killing them with their  
11 service weapons that that is ideal?

12 MR. QUINN: Form.

13 A. Yes, I do.

14 Q. If Mr. Hernandez-Rossy had his back turned to  
15 the officers at the time he was shot, would  
16 that be relevant to whether you thought this  
17 was a commendable police interaction?

18 MR. QUINN: Don't answer that question.

19 MS. EZIE: You may answer. There is no  
20 privilege objection that you can assert here.

21 MR. QUINN: It's an improper question on  
22 a case that has nothing to do with what we're  
23 talking here about today so I don't understand

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1           what the relevancy of this question is. I  
2           don't understand why it's coming up. I don't  
3           understand why a hypothetical question about  
4           an unrelated incident is being asked of this  
5           witness right now, and I don't think it's  
6           proper.

7           MS. EZIE: You may not think it's  
8           proper, but that doesn't give you.

9           MR. QUINN: It's now 5 o'clock. We have  
10          been here since 9 AM.

11          MS. EZIE: That's fine. You're  
12          extending this deposition at this point with  
13          your improper speaking objections. You know  
14          as well as I do that objections to relevancy  
15          are not a basis to instruct the witness not to  
16          answer so you may not proceed in this manner.  
17          If we are here past 5 PM, Mr. Quinn, it will  
18          be your fault. I will rephrase my question,  
19          but we are not rewriting the federal rules at  
20          5 PM for your benefit.

21          MR. QUINN: It's not for anybody's  
22          benefit.

23

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~~PHILIP SERAFINI - BY MS. EZIE - 12/27/21~~

1 BY MS. EZIE:

2 Q. Mr. Serafini, I will ask a new question.

3 Do you agree that in deciding whether  
4 these officers deserved a commendation as this  
5 letter -- as far as your relevancy objection  
6 is concerned -- is seeking to offer them,  
7 Mr. Serafini, seeking to commend them, do you  
8 agree that whether these officers were  
9 involved or were shot at by the suspect would  
10 be relevant to whether their involvement in a  
11 fatal officer-involved shooting was  
12 commendable?

13 MR. QUINN: Form.

14 A. You are going to have to reword the question.  
15 I don't understand what you want, what you're  
16 asking, miss.

17 Q. Okay. I will ask a new question.

18 If you understood that these officers  
19 had shot an unarmed man, would you have  
20 proceeded to issue them a letter of  
21 commendation?

22 MR. QUINN: Form.

23 A. It's possible. I'd have to know the totality

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 of the situation. It's not just one small  
2 fact or assumption.

3 Q. You consider whether someone is armed or  
4 unarmed and shooting officers to be a small  
5 fact in this case?

6 MR. QUINN: Form.

7 A. There are instances according to our penal law  
8 where that is allowed.

9 Q. Where it's allowed to shoot unarmed civilians?

10 A. Yes, Article 35.

11 Q. Can you give me some examples?

12 MR. QUINN: No, he is not going to give  
13 you examples.

14 MS. EZIE: It's his testimony,  
15 Mr. Quinn.

16 MR. QUINN: Object to the form.

17 MS. EZIE: I am entitled to explore it.

18 MR. QUINN: You're not entitled to  
19 explore it to no end. There has to be a  
20 limit.

21 MS. EZIE: Yes, it's seven hours. When  
22 we get to seven hours, you have your witness  
23 back. Don't prolong this deposition with

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1           frivolous objections.

2           MR. QUINN: I don't believe they're  
3           frivolous.

4           MS. EZIE: They're frivolous if you're  
5           doing more than a speaking objection. You  
6           know the rules as well as I do. You don't  
7           need to go back to law school. The rules are  
8           the rules.

9           MR. QUINN: You don't need to insult me.

10          MS. EZIE: Can you please read back the  
11          last two questions, rather the witness'  
12          statement and my subsequent question,  
13          Ms. Fisher?

14          (Portion of transcript was read back.)

15          MR. QUINN: Form.

16          THE WITNESS: Offhand I don't know, but  
17          I know it's Article 35 and I know there are  
18          instances.

19

20          BY MS. EZIE:

21          Q. Mr. Serafini, is it fair to say that if a full  
22          investigation into this incident had been  
23          conducted there might be -- this commendation

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1 letter or at least the factual representations  
2 it contains may have been different?

3 MR. QUINN: Object to form.

4 A. I don't know. I can't answer that. It's a  
5 hypothetical.

6 Q. Are you aware that the New York attorneys --  
7 New York State Attorney General's Office  
8 investigated the Hernandez-Rossy shooting?

9 A. I am aware of that.

10 Q. Are you aware that they concluded that Officer  
11 Acquino's ear was never shot off by  
12 Mr. Hernandez-Rossy but instead it was the  
13 result of an airbag being deployed?

14 MR. QUINN: Form.

15 A. I am not aware of that, no.

16 Q. Okay.

17 A. I know they investigated it, but I don't know  
18 what their determination was but I know no  
19 charges were filed.

20 Q. Had you been aware of that, would you have  
21 worded paragraph 2 which states that "the  
22 suspect shot PO Acquino in his right ear,"  
23 would you have worded that differently?

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 MR. QUINN: Form.

2 A. If I knew in fact that he wasn't shot in the  
3 ear would I have worded it differently? Sure,  
4 of course. I didn't know -- we didn't know  
5 for sure, as I said.

6 Q. Okay. Now, am I -- is it accurate to say that  
7 Officer Tedesco during his time as a Housing  
8 Unit officer has received a number of  
9 disciplinary citations and charges?

10 MR. QUINN: Form.

11 A. I don't know all of his disciplinary record.  
12 Did he receive complaints?

13 Q. Are you --

14 A. I can't even remember -- I cannot even  
15 remember a specific complaint on Officer  
16 Tedesco off the top of my head.

17 Q. Are you able to access officers' disciplinary  
18 cards as their captain?

19 A. As a captain was I? No.

20 Q. Who is able -- who has access to that kind of  
21 information?

22 A. The Internal Affairs Division.

23 Q. Now, if I represented that Mr. Tedesco had

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 received a four-day suspension, would you have  
2 any understanding of the basis of that  
3 suspension?

4 A. I can't recall him being suspended when he was  
5 under my command.

6 Q. Would you like to see the document that  
7 confirms?

8 A. If I could see it, maybe it would refresh my  
9 memory.

10 Q. Okay. I would like to mark as Plaintiffs'  
11 Exhibit, I believe this is 37?

12 THE REPORTER: Yes.

13 Q. A document that has been produced by  
14 defendants and been Bates stamped COB044772.

15 Mr. Serafini, do you see this is an  
16 email thread that includes you along with some  
17 other BPD officials?

18 A. Yes, it does include me.

19 Q. And the subject is Tedesco suspension?

20 A. Yes.

21 Q. I am scrolling it down. Do you see that at  
22 the bottom of this message it's indicating  
23 that Justin Tedesco received as a disciplinary

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—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 sanction one-day suspension without pay?

2 A. I see that but, again, it doesn't -- I don't  
3 remember it. I don't remember what he did or  
4 I don't remember the incident.

5 Q. Okay. And you don't recall whether you made a  
6 recommendation with respect to how the  
7 underlying disciplinary charge should be  
8 resolved?

9 A. I don't remember fielding this complaint and,  
10 again, if there is no number on here, we can't  
11 even link it to it. Well, there is an IAD  
12 case number. You'd have to look the case  
13 number up to see if I commented on it. I  
14 don't remember it.

15 Q. Okay. And sitting here today, you either  
16 don't recall or you're not aware that  
17 Mr. Tedesco received charges alleging that he  
18 used improper force against Buffalo residents  
19 on multiple occasions?

20 MR. QUINN: Form.

21 A. I don't remember that. I have no knowledge of  
22 it.

23 MS. EZIE: Mr. Quinn, what's your

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 position on showing attorneys' eyes only  
2 materials in the deposition? Is that  
3 permitted if they're discipline cards?

4 MR. QUINN: What is the purpose? What  
5 are we doing?

6 MS. EZIE: We're exploring whether  
7 Mr. Tedesco has been charged with using  
8 excessive force or improper conduct with  
9 respect to citizens on more than one occasion.

10 MR. QUINN: I mean, you have already  
11 asked him that question and he answered it --

12 MS. EZIE: Well, that sounds more like a  
13 relevancy objection and not a confidentiality  
14 objection so can we agree that in the context  
15 of this deposition we can show witnesses  
16 attorneys' eyes only information?

17 MR. QUINN: Sorry. You didn't let me  
18 finish. This is subject to an agreement. I  
19 don't have that agreement in front of me. If  
20 you need to show it to him in the context of  
21 this deposition, I will allow it for that  
22 limited purpose but this deposition then  
23 cannot be disseminated thus eliminating that

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CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 [REDACTED]

2 [REDACTED] [REDACTED]

3 [REDACTED]

4 [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED] [REDACTED]

9 [REDACTED]

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11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

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22 [REDACTED]

23 [REDACTED]

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CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 [REDACTED]

2 [REDACTED] [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] [REDACTED]

7 [REDACTED]

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9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

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16 [REDACTED]

17 [REDACTED]

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19 [REDACTED]

20 [REDACTED] [REDACTED]

21 [REDACTED]

22 [REDACTED] [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED]

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1 appreciate it.

2 A. Okay.

3 MS. EZIE: Mr. Quinn, anything from you?  
4 You're on mute.

5 MR. QUINN: What did you say? I am  
6 sorry.

7 MS. EZIE: Anything from you or shall we  
8 conclude?

9 MR. QUINN: I am good. Thanks, Carrie.

10 MS. EZIE: Thanks, everyone.

11

12 (Deposition concluded at 5:15 p.m.)

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STATE OF NEW YORK)  
COUNTY OF ERIE )

I, Carrie A. Fisher, Notary Public, in and for the County of Erie, State of New York, do hereby certify:

That the witness whose testimony appears hereinbefore was, before the commencement of their testimony, duly sworn to testify the truth, the whole truth and nothing but the truth; that said testimony was taken remotely pursuant to notice at the time and place as herein set forth; that said testimony was taken down by me and thereafter transcribed into typewriting, and I hereby certify the foregoing testimony is a full, true and correct transcription of my shorthand notes so taken.

I further certify that I am neither counsel for nor related to any party to said action, nor in anyway interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal this 12th day of January, 2022.

  
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Carrie A. Fisher  
Notary Public - State of New York  
No. 01FI6240227  
Qualified in Erie County  
My commission expires 5/02/23