

Exhibit 25
(Fernandez Deposition)

Robinson v City of Madison, et al.

15CV502

Transcript of the Testimony of:

Lourdes Fernandez

April 11, 2016



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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF WISCONSIN

3 - - - - -

4 The Estate of TONY ROBINSON, JR.,
5 ex. rel. Personal Representative
6 ANDREA IRWIN,

Case No. 3:15-CV-502

7 Plaintiff,

Judge James D. Peterson

8 vs.

Magistrate Judge
Stephen L. Crocker

9 THE CITY OF MADISON, WISCONSIN,
and MADISON POLICE OFFICER MATTHEW
10 KENNY,

11 Defendants.
12 - - - - -

13 Deposition of Lourdes Fernandez

14 Monday, April 11, 2016

15 9:04 a.m.

16 at

17 RISSER JUSTICE CENTER
18 17 West Main Street
19 Madison, Wisconsin

20 Reported by Kaila M. Macek, RMR
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1 Deposition of LOURDES FERNANDEZ, a witness in
2 the above-entitled action, taken at the instance of
3 the Plaintiff, pursuant to Chapter 804 of the
4 Wisconsin Statutes, before Kaila M. Macek,
5 Registered Merit Reporter and Notary Public, State
6 of Wisconsin, at RISSER JUSTICE CENTER, 17 West Main
7 Street, Madison, Wisconsin, on the 11th day of
8 April, 2016, commencing at 9:04 a.m. and concluding
9 at 4:11 p.m.

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11

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13

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BY MR. SWAMINATHAN

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1 TRANSCRIPT OF PROCEEDINGS
 2 MR. GENDREAU: Good morning, everybody.
 3 My name is Chad Gendreau. I'm an assistant attorney
 4 general at the Department of Justice, and I'm
 5 representing Special Agent Fernandez here today. I
 6 just have a brief statement, and then we can get
 7 started with the questionings.
 8 I will be objecting to any question asking
 9 Agent Fernandez to provide an expert opinion or any
 10 other opinion made in whole or in part based on her
 11 role in the investigation of the officer involved in
 12 the death of Tony Robinson.
 13 More specifically, I'm going to object to
 14 any question asking Agent Fernandez to provide any
 15 opinion as to whether Officer Kenny was justified in
 16 using -- utilizing deadly force against Tony
 17 Robinson or whether the Madison Police Department or
 18 City of Madison properly trained their officers for
 19 handling circumstances such as those posed in the
 20 death of Tony Robinson.
 21 I'm going to make the objection pursuant
 22 to Rule 45 of the Federal Rules of Civil Procedure
 23 and on the State case Alt v. Cline.
 24 Without waiving that objection, I will
 25 allow Agent Fernandez to be asked questions

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1 eliciting his or her -- or, her opinion, excuse me,
 2 with the understanding that any such answer will be
 3 designated confidential under the stipulation of the
 4 parties to this action filed earlier this year, and
 5 with the understanding that counsel is not waving
 6 those objections.
 7 I'll attempt to invoke the objection if
 8 and when necessary during the deposition, but if I
 9 miss something, my failure to object doesn't
 10 constitute a waiver.
 11 That's all I've got.
 12 LOURDES FERNANDEZ, called as a witness
 13 herein, having been first duly sworn on oath, was
 14 examined and testified as follows:
 15 E X A M I N A T I O N
 16 BY MR. SWAMINATHAN:
 17 Q If you can please state your full name.
 18 A Lourdes Fernandez. First name is L-O-U-R-D-E-S,
 19 Fernandez, F-E-R-N-A-N-D-E-Z.
 20 Q Okay. And how do you -- what do you go by commonly?
 21 A When I'm working?
 22 Q When you're working.
 23 A Special Agent Fernandez or Agent Fernandez.
 24 Q Okay. So I'm going to call you Agent Fernandez for
 25 the purposes of today's deposition, or at least try

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1 to do that. I think we said that works for you.
 2 A That works.
 3 Q Okay. Very good. Could you tell me if you've ever
 4 been deposed before?
 5 A I have not.
 6 Q This is your first deposition?
 7 A I have been in one in a room when one was -- but I
 8 have never been deposed.
 9 Q So this is the first time you're being asked
 10 questions under oath?
 11 A No. That's not correct.
 12 Q Okay. So is this -- this is the first time you've
 13 given sworn deposition testimony; is that right?
 14 A That's right.
 15 Q Have you ever given testimony under oath in other
 16 circumstances?
 17 A Yes.
 18 Q Please tell me about those.
 19 A I've testified in many court cases, criminal cases,
 20 also a civil case.
 21 Q Was that at -- in court?
 22 A Yes.
 23 Q Okay. So each of the other circumstances in which
 24 you've given sworn testimony was in a courtroom; is
 25 that right?

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1 A That's correct.
 2 Q Okay. And you understand when you give sworn
 3 testimony -- you're giving sworn testimony here in
 4 this deposition; do you understand that?
 5 A I do.
 6 Q And you understand that basically means the same
 7 thing as what it means when you're giving sworn
 8 testimony in court?
 9 A That's correct.
 10 Q Okay. For the purposes of -- well, strike that.
 11 You said that you have given testimony in
 12 criminal cases. That was in the context of your
 13 professional work?
 14 A Yes.
 15 Q Okay. And is that true of every instance in which
 16 you've given sworn testimony in court?
 17 A That is true.
 18 Q And you said you testified in one civil case?
 19 A That is true.
 20 Q Can you tell me about that?
 21 A That was just a case of a -- a civil case in
 22 Milwaukee when I was employed there. But I was asked
 23 to give testimony for the civil trial.
 24 Q That was in court?
 25 A It was.

1 Q Can you tell me what that case was about?
 2 A I don't recall.
 3 Q Do you recall anything about it?
 4 A It was something doing with money; unpaid fines of
 5 some sort.
 6 Q Was it a case against you or against someone else?
 7 A Against someone else.
 8 Q Who was it against?
 9 A It was against a citizen.
 10 Q Was your involvement in the case as a -- in a
 11 professional capacity or personal capacity?
 12 A Professional.
 13 Q Okay. And what was that professional capacity?
 14 A As a law enforcement officer.
 15 Q What was your job?
 16 A City of Madison -- Milwaukee police officer.
 17 Q Okay. And can you tell me anything else about your
 18 testimony in court regarding that -- the incident
 19 that we've just been discussing?
 20 A No. I don't recall.
 21 Q Okay. Were you sued in that case?
 22 A No, I was not.
 23 Q You were not a defendant?
 24 A No.
 25 Q Have you ever been sued?

1 So try to let me finish asking my question before you
 2 answer; does that make sense?
 3 A It does.
 4 Q And I will try my best to let you finish answering
 5 before I ask my next question, as well. If we talk
 6 at the same time, the court reporter can't get it
 7 down.
 8 Other important ground rules for the
 9 deposition is no -- you have to give verbal answers;
 10 no uh-huhs, that kind of thing; understood?
 11 A Yes.
 12 Q For the purposes of the deposition -- well, strike
 13 that.
 14 When I ask you a question, it's important
 15 that you understand the question. So if I ask you a
 16 question and you answer it, I'm going to assume you
 17 understood the question because what I'd like you to
 18 do is, if you don't understand a question, ask me to
 19 rephrase it; is that fair?
 20 A It is.
 21 Q And so we agree if I ask you a question and you --
 22 and you answer it, we can assume you understood the
 23 question; fair?
 24 A Sure.
 25 Q Okay. In terms of taking breaks, we can take a break

1 A I have been -- yes, I have.
 2 Q How many times have you been sued?
 3 A Once.
 4 Q Tell me about that.
 5 A That was in my capacity as a law enforcement officer
 6 in the city of Milwaukee. I was sued by a citizen
 7 because he was issued a citation that he did not
 8 believe that he deserved.
 9 Q Tell me about how that case resolved.
 10 A The citizen dropped the charges.
 11 Q Approximately when was this?
 12 A I don't recall.
 13 Q Were you deposed in that instance?
 14 A No, I was not.
 15 Q And did you have to give any testimony in court in
 16 that instance?
 17 A No, I did not.
 18 Q Thank you. All right. So let me -- let me talk a
 19 little bit about the ground rules for the deposition.
 20 This is basically a question-and-answer
 21 session. I'm going to ask questions, you'll answer
 22 them.
 23 And the court reporter is going to take
 24 down everything we say. And because that's the case,
 25 it's important that we don't talk over each other.

1 at any time you need. My only rule is make sure I've
 2 finished asking my question and you've answered it
 3 before we take a break, all right? In other words,
 4 no pending questions, okay?
 5 A Okay.
 6 Q Is there anything that would prevent you from giving
 7 truthful testimony today?
 8 A No.
 9 Q Anything that would prevent from you giving accurate
 10 testimony today?
 11 A No.
 12 Q And have you taken any medications that would affect
 13 your memory?
 14 A No.
 15 Q Have you had any issues, medical issues or other
 16 issues, that have -- that would affect your memory?
 17 A No.
 18 Q No point between your birth and today?
 19 A No.
 20 Q Okay. Let me ask you, are you represented by anyone
 21 in today's deposition?
 22 A Yes.
 23 Q Who represents you?
 24 A Assistant Attorney General Chad --
 25 MR. GENDREAU: Gendreau.

1 BY MR. SWAMINATHAN:
 2 Q Anyone else?
 3 A No.
 4 Q Okay. Did you meet with counsel to prepare for
 5 today's deposition?
 6 A Yes.
 7 Q Who did you meet with?
 8 A Assistant Attorney General Chad --
 9 MR. GENDREAU: Gendreau.
 10 A Gendreau. I'm sorry.
 11 MR. GENDREAU: That's fine.
 12 BY MR. SWAMINATHAN:
 13 Q When was that?
 14 MR. HALL: Easy for you to say.
 15 A That was last week. The exact date, I would have to
 16 look.
 17 Q How many times did you meet with him?
 18 A I met with him once.
 19 Q Did you meet with anyone else in preparation for
 20 today's deposition?
 21 A Yes.
 22 Q Who else?
 23 A Assistant Attorney General Annie Bensky.
 24 Q When did you meet with Ms. Bensky?
 25 A I don't recall the exact date.

1 Q All right. Did you meet with anyone else in
 2 preparation for today's deposition?
 3 A No.
 4 Q Okay. So you only met with Ms. Bensky and
 5 Mr. Gendreau; correct?
 6 A That's correct.
 7 Q And those are two attorneys you met with. Did you
 8 meet with any non-attorneys in preparation for
 9 today's deposition?
 10 A No.
 11 Q Okay. Let's start with your meeting with Ms. Bensky.
 12 Tell me approximately how long that meeting lasted.
 13 A Hour and a half.
 14 Q Did anyone else attend that meeting other than
 15 yourself and Ms. Bensky?
 16 A No.
 17 Q Did you review any documents in that meeting?
 18 A Could you clarify that, please?
 19 Q Yeah. Did you review any documents related to the
 20 Tony Robinson case in that meeting with Ms. Bensky?
 21 A No.
 22 Q Did you review any materials related to the Tony
 23 Robinson matter in that meeting?
 24 A Yes.
 25 Q Tell me what materials you reviewed.

1 Q When was it in relation --
 2 MR. SWAMINATHAN: Could you spell your
 3 name for us, please?
 4 MR. GENDREAU: Sure. It's
 5 G-E-N-D-R-E-A-U.
 6 MR. SWAMINATHAN: Gendreau?
 7 MR. GENDREAU: Yeah.
 8 BY MR. SWAMINATHAN:
 9 Q Okay. You said you met with Mr. Gendreau last week;
 10 correct?
 11 A That's correct.
 12 Q When did you meet with Ms. Bensky in relation to when
 13 you met with Mr. Gendreau?
 14 A I don't recall.
 15 Q Was it before or after?
 16 A It was before.
 17 Q Okay. Approximately how long before your meeting
 18 with Mr. Gendreau?
 19 A I don't recall.
 20 Q Was it a month earlier? A year earlier? A week
 21 earlier? Any sense?
 22 A If I could look at a calendar, I could recall.
 23 Q Could you tell me approximately? Was it
 24 approximately a week or more like a year?
 25 A Approximately three weeks ago.

1 MR. GENDREAU: Hang on a second. To the
 2 extent that there are any documents that are -- that
 3 were generated by Attorney Bensky or yourself in
 4 your communication with Attorney Bensky, don't
 5 answer. Don't talk about these things, okay; do you
 6 understand what I'm telling you?
 7 THE WITNESS: No.
 8 MR. GENDREAU: If you wrote something on a
 9 piece of paper or Annie wrote something on a piece
 10 of paper, don't talk about that. If it's an outside
 11 document that you looked at during the course of
 12 that meeting, you can talk about it.
 13 THE WITNESS: Sure.
 14 MR. GENDREAU: Just what it is.
 15 THE WITNESS: Okay.
 16 BY MR. SWAMINATHAN:
 17 Q Go ahead. So tell me what documents or other
 18 information related to the Tony Robinson matter you
 19 reviewed in that meeting, understanding counsel's
 20 instruction.
 21 A There was a report that I authored that was on a
 22 computer that we referenced.
 23 Q Can you tell me what that report was?
 24 A I don't recall the report.
 25 Q Anything else that you reviewed other than that

1 report?
 2 A No.
 3 Q Okay. Was the report a case summary that you
 4 authored?
 5 A I don't recall which report.
 6 Q Was it a report of an interview with a witness?
 7 A Again, I don't recall the report.
 8 Q Do you recall anything about what that report -- the
 9 subject matter of that report?
 10 A It was a report that I authored.
 11 Q Do you remember anything else about that report?
 12 A No, I do not.
 13 Q Do you remember anything about how long the report
 14 was?
 15 A No, I do not.
 16 Q Do you have any recollection of what that report had
 17 to do with the Tony Robinson investigation?
 18 A At this point, I don't.
 19 Q Did your review of that report refresh your
 20 recollection at all about events related to the Tony
 21 Robinson shooting?
 22 A Yes.
 23 Q Tell me how it refreshed your recollection.
 24 A It was an answer to some question that we were
 25 discussing.

1 Robinson matter in that meeting?
 2 A No.
 3 Q Did you review any -- any evidence, any forensic
 4 information, anything else related to the Tony
 5 Robinson shooting in that meeting?
 6 A No, I did not.
 7 Q Other than meeting with counsel, as we've just
 8 discussed, did you do anything else to prepare for
 9 today's deposition?
 10 A Yes.
 11 Q Tell me what you did.
 12 A I reviewed reports that I authored.
 13 Q What else?
 14 A I reviewed some policies of DCI, the Department of
 15 Criminal Investigation.
 16 Q What else?
 17 A That is it.
 18 Q Approximately how long did you spend reviewing those
 19 materials?
 20 A I don't have an answer for that.
 21 Q Anything else that you reviewed in preparation for
 22 today's deposition other than the reports that you
 23 authored and the policies of DCI?
 24 A No.
 25 Q Okay. Approximately how many reports do you think

1 MR. GENDREAU: And that's -- that's as far
 2 as I'm going to let that go.
 3 BY MR. SWAMINATHAN:
 4 Q After reviewing that document, was there anything you
 5 remembered about your involvement in the Tony
 6 Robinson investigation that you didn't previously
 7 remember?
 8 A No.
 9 Q Okay. So that document didn't cause you to remember
 10 something that you didn't previously know about the
 11 case; is that right?
 12 A That's correct.
 13 Q Okay. Did you review anything else in your meeting
 14 related to the Tony Robinson shooting other than that
 15 report?
 16 A No.
 17 Q Okay. Let me ask you about your meeting with
 18 Mr. Gendreau. Did anyone else participate in that
 19 meeting?
 20 A No.
 21 Q How long was that meeting?
 22 A Hour and a half.
 23 Q Okay. Did you review any documents in that meeting?
 24 A No.
 25 Q Did you review any materials related to the Tony

1 you reviewed that you authored?
 2 A I don't have an exact number for you.
 3 Q Did you review any reports that you didn't author?
 4 A No.
 5 Q Did you review the reports of the policies of --
 6 well, strike that.
 7 Let's talk about the policies of DCI first.
 8 What policies of DCI did you review?
 9 A I reviewed the policy for report writing.
 10 Q Anything else?
 11 A The officer-involved summary template. I guess
 12 that's not a policy, but it's a template. Excuse me.
 13 MR. SWAMINATHAN: Can you read that answer
 14 back, please?
 15 (Record was read back as requested.)
 16 BY MR. SWAMINATHAN:
 17 Q Is that part of the report-writing policy?
 18 A No, it's not. It's -- it's a separate -- it's a
 19 template, actually.
 20 Q Template for what?
 21 A Officer-involved death summary, I guess.
 22 Q Is that a -- and what is it -- what is that a
 23 template for? Like, in what circumstance do you use
 24 that template?
 25 A During the officer-involved death investigations, to

1 author a summary report.
 2 Q Is it a -- does it apply to the writing of reports of
 3 any type of reports related to the investigation, or
 4 just a summary report?
 5 A Just a summary report.
 6 Q And that's -- a summary report is a specific type of
 7 report you do at the end of the investigation; is
 8 that right?
 9 A Close to the end of the report. That's correct.
 10 Q And did you do such a summary report in the Robinson
 11 shooting matter?
 12 A I did.
 13 Q Okay. Did anybody else do such a report in the
 14 Robinson shooting matter?
 15 A No.
 16 Q Okay. Are there any other materials that you
 17 reviewed that were policy-related documents from DCI?
 18 A No.
 19 Q So the only policies of DCI that you reviewed were
 20 the officer-involved template and the policy on
 21 report writing?
 22 A That's correct. There is two supplementals to that
 23 report-writing policy, so if you want to call them
 24 three policies, but it is one policy.
 25 (Exhibit No. 45 was marked for identification.)

1 Q Can you explain what that policy is?
 2 A That policy generally says that once a report is
 3 authored, that notes are destroyed.
 4 Q Okay. And that's a policy that's separate and apart
 5 from this policy and procedure in Exhibit 45?
 6 A That's correct.
 7 Q Okay. And you said that there were -- and that's one
 8 of the supplements that you're referring to that you
 9 reviewed?
 10 A That's correct.
 11 Q Okay. What is the other supplement that you
 12 reviewed?
 13 A You know, I don't recall.
 14 Q Is the other supplement you reviewed included in this
 15 document, or is it not included in this document?
 16 A Can you repeat that question?
 17 Q I think you said there was a second supplement that
 18 you reviewed. Are there two supplements that you
 19 reviewed related to report writing?
 20 And I think you mentioned one of them
 21 related to notes and the destruction of notes, and
 22 I'm asking you whether the other supplement is
 23 included here or is also separate from this document.
 24 A In looking at this right now. I believe it's
 25 included in this one.

1 BY MR. SWAMINATHAN:
 2 Q What I've handed you is a document marked Exhibit
 3 45. It's entitled Policy and Procedure Division of
 4 Criminal Investigation, and it has an effective date
 5 of March 24th, 2015.
 6 Are you familiar with this document?
 7 A I am.
 8 Q Can you tell me what this document is?
 9 A This is a policy and procedure for the Department of
 10 Criminal Investigation regarding the subject of
 11 report writing.
 12 Q Is this a document that you reviewed in preparation
 13 for today's deposition?
 14 A That's correct.
 15 Q Did you -- and when you say that you reviewed it, you
 16 reviewed other versions or supplements, is that part
 17 of this document, or is that not included here?
 18 A That's not included in this one. There --
 19 Q Go ahead.
 20 A There is one more regarding the notes, reference
 21 report writing.
 22 Q All right. So there -- you're saying that there is a
 23 separate policy not included as part of Exhibit 45
 24 related to notes?
 25 A That's correct.

1 Q Okay. And what is -- what portion of this is the
 2 supplement that you're referring to?
 3 A The procedures for DCI writing. It's part of --
 4 actually part of this policy and procedure.
 5 Q Can you just tell us what page you're looking at?
 6 A Yes. Page 4 of 19. And I thought it was separate,
 7 but it actually is the same policy.
 8 Q And so the section beginning with III, procedures for
 9 DCI report writing, is that what you're referring to?
 10 A That is correct.
 11 Q And having looked at this now, then, is that
 12 supplement -- when you reviewed it, it was part of
 13 the same report, or was it in a separate document?
 14 A It was the same report. I called it a separate
 15 supplement, but it is the same.
 16 Q Okay. So in terms of what you physically reviewed,
 17 you reviewed exactly this document; is that right?
 18 A That's correct.
 19 Q And you reviewed an additional single document that
 20 was about notes; is that right?
 21 A That's correct.
 22 Q Okay. Can you summarize for me what your
 23 understanding is of what this policy requires? I'm
 24 referring to Exhibit 45.
 25 MR. GENDREAU: I'm going to object to the

1 form, but you can answer.
 2 A May I --
 3 Q Please.
 4 A -- take time to read this?
 5 Q As much time as you need.
 6 MS. KAISER: While she's doing that, I
 7 don't know that that's how we've been designating it
 8 because I don't think we've got -- done anything
 9 that's been subject to the protective order.
 10 But it was my understanding David e-mailed
 11 this to everyone and said it was produced subject to
 12 the protective order. I don't think we've -- that
 13 hasn't come up in depositions yet, so I don't know
 14 if you just want to say that so that everybody
 15 knows.
 16 MR. SWAMINATHAN: This document is
 17 confidential? I didn't -- yeah. Okay. So if
 18 this -- I didn't actually have that on the document.
 19 So if it is marked, it will be confidential. But
 20 we'll mark it -- you'll note that this document is
 21 supposed to be confidential?
 22 MR. HALL: She can designate it and then
 23 it will be in the beginning of the transcript.
 24 MS. KAISER: And I wasn't involved in
 25 the conversation --

1 MR. SWAMINATHAN: I appreciate that. I
 2 just didn't remember -- yeah.
 3 BY MR. SWAMINATHAN:
 4 Q Have you had a chance to review the document?
 5 A I have.
 6 Q Okay. And so can you tell me -- give me a summary of
 7 what this policy requires of you?
 8 A This is the report writing policy that is established
 9 by Division of Criminal Investigation in regards to
 10 authoring reports, documenting activities of special
 11 agents, and it talks about when a report would be
 12 authored and what would be included in that report
 13 and different types of reports that are written by an
 14 agent, for example.
 15 Q Was this policy applicable at the time that you were
 16 performing your role in the Robinson shooting?
 17 A Yes.
 18 Q Okay. And did you follow this policy as -- in terms
 19 of your practices? Did you follow this policy when
 20 you were involved in the Robinson shooting?
 21 A Yes.
 22 Q Okay. Do you, as a general matter, follow this
 23 policy when you perform your role in officer-involved
 24 shootings?
 25 A I do.

1 Q Okay. Let me ask you this real quickly about the
 2 officer-involved template that you mentioned earlier
 3 that you reviewed. Is that included in Exhibit 45?
 4 A It is not.
 5 Q Okay. All right.
 6 Now, with regards to Exhibit 45, can you
 7 tell me when this policy applies? That is to say, in
 8 what circumstances are you required to follow this
 9 policy?
 10 A This policy is required to be followed any time a
 11 report is authored.
 12 Q Is that applied specifically to officer-involved
 13 shootings?
 14 A Any type of activities.
 15 Q Okay. So any type of report you're authoring in your
 16 capacity as an agent at DCI, you are to follow this
 17 policy; is that right?
 18 A That's right.
 19 Q Okay. And does this policy apply to every type of
 20 report or only apply to certain types of reports?
 21 A Can you clarify, please?
 22 Q Yeah. So in the Robinson shooting, you authored
 23 different types of reports; is that right?
 24 A That's correct.
 25 Q Tell me some of the types of reports you remember

1 authoring in the Robinson shooting matter.
 2 A Interview reports, examination of records, and
 3 summary reports.
 4 Q Okay. Are all of those types of reports that are
 5 essentially encompassed within this policy?
 6 A Yes. These guidelines --
 7 Q Okay.
 8 A -- in this policy.
 9 Q And so this policy applies to all of those types of
 10 reports that you wrote in the Robinson shooting
 11 matter; is that right?
 12 A Yes.
 13 Q Okay. And that's a good question.
 14 You used the term "guidelines." Can you
 15 explain to me what your understanding is of these
 16 policies? Are they guidelines? Are they
 17 requirements? Can you explain your understanding?
 18 A They are guidelines to be followed. Of course,
 19 there's also -- there may be exceptions, but that
 20 would be going through the process of getting a
 21 report approved by a supervisor. So they would have
 22 the final say on the approval of the report that's
 23 authored.
 24 Q Have you ever served in a supervisory capacity or
 25 approval capacity of other people's reports?

1 A No.

2 Q Okay. So you've always been someone authoring the

3 reports, and someone else serves the role of

4 approving or reviewing the reports; correct?

5 A As far as reviewing reports, I have reviewed reports

6 of newer agents.

7 Q And so you're saying you've reviewed other reports,

8 but it's not your job to approve reports; is that

9 right?

10 A That's correct.

11 Q In terms of -- and I'm asking as a general matter

12 here -- what is the DCI policy in Exhibit 45 about

13 what you're supposed to include in reports?

14 A Reports are to include factual basis, factual

15 information; not opinions. They are the attempt to

16 write on paper what occurred so that somebody who's

17 reading the report has a fair understanding, a

18 thorough understanding, of the event.

19 Q Does this policy tell you about whether the

20 information in the reports is supposed to be

21 accurate?

22 A Yes.

23 Q What does it say about that?

24 A It is accurate information, factual-based.

25 Q And you're supposed to ensure that the information in

1 your reports is accurate; is that right?

2 A That's correct.

3 Q Does this policy set forth principals about

4 completeness?

5 A Yes, it does.

6 Q What does the policy say about that?

7 A May I look?

8 Q Please.

9 A I found the section. May I read it?

10 Q Please.

11 Well, let me ask you this. What I want to

12 know is what is your understanding of what this

13 policy requires.

14 A In regards to --

15 Q In -- with regards to completeness.

16 A Completeness? That reports must be based on factual

17 basis and they must be complete.

18 Q What does that mean, to be "complete"?

19 A From start to finish, including the facts that are

20 found during an investigation.

21 Q Okay. And what's your practice in terms of trying to

22 meet this policy requirement about completeness?

23 A Can you be more clear about that?

24 Q Sure. So your understanding is the policy requires

25 you to make sure your reports are complete; right?

1 A That's correct.

2 Q And by "complete," does that include trying to

3 include all of the information related to that

4 investigative component? Strike that. Let me ask

5 that again.

6 So, for example, if you do an interview

7 with someone, that's a type of role you'll perform

8 during an investigation; correct?

9 A That's correct.

10 Q And you'll write reports based on those interviews;

11 correct?

12 A That's correct.

13 Q So in terms of completeness, what are you looking to

14 include in your reports related to an interview of

15 someone?

16 A Facts are included in the report.

17 Q And what about in terms of completeness, what are you

18 trying to include?

19 A It is a summary of the interview. It is not a

20 verbatim of the interview.

21 Q So what constitutes a complete report of an interview

22 if it's not verbatim, as you say?

23 A It's not a transcription. And the report is the

24 critical information that was taken from an

25 interview.

1 Q So you -- so for the purposes of completeness, you

2 only include the information you deem to be critical;

3 is that right?

4 A Factual-based information to give a thorough

5 representation of the interview --

6 Q So --

7 A -- is what I include.

8 Q Sorry. So when you say "factual information," is

9 your goal to include all the factual information you

10 learn during the course of your interview?

11 A It is.

12 Q Okay. And so when you say "factual information," --

13 strike that.

14 Is the distinction you're drawing between

15 factual information and opinions? So, for example,

16 if, in your interview, someone tells you their

17 opinions about this and that, that may be information

18 you may exclude from the report; is that right?

19 A Not necessarily. Not necessarily. If it's relevant

20 information to the interview and the topic, it is

21 included.

22 Q So in the case of opinions, it's possible that you

23 may include some things and you may exclude some

24 things that are opinions; is that right?

25 A Are you talking about the person who was interviewed?

1 Q Good -- that's a fair question.
 2 So in terms of facts that you learn during
 3 the course of an interview, you try to include all of
 4 those facts in your report; is that right?
 5 A That's correct.
 6 Q Okay. In terms of opinions that you learn during an
 7 interview, you may include opinions that you believe
 8 are relevant and pertinent, but you may also exclude
 9 other opinions that you don't believe are relevant
 10 and pertinent; is that right?
 11 A No. That's incorrect.
 12 Q Okay. Explain.
 13 A When I conduct an interview, I author the report
 14 based on the facts. They may be also based on
 15 opinions that the person being interviewed provides
 16 me. There may be a word here or there that's not
 17 included because it's -- like I said, it's not a
 18 transcription. It's a summary of the interview to
 19 give the reader a fair understanding of what was
 20 said.
 21 Q If there is information -- strike that.
 22 When you author a report of an interview,
 23 is it your intention to include all of the relevant
 24 information that the -- that the person communicated
 25 to you?

1 A Yes.
 2 Q Okay. And you take that role seriously?
 3 A Very.
 4 Q Okay. What are your priorities -- is that one of
 5 your highest priorities when you're authoring a
 6 report of an interview, is to make sure all the
 7 information is communicated in the report?
 8 A To ensure that all the information is clear in a
 9 report is my goal.
 10 Q Explain what you mean by "clear."
 11 A So that there's -- so that what the person who was
 12 interviewed, what they were telling me, is fairly
 13 written on the report.
 14 Q Okay. Let me ask you what the process is associated
 15 with these reports. Do you prepare drafts of these
 16 reports?
 17 A No.
 18 Q All right. When you prepare a report, do you --
 19 well, strike that. We'll come back to that.
 20 I want to ask you about -- I want to go
 21 back to your meeting with Mr. Gendreau. All right.
 22 So let's turn back to that.
 23 We talked about the policies of DCI. Let
 24 me ask you, you said you also reviewed reports that
 25 you authored; correct?

1 A With who?
 2 Q I'm sorry. Strike that.
 3 In preparation for today's deposition, you
 4 reviewed reports that you authored; correct?
 5 A I did.
 6 Q Yes?
 7 A Yes.
 8 Q Do you recall the names of any of the -- do you
 9 remember anything about any of the reports that
 10 you -- strike that.
 11 Can you remember any of the specific
 12 reports that you reviewed in preparation for today's
 13 deposition?
 14 A Yes.
 15 Q Which reports do you remember?
 16 A I remember my interview with Javier Limon.
 17 Q Uh-huh.
 18 A My interview with Kelly Austin, my interview with
 19 Representative Chris Taylor, the summary report for
 20 the case.
 21 Q Anything else?
 22 A No.
 23 Q So those are the reports that you remember reviewing
 24 in preparation for today's deposition; is that right?
 25 A That's right.

1 Q Do you believe you reviewed all of the reports that
 2 you authored in preparation for today's deposition?
 3 A Yes.
 4 Q Okay. So your intention was, in preparation for
 5 today's deposition, to review all the reports that
 6 you authored?
 7 A That's correct.
 8 Q Okay. And you've listed Javier Limon, Ms. Austin,
 9 Representative Taylor, and your summary report.
 10 Is it your understanding that you reviewed
 11 additional materials, you just don't remember exactly
 12 which reports they were?
 13 A That's correct.
 14 Q Okay. When you reviewed the various reports that you
 15 authored in preparation for today's deposition, did
 16 they cause you to remember things that you didn't
 17 previously remember?
 18 A I'm sorry. Can you repeat that?
 19 Q Sure. What I'm getting at is, you know, you probably
 20 have some memory of your interviews with folks
 21 related to the Robinson shooting; is that right?
 22 A That's correct.
 23 Q Okay. And then when you reviewed these reports, did
 24 your memory of those interviews or your involvement
 25 in the shooting improve? Get worse? No change at

1 all? Can you tell me?
 2 A What was written is what I remembered.
 3 Q Okay. And so is there anything -- well, strike that.
 4 Upon reviewing those reports, is there
 5 anything you remembered that you didn't previously
 6 remember about your involvement in the Robinson
 7 shooting?
 8 MR. GENDREAU: I'm going to object to the
 9 form.
 10 You can answer, if you can.
 11 A I'm sorry. I can't answer that.
 12 Q Sure. So let me try that again.
 13 When you reviewed those reports, did you
 14 realize, oh, you know, there's information that's
 15 missing from one or more of these reports?
 16 A No.
 17 Q Was there any point in which you were reviewing those
 18 reports and you thought to yourself, actually there's
 19 information I remember that's not in one of these
 20 reports?
 21 A No.
 22 Q Is there any information, as you sit here today, that
 23 you remember about the Robinson shooting
 24 investigation that was not in one of the reports that
 25 you reviewed in preparation for today's deposition?

1 A No.
 2 Q Okay. So as far as you know, everything that you
 3 recall about your involvement in the investigation of
 4 the shooting is contained in the reports that you
 5 authored?
 6 A Can you -- can you be a little bit more clear on
 7 that, please?
 8 Q Yeah. In terms of everything you remember about your
 9 involvement in the Robinson shooting matter, is it
 10 your understanding that that information is all
 11 contained in the reports that you authored?
 12 A That's correct.
 13 Q Okay. Is there anything you remember, as you sit
 14 here today, about the Robinson shooting that's not
 15 contained in those reports?
 16 A No.
 17 Q Okay. In preparation for today's deposition, did you
 18 review any photographs?
 19 A No.
 20 Q In preparation for today's deposition, did you review
 21 any video or audio?
 22 A No, I did not.
 23 Q So the only things you reviewed in preparation were
 24 physical documents?
 25 A That's correct.

1 Q Okay. I want to ask you about your background a
 2 little bit. So let's just -- let's start -- let me
 3 ask you, when did you start at DCI?
 4 A In 2005.
 5 Q And what position did you take when you joined DCI?
 6 A Special agent.
 7 Q Okay. Is that the position you're still in today?
 8 A Yes.
 9 Q Okay. Have you had any promotions or demotions from
 10 2005 until today?
 11 A I am considered a senior special agent.
 12 Q Okay. When did you get that title?
 13 A 18 months after I started.
 14 Q Okay. Prior to joining DCI in 2005, what was your
 15 previous position?
 16 A A police officer.
 17 Q Where were you a police officer?
 18 A I was a police officer with the City of Madison
 19 Police Department.
 20 Q For what period of time?
 21 A From 2004 to '05.
 22 Q And what was your position in the Madison Police
 23 Department?
 24 A I was a patrol officer.
 25 Q And did you leave the Madison Police Department for

1 the DCI position?
 2 A I did.
 3 Q Okay. Prior to working at the Madison Police
 4 Department, where did you work?
 5 A With the City of Milwaukee Police Department.
 6 Q When did you start that job?
 7 A 1994.
 8 Q And what were your positions in the Milwaukee Police
 9 Department?
 10 A A patrol officer with the City.
 11 Q And that was for the entire period that you were at
 12 the Milwaukee Police Department?
 13 A That's correct.
 14 Q Okay. What about prior to the Milwaukee Police
 15 Department?
 16 A The Dane County Sheriff's Department.
 17 Q How long were you there?
 18 A From '93 to '94.
 19 Q What was your position there?
 20 A A deputy sheriff.
 21 Q And what about prior to that?
 22 A I was a student at the University of
 23 Wisconsin-Milwaukee.
 24 Q So your first job after you graduated from college
 25 was with the Dane County Sheriff's Department; is

1 that right?

2 A That's correct.

3 Q Okay. Have you been in law enforcement ever since?

4 A That's correct.

5 Q Okay. And is it correct to say from '90 -- so your

6 position with the sheriff's department, tell me about

7 what that role was.

8 A I worked in the -- security in the jail. And that

9 was to secure and look out for the -- monitor the

10 inmates.

11 Q Okay. So you worked in the Dane County Jail at that

12 time?

13 A That's correct.

14 Q Okay. And after that, you then became a City of

15 Milwaukee patrol officer; correct?

16 A I did.

17 Q So from '94 through 2005, you were a police officer?

18 A That's correct.

19 Q Were you regularly out in the streets?

20 A After my time with Dane County Sheriff's Department,

21 I was on the streets.

22 Q Okay. That was pretty much your day-to-day job from

23 '94 through 2005; correct?

24 A That's correct.

25 Q Okay. Any differences in your role or responsibility

1 to go out to locations to address crimes and

2 circumstances and whatever comes up in the day-to-day

3 work of a police officer; correct?

4 A That's correct.

5 Q Okay. So same type of work that you were -- you

6 are -- well, strike that.

7 Do you know any of the police officers who

8 were involved in the Robinson shooting case?

9 A Can you clarify, please?

10 Q Yes. In the -- do you know any -- personally know

11 from outside of your -- strike that.

12 You obviously talked to folks in the course

13 of your involvement in the Robinson shooting

14 investigation; correct?

15 A Correct.

16 Q Putting that aside, prior to your involvement in the

17 Robinson shooting, did you -- do you have any

18 personal relationship or know any of the officers who

19 were involved in the Robinson shooting?

20 A Can you explain what you mean by "involved"?

21 Q Yes. Let's ask you differently.

22 Did you know Officer Kenny prior to your

23 investigation in this case?

24 A No.

25 Q Okay. Had you ever met him before?

1 from the City of Milwaukee Police Department and the

2 Madison Police Department?

3 A No.

4 Q Why did you make that switch?

5 A Can you repeat the question, please?

6 Q Why did you make the switch from the Milwaukee Police

7 Department to the Madison Police Department?

8 A I like the area, Madison, and I wanted to return back

9 to Madison.

10 Q Okay. When you were in the Madison Police

11 Department, what was your -- did you have a certain

12 assignment or certain area you worked in?

13 A After going to the academy, I was assigned to the

14 south district.

15 Q Can you tell me what that area is?

16 A I still don't know the area that well, so no, I'm

17 sorry, I can't.

18 Q Okay. And what was your -- what was your assignment

19 or responsibilities in the south district?

20 A I worked patrol.

21 Q Tell me what that entails.

22 A That was answering calls for service. And that

23 was -- every day, I worked noon to 8:00 was my

24 assignment.

25 Q When you say "answering calls," you would get calls

1 A No.

2 Q Had you ever met Officer Gary before?

3 A No.

4 Q Had you ever met Officer Christian?

5 A No.

6 Q Had you ever met any of their supervisors before?

7 A Yes.

8 Q Okay. Which ones?

9 A Dave Samson is a sergeant there.

10 Q Who else?

11 A I don't know offhand.

12 Q Maybe others, you just don't know?

13 A If you supplied me with names.

14 Q Okay. It's quite possible, given that you were

15 previously an employee of the Madison Police

16 Department, that there are other folks who had some

17 involvement in the Robinson shooting investigation or

18 the circumstances who you may know?

19 A Possibly.

20 Q Okay. You're just not sure either way?

21 A Excuse me?

22 Q Strike that.

23 A Okay.

24 Q What is your -- how do you know Sergeant Robinson --

25 Sergeant Samson?

1 A He was one of the training officers when I went
 2 through the academy.
 3 Q Did you know him after your -- after the academy?
 4 A I knew who he was.
 5 Q Did you have any interaction with him after the
 6 academy?
 7 A I don't recall.
 8 Q Okay. Do you have any personal relationships with
 9 anyone who is currently a Madison Police Department
 10 officer?
 11 A Yes.
 12 Q Tell me the folks who you have a personal
 13 relationship with who are Madison police officers.
 14 A Can you be clear about what you mean by "personal"?
 15 Q Yeah. Well, let's do it this way.
 16 Are there folks from the Madison Police
 17 Department who you still consider to be friends?
 18 A I wouldn't call them friends.
 19 Q Okay. Did you form any friendships when you were at
 20 the Madison Police Department?
 21 A Yes.
 22 Q Okay. And are any of those folks still your friends?
 23 A I would call them acquaintances.
 24 Q Why do you make that distinction?
 25 A Friends is something, to me, you go out with, you

1 Q Okay. Approximately how many friends do you have in
 2 the Madison -- did you have in the Madison Police
 3 Department when you were an officer?
 4 A I don't know.
 5 Q Are any of those folks still Madison police officers?
 6 A Yes.
 7 Q Okay. How many?
 8 A That, I don't know.
 9 Q Okay. Do you have -- strike that.
 10 During your time as a police officer -- and
 11 I'm talking now the period from '94, the Milwaukee
 12 Police Department, through 2005 when you went to
 13 DCI -- were there circumstances in which you were
 14 personally involved as an officer where an officer
 15 was shot at?
 16 A From -- what were the time frames, please?
 17 Q So essentially the entire time that you were a police
 18 officer, which we agree that was from '94 through
 19 2005?
 20 A Yes.
 21 Q So when I say you were a police officer, we're
 22 talking about that period, from '94 to 2005; fair?
 23 A Okay.
 24 Q Okay. During that period, were there times when you
 25 were called to a location where there was an officer

1 call on the phone, maybe go to lunch. I don't do
 2 that.
 3 Q Okay. Is there a particular reason you don't do
 4 that? Is it related to your job as a DCI agent?
 5 A No.
 6 Q It's not a policy requirement that you not maintain
 7 those kinds of relationships; correct?
 8 A No.
 9 Q But you did previously consider some of those people
 10 to be your friends, as you used that definition.
 11 There were folks who were Madison police
 12 officers who you did go out and have lunch with,
 13 other types of things, correct?
 14 A No.
 15 Q At the time you were a Madison police officer, you
 16 said there were folks who you considered friends.
 17 A They're coworkers.
 18 Q Okay. Some of those people, you considered to be
 19 friends; correct?
 20 A In my definition, I would consider them coworkers.
 21 Q Okay. Did you form any friendships, as you used --
 22 you defined sort of friendships versus acquaintances.
 23 Did you form any friendships while you were
 24 a Madison police officer?
 25 A Yes.

1 that was shot at?
 2 A Yes.
 3 Q Okay. Approximately how many times did that happen?
 4 A When I was a police officer, I would estimate 15
 5 times.
 6 Q Okay. Were you ever shot at personally?
 7 A No.
 8 Q Okay. And when -- in those instances, were you
 9 involved in any investigation of the shooting?
 10 A No.
 11 Q What was your role in those instances? Can you
 12 describe it generally?
 13 A I'd be traffic control. I would be security.
 14 Q Okay. Anything else you can remember about your role
 15 in those instances?
 16 A No.
 17 Q Okay. Did any of those 14 to 15 instances occur
 18 while you were a Madison police officer?
 19 A No.
 20 Q Okay. Were there circumstances during the time you
 21 were a police officer when you had to use your gun?
 22 A No.
 23 Q Okay. Were there circumstances during the time you
 24 were a police officer when your colleagues had to use
 25 their gun and kill a civilian?

1 A No.

2 Q So you've never had an instance in the time where

3 you've been a police officer where you or one of your

4 colleagues shot at a civilian?

5 A That's correct.

6 Q Have you ever been involved in an incident when you

7 or one of your colleagues had pulled out a -- so --

8 strike that.

9 When you state -- have you ever had

10 circumstances where, as a police officer, you or one

11 of your colleagues shot at a civilian?

12 A No.

13 Q Okay. Have you ever had circumstances where you took

14 out your gun while you were a police officer?

15 A Yes.

16 Q Okay. Approximately how many times have you had to

17 pull out your gun during the course of your career as

18 a police officer?

19 A I don't recall.

20 Q Was it more than 10?

21 A Yes.

22 Q More than 50?

23 A No.

24 Q Okay. What were the circumstances in which you --

25 strike that.

1 period, what were the circumstances in which you

2 could pull out your gun during an arrest?

3 A Yeah. I don't recall.

4 Q Do you recall anything about what the policies were

5 about when you could or could not pull out your gun

6 while you were a Madison police officer?

7 A No. I don't recall.

8 Q Okay. Did you review any of those policies about

9 when an officer can pull out their gun in relation to

10 your role in the Robinson shooting investigation?

11 A No, I didn't.

12 Q Okay. And let me ask that in a better way. I think

13 that was a poor question.

14 During your involvement in the Robinson

15 shooting investigation, did you review any Madison

16 Police Department policies?

17 A I did not.

18 Q Okay. So you didn't review any Madison Police

19 Department policies related to when an officer can

20 pull out their gun; correct?

21 A That's correct.

22 Q Okay. All right. So let me ask you now about your

23 time at DCI.

24 So when you joined DCI, tell me, was there

25 any training when you joined DCI?

1 Did that ever occur while you were a

2 Madison police officer?

3 A Yes.

4 Q Okay. Approximately how many times while you were a

5 Madison police officer did you have to pull out your

6 gun?

7 A Maybe five.

8 Q What were the circumstances in which, as a Madison

9 police officer, you are allowed to pull out your gun?

10 A Answering alarms.

11 Q Sorry. Go ahead.

12 A Like a burglar alarm. Make sure that the business or

13 home is secured.

14 Q What are other circumstances in which you, as a

15 Madison police officer, are allowed to pull out your

16 gun?

17 A In situations such as -- such as possibly trying to

18 make an arrest of an individual.

19 Q Well, what are the circumstances -- I mean, it's

20 possible you have to make an arrest of individuals

21 all the time; correct?

22 A Correct.

23 Q So what are the circumstances?

24 And let me be clear. We're talking about

25 while you were a Madison police officer. During that

1 A Yes.

2 Q Did your role change -- let's start with did your

3 role change when you joined DCI? As in, you're no

4 longer -- you're a police officer up until 2005 when

5 you joined DCI; correct?

6 A That's correct.

7 Q And what do you view your role as after joining DCI?

8 A I became an investigator.

9 Q So your role as DCI has been exclusively as an

10 investigator; is that right?

11 A That's correct.

12 Q Do you have any other roles other than serving as an

13 investigator at DCI?

14 A No.

15 Q Okay. When you joined DCI, did you join specifically

16 to be an investigator?

17 A Yes.

18 Q Okay. Did you get any training when you joined DCI?

19 A I did.

20 Q Tell me what training you received.

21 A I had two weeks of training in the different --

22 excuse me. It's a two-week training, and part of

23 that two-week training was maybe an hour, two hours

24 in the different disciplines here at DCI.

25 Q Explain what you mean by "different disciplines at

1 DCI."
 2 A There's different bureaus, different units. So
 3 agents from those units would come in and explain
 4 what their role is.
 5 Q Are we talking about -- when you say "different
 6 bureaus," you're talking about different bureaus
 7 within the Department of Justice?
 8 A Within DCI.
 9 Q Okay. And was your role to serve as investigator for
 10 all of those different divisions or departments?
 11 A No.
 12 Q Okay. What were the departments or divisions in
 13 which you -- strike that.
 14 I think you used the word "disciplines."
 15 Is that a better word to use?
 16 A Either/or is fine.
 17 Q Okay. So what are the disciplines for which you
 18 served as an investigator upon joining DCI?
 19 A The gaming bureau, the narcotics bureau, and then my
 20 current bureau, major crimes.
 21 Q Okay. So when you started at DCI, were you
 22 originally assigned to the gaming bureau?
 23 A That's correct.
 24 Q Okay. Then was there a point in which that changed?
 25 A Yes.

1 Q When did that change?
 2 A In 2007.
 3 Q Okay. And in 2007, tell me what the change was.
 4 A I was transferred to the narcotics bureau.
 5 Q Okay. And then were you involved with the narcotics
 6 bureau for a period of time exclusively?
 7 A Yes.
 8 Q Okay. And then how long were you assigned to the
 9 narcotics bureau?
 10 A From 2007 to 2008.
 11 Q Okay. And then what?
 12 A Then the major crimes bureau, or they sometimes call
 13 it the violent crimes bureau.
 14 Q Is that the bureau you're in now?
 15 A That's correct.
 16 Q Okay. Let's go back to the training.
 17 You said your training consisted of
 18 essentially two weeks at the beginning; is that
 19 right?
 20 A That's correct.
 21 Q Okay. During that two-week training, you had folks
 22 come down from the different disciplines to explain
 23 what their bureau did; correct?
 24 A That's correct.
 25 Q Okay. Other than that, what other training did you

1 receive?
 2 A When I was in the gaming bureau, I worked with a
 3 field training agent. They call them FTAs. And I
 4 worked with that person for a period of time until I
 5 understood or until I could do a case solo.
 6 Q So sort of you shadowed that person sort of?
 7 A Sort of. I would write -- I would author the reports
 8 and they would review the reports.
 9 Q Okay. Did you have a similar sort of shadowing
 10 period or a field training agent sort of assist you
 11 as you moved from each of these bureaus, or was that
 12 something that happened when you were in the gaming
 13 bureau?
 14 A That was just something that happened when I was in
 15 gaming.
 16 Q So when you switched from gaming to narcotics, did
 17 you get any additional training?
 18 A It was not structured training. It was asking --
 19 Q No formal training?
 20 A No formal training. That's correct.
 21 Q On-the-job training?
 22 A That's correct.
 23 Q Okay. Did you get any formal training when you
 24 switched from narcotics to major crimes?
 25 A No.

1 Q Okay. The only form of training you received when
 2 you switched from narcotics to major crimes was
 3 on-the-job training; that's correct?
 4 A That's correct.
 5 Q So let's go back to the original training that you
 6 received, because you did get some formal training in
 7 your initial two weeks at DCI; correct?
 8 A That's correct.
 9 Q Okay. We've talked about the presentations from the
 10 various folks in different disciplines. What else --
 11 what other forms of training did you receive during
 12 that two-week period?
 13 A We received report writing training.
 14 Q What else?
 15 A There was firearms training.
 16 Q What else?
 17 A That was -- I don't recall what else.
 18 Q Okay. Your report writing training, was that
 19 training -- what you learned in that training
 20 consistent with what we discussed so far related to
 21 the DCI report writing policy in Exhibit 45?
 22 A This has been updated since that training.
 23 Q Okay. Have there been any changes from what you
 24 learned in the training to what's in this policy
 25 document in Exhibit 45?

1 A Can you repeat your question?
 2 Q Yeah. Any changes in the policy in terms of report
 3 writing from the time you were trained in 2005 to
 4 what's contained in the policy in Exhibit 45?
 5 A Yes.
 6 Q Okay. Please tell me.
 7 A Timeliness of reports.
 8 Q Any other changes other than those related to
 9 timeliness of reports?
 10 A Case synopsis.
 11 Q What else?
 12 A And the officer-involved death cases, which is page
 13 -- I'm sorry -- 16 of 19.
 14 Q Anything else?
 15 A No.
 16 Q Okay. Tell me the difference between what you were
 17 trained on in terms of timeliness and what the policy
 18 now requires.
 19 A Timeliness -- I don't recall there being an actual
 20 amount of days that reports need to be written, just
 21 they need to be written within a week or so.
 22 And now there's actual dates -- or, I'm
 23 sorry, there's actual days that a report needs to be
 24 authored by an agent.
 25 Q Okay. What about in terms of case synopsis? What's

1 different than what you were trained on and what the
 2 policy required?
 3 A We never really spoke about case synopsis. That is
 4 now new, that they want you to do a case synopsis
 5 when possible.
 6 Q That's something that was added to the policy after
 7 you had been trained; is that right?
 8 A That's correct. Or we never spoke about it. I never
 9 saw it until the new policy.
 10 Q Okay. When was this policy put in effect as far as
 11 you understand?
 12 A The effective date on this policy for report writing
 13 is March 24th, 2015.
 14 Q Okay. Now, I think we -- you testified earlier --
 15 you said, as I understand it, this policy was
 16 applicable during the time of the Robinson shooting
 17 investigation; correct?
 18 A That's correct.
 19 Q Okay. The Robinson shooting investigation was
 20 earlier than March 24th, 2015; correct?
 21 A Yes. That's correct.
 22 Q Okay. So can you explain -- in other words, as far
 23 as you understand, the information contained in this
 24 policy is the same policy that applied at the time of
 25 that shooting; correct?

1 A Essentially, it is the same.
 2 Q Okay.
 3 A There were a few differences, but nothing major.
 4 Q Okay. In terms of -- are there any differences that
 5 were relevant at all between the policy as written in
 6 March -- on March 6th through 10th of 2015 and
 7 March 24th, 2015, the date of this document that you
 8 recall?
 9 A Not that I recall.
 10 Q Okay. In terms of what the relevant requirements are
 11 of that policy about report writing, this document
 12 correctly captured what was required at the time you
 13 were involved with the Robinson shooting
 14 investigation; correct?
 15 A That's correct.
 16 Q Okay. Tell me about case synopses. What were the
 17 differences between what you were trained on -- well,
 18 strike that.
 19 What are the requirements for a case
 20 synopses under the DCI policy?
 21 A Before, when I was originally trained, we didn't even
 22 mention those. I didn't even -- I didn't -- wasn't
 23 aware of what they were. But now they're actually
 24 written down, what a case synopsis is.
 25 Q So what is a case synopsis?

1 A It's just a brief summary of what the report
 2 contains.
 3 Q And that's something that goes on the top page of the
 4 report?
 5 A Yes. That's correct.
 6 Q So one to two sentences?
 7 A That's correct.
 8 Q Okay. Tell me about the -- you mentioned that
 9 officer-involved deaths was a section of the policy
 10 that's different from what you were trained on?
 11 A That's correct.
 12 Q Can you explain that?
 13 A That was -- my recollection, it was not included in
 14 the original -- my training back in 2005, but now
 15 it's added to this section.
 16 Q Tell me what page you were looking at.
 17 A That would be page 16 of 19.
 18 Q Okay. Page Bates-stamped DCI 2088.
 19 Did you get any specific training -- so --
 20 strike that.
 21 As you understand it, this No. 4 starting
 22 on DCI 2088, was a new policy that was added at some
 23 point after you were trained by DCI; is that right?
 24 A That's correct.
 25 Q Do you know when approximately this requirement was

1 added?

2 A I don't know when it was added.

3 Q Okay. Do you know why it was added?

4 A Yes. Because the statute requirement that was

5 established after -- in 2013, Wisconsin Act 348 was

6 established.

7 Q Okay. Did you get any specific training once that

8 act was established?

9 A Yes.

10 Q Okay. What training did you get associated with

11 that -- with the establishment of that act?

12 A We were provided with the information in a

13 PowerPoint, and I present that PowerPoint as part of

14 my role in violent crimes or major crimes.

15 Q So you presented about the new law; is that right?

16 A Right. The new statute requirements.

17 Q Okay. And then in terms of this policy being

18 included in the document, do you know when that was

19 added?

20 A I don't know exactly when that was added.

21 Q Okay. Were you involved in the creation of the

22 policy that's written in DCI 2088?

23 A No.

24 Q Okay. But you were involved in the presentation to

25 your department about the change in the law; is that

1 right?

2 A No.

3 Q Explain to me what I've got wrong.

4 A I present the new changes in the statute to other

5 agencies.

6 Q Okay. Let me ask you this. For officer-involved

7 death cases, tell me generally what the requirements

8 are that are contained in this policy as you

9 understand it.

10 A After the statute was passed, it required that any

11 time there's an officer-involved death investigation,

12 that an agency contact investigators, at least two

13 investigators, one acting as the lead, to conduct the

14 investigation.

15 There also -- neither one of them could be

16 employed by the agency. Each agency may have a

17 policy or has to have a policy regarding

18 officer-involved death investigations. If it's

19 crash-related, then a traffic reconstruction unit

20 from another agency needs to be used.

21 Q Okay. So there are -- two investigators are supposed

22 to be involved in each officer-involved death

23 investigation?

24 A At least.

25 Q Okay. Were there -- were there supposed to be a lead

1 investigator -- well, strike that.

2 Was there a lead investigator in the

3 Robinson shooting investigation?

4 A Yes.

5 Q Who was that?

6 A That was Special Agent Rafael De La Rosa.

7 Q Were there more than one lead investigator?

8 A No.

9 Q Okay. Was there someone who served as sort of the

10 secondary investigator after De La Rosa?

11 A Yes.

12 Q Who was that?

13 A That would be me.

14 Q Okay. Did anyone else serve in that function as sort

15 of second in charge after De La Rosa?

16 A No.

17 Q Okay. There were a number of other folks involved in

18 the investigation; is that right?

19 A That's correct.

20 Q Okay. What role were those folks in? Did they have

21 a title other than sort of primary and secondary?

22 A Our supervisor was Special -- or is Special Agent in

23 Charge James Engels. He was the supervisor of the

24 scene.

25 Q Okay. So he's not the lead investigator or secondary

1 investigator, but someone sort of who supervised both

2 of you?

3 A That's correct.

4 Q And supervises everyone else involved in the

5 investigation?

6 A That's correct.

7 Q Not someone who has a specific statutory role or

8 obligation?

9 A No.

10 Q Is it your understanding that you and Agent -- sorry.

11 Strike that.

12 Was it your understanding that you and

13 Agent De La Rosa were the two agents who were sort of

14 serving the statutory requirements?

15 A That's correct.

16 Q Okay. Anyone who else had specific roles or

17 involvement in the -- well, strike that.

18 MR. SWAMINATHAN: Is this a good time for a

19 quick break?

20 MR. GENDREAU: That's fine.

21 (A recess is taken from 10:08 a.m. to 10:17 a.m.)

22 BY MR. SWAMINATHAN:

23 Q Did you receive any specific training about

24 officer-involved death investigations and how to

25 perform them at DCI?

1 A Yes.

2 Q Okay. Tell me what training you received about that.

3 A Well, since I'm conducting the investigations, I

4 receive the training -- we have a PowerPoint on

5 officer-involved death investigations. So I did

6 review that PowerPoint.

7 Q Did you get any other training other than reviewing

8 the PowerPoint?

9 A Just by doing.

10 Q Okay. And can you summarize for me what that

11 PowerPoint says about what you're supposed to do

12 during officer-involved death investigations?

13 A Sure. The officer-involved death investigation

14 training regarding the PowerPoint is --

15 Q Let's pause there for a second. I don't mean to cut

16 you off. The way you started to answer that suggests

17 that there was training other than just the

18 PowerPoint on officer-involved death investigations;

19 is that right or is that wrong?

20 A It's in practice, what we train in the PowerPoint.

21 So it's essentially the same thing.

22 Q Okay. So most of your training about how to handle

23 officer-involved death investigations is on-the-job

24 training; correct?

25 A That's correct.

1 Q From who do you get that -- from whom do you get that

2 on-the-job training?

3 A From supervisors.

4 Q Who?

5 A Specifically?

6 Q Yes.

7 A Supervisors of Special Agent in Charge Dave Klabunde,

8 Special Agent in Charge James Engels. I've also

9 received guidelines from Director Jody Wormet.

10 Q Did that training take the form of meeting --

11 specific meetings to discuss how you perform the

12 investigations, or was it documents? Can you

13 explain?

14 A There have been several meetings regarding

15 officer-involved death investigations.

16 Q Were there any documents handed out in those

17 meetings?

18 A I don't recall.

19 Q Okay. Did you receive any documents that provided

20 you with guidance or training in how to perform

21 officer-involved death investigations?

22 A Can you repeat it for me?

23 Q Yeah. Would you agree the pre -- the PowerPoint

24 presentation is one document you received about how

25 to perform officer-involved death investigations;

1 correct?

2 A Correct.

3 Q Are there any other documents you received that gave

4 you instruction about how to perform officer-involved

5 death investigations?

6 A Yes.

7 Q Tell me what those documents were.

8 A That would be a policy, a Division of Criminal

9 Investigation policy and procedure.

10 Q What else?

11 A I -- I don't recall.

12 Q Okay. Anything else that you can recall that was a

13 document that gave you instruction about how to

14 perform officer-involved death investigations?

15 A I don't recall.

16 Q Okay. Is there anything -- strike that.

17 Am I correct in understanding that you

18 perform investigations on a day-to-day basis since

19 you've been in major crime, some of which are

20 officer-involved death investigations, some of which

21 are not; is that right?

22 A That's correct.

23 Q Is there anything unique about what you're supposed

24 to do when you perform officer-involved death

25 investigations that's not involved in your other

1 investigations?

2 A Can you clarify what you mean by "unique"?

3 Q Yeah. In other words, is there anything you're

4 required to do additionally in officer-involved death

5 investigations that's not otherwise required?

6 A Yes.

7 Q What is that?

8 A There is a report that's generated. It's called the

9 summary report, which is a report written on the

10 entire case file.

11 Q And you're not required to do that in other

12 investigations that are not officer-involved deaths;

13 is that right?

14 A That's correct.

15 Q Any other differences?

16 A Yes.

17 Q Tell me what those are.

18 A In officer-involved death investigations, there's a

19 meeting with the family of the decedent, and in other

20 investigations, I don't necessarily meet with the

21 families.

22 Q What else?

23 A There are some reports that are generated in

24 officer-involved death investigations that are not

25 generated in a non-officer-involved death

1 investigation.

2 Q Like what?

3 A The family contact. Examination of record. I'm

4 sorry, can you -- take that out. That's not true.

5 I don't recall right now.

6 Q As far as you can recall, the only difference that

7 you can recall about what you have to do in an

8 officer-involved death investigation that's not

9 required in other investigations is the summary

10 report and a meeting with the family; is that right?

11 A There may be other things; I just don't recall.

12 Q That's what you remember now?

13 A That's what I remember right now sitting before you.

14 Q Okay. When you get pulled onto an officer-involved

15 death case, two things that come to mind in terms of

16 things you've got to do in those cases that's unique

17 or different from your normal case are: You have to

18 do a summary report, and you have to meet with the

19 family?

20 A That's correct.

21 Q Anything else you can think of?

22 A Not right now.

23 Q Okay. Why is there a requirement that you meet with

24 the family in officer-involved death cases?

25 A When the new statute was enacted in, I think, 2014,

1 one of the requirements or one of the new provisions

2 that came out of that is providing the family

3 information to file a complaint or to request an

4 inquest if they agree or don't -- I guess they don't

5 agree with the district attorney's decision.

6 Q Is that the reason for the meeting with the family?

7 A I do meet with the family so I can provide them --

8 it's a five-page packet, and that gives the

9 information.

10 And also to explain what the Department of

11 Criminal Investigation's role is. Also, so they can

12 see a face to who is going to be conducting the

13 investigation and to answer any of their questions.

14 Q Okay. So that meeting-with-the-family requirement is

15 a requirement in order to provide information to the

16 family; is that right?

17 A That's correct.

18 Q Okay. During that meeting with the family to provide

19 them with information, do you ask them questions or

20 interview them in relationship to the actual

21 investigation itself?

22 A I -- I can't answer that.

23 Q Why can't you answer that?

24 A Because I have never been the person to go meet the

25 family immediately after an incident has occurred.

1 Q The only thing unique about the requirement in an

2 officer-involved death investigation about meeting

3 with the family is a requirement that you provide

4 them with certain information; is that right?

5 A That's correct.

6 Q Okay. Let me ask you what your breakdown between

7 time span on officer-involved death investigations

8 versus your other investigations.

9 So how would you break that down

10 percentage-wise? How much time is on

11 officer-involved death investigations versus other

12 investigations?

13 A I can't answer that.

14 Q 50/50?

15 A Again, can't answer that.

16 Q Do you spend more time on officer-involved death

17 investigations or on other types of investigations?

18 A I'm sorry; I can't answer that.

19 Q So it could be -- it's too hard to say one way or the

20 other?

21 A It is.

22 Q So it could be in the ballpark of 50/50?

23 A Possibly.

24 Q What are the other types of investigations you're

25 involved with other than officer-involved death

1 investigations and major crimes?

2 A Sexual assault investigations, officer-involved

3 shootings, homicides. I've conducted backgrounds, as

4 well, for new agents and for other employees.

5 Q What other types of investigations?

6 A Investigations -- child abuse investigations.

7 Q What else?

8 A Sexual assaults.

9 Q Okay. All right.

10 In those circumstances, the

11 non-officer-involved death investigations, what are

12 the circumstances in which DCI's being called in

13 rather than the local police handling the

14 investigation?

15 A If there's a conflict of interest, DCI would be

16 called.

17 Q Any other circumstances?

18 A If it's statewide importance and they're outside the

19 jurisdiction in which they're calling, then I would

20 be called.

21 Q Okay. Approximately how many death investigations do

22 you believe you've been involved with? Strike that.

23 How many officer-involved death

24 investigations do you think you've been involved with

25 since being at DCI?

1 A 20 to 30.
 2 Q Okay.
 3 A Estimated.
 4 Q How many that involved the Madison Police Department?
 5 A Three.
 6 Q How many that have involved Officer Kenny?
 7 A One.
 8 Q Just the Tony Robinson shooting?
 9 A That's correct.
 10 Q Okay. Were you involved in any investigation of any
 11 prior shooting by Officer Kenny?
 12 A No.
 13 Q Do you know whether or not Officer Kenny had ever
 14 shot anyone previously?
 15 A Now that I sit before you, yes, I do know.
 16 Q When did you learn that?
 17 A After the -- well, I don't recall.
 18 Q Did you learn -- so tell me, what is your
 19 understanding about whether or not Officer Kenny has
 20 been involved in any other shootings, as you sit here
 21 today?
 22 A I did learn that he was involved in one previously.
 23 Q Okay. How did you learn that?
 24 A During discussions during this -- during the case,
 25 investigation of Tony Robinson, I learned it.

1 investigation of an officer-involved shooting,
 2 they're not looking into prior incidents or other
 3 incidents involving an officer; is that right?
 4 A That's correct.
 5 Q Do they look at other incidents -- and to be clear,
 6 they're not looking at if the officer involved has
 7 shot other civilians as part of DCI's investigation?
 8 A That's correct.
 9 Q Are they looking at all of the officer's prior
 10 disciplinary history as part of that investigation?
 11 A No.
 12 Q That's not something that's considered as part of
 13 DCI's investigation?
 14 A No.
 15 Q Okay. Those things aren't considered relevant to the
 16 role DCI's playing; is that right?
 17 A That's correct.
 18 Q What is DCI's role in an officer-involved death
 19 investigation?
 20 A We conduct criminal investigations. So our role is
 21 to be fact finders, gather -- gatherers of the facts,
 22 and then to present that information in a timely
 23 manner to the district attorney for his or her
 24 decision.
 25 Q Anything else?

1 Q Okay. So you learned it during the time that you
 2 were involved in investigating the Tony Robinson
 3 shooting?
 4 A Yes.
 5 Q Okay. Who told you that?
 6 A I don't recall.
 7 Q What did you learn about that other shooting?
 8 A I only learned that he was involved in a shooting.
 9 Q Did you make any reference in any of your reports to
 10 the fact that he was involved in another shooting?
 11 A No.
 12 Q Okay. Why not?
 13 A I -- it had nothing to do with this shooting.
 14 Q Okay. So any other -- any other shooting that he was
 15 involved with is not relevant to the investigation
 16 you were conducting; is that right?
 17 A From my purposes, that's correct.
 18 Q Explain what you mean by that, for your purposes.
 19 A For the reports that I authored, there was no reason
 20 I would mention anything.
 21 Q Okay. Is it relevant to the investigation overall?
 22 A Not in -- no.
 23 Q Okay.
 24 A No.
 25 Q And does that basically mean as part of your -- DCI's

1 A We are also a non -- we're non-biased.
 2 Q What else?
 3 A That's -- that's it.
 4 Q Okay. So for the purposes of conducting the criminal
 5 investigation, DCI's position is that the officer's
 6 disciplinary history is irrelevant for the purposes
 7 of that investigation; is that right?
 8 A That's correct.
 9 Q Okay. Why is that?
 10 A We don't conduct internal investigations; we conduct
 11 criminal investigations.
 12 Q So would it be correct to say that the DCI
 13 investigation is focused exclusively on the actual
 14 circumstances of what happened in that
 15 officer-involved shooting; is that right?
 16 A That's correct.
 17 Q Okay. Anything other than what happened as part of
 18 that shooting is considered irrelevant; is that
 19 right?
 20 A Can you clarify, please?
 21 Q Yeah. Well, so other than the circumstances
 22 surrounding the incident that's being investigated,
 23 is everything else considered irrelevant to the DCI
 24 investigation?
 25 A Yes.

1 Q Okay. So when we talk about the incident itself --
 2 well, strike that.
 3 Does DCI make recommendations to the
 4 district attorney as part of its investigation?
 5 A No.
 6 Q Does DCI provide any opinions to the district
 7 attorney as part of its investigation?
 8 A No.
 9 Q Does DCI ever form any formal opinions about the
 10 underlying investigation?
 11 A No.
 12 Q Okay. The DCI performs no function in which it does
 13 anything other than just collect facts and pass them
 14 on; is that right?
 15 A That's correct.
 16 Q Okay. And who's DCI's audience for the facts that it
 17 collects?
 18 A The district attorney.
 19 Q Anyone else?
 20 A The general public.
 21 Q Okay. So DCI understands that part of its role is to
 22 also collect facts for the purposes of sharing with
 23 the public?
 24 A To make it understandable to the public.
 25 Q Okay. So DCI understands that the reports that it

1 discussions about opinions.
 2 Q Anything other than not including opinions or
 3 omitting opinions from reports, is there anything
 4 else DCI does to ensure that it is impartial?
 5 A The interviews are conducted fairly, reported
 6 thoroughly and as complete as possible.
 7 Q When you say they're "reported thoroughly," what do
 8 you mean?
 9 A Means what is said in the interview is documented in
 10 the report to the best of the ability.
 11 Q In other words, you don't pick and choose what
 12 information to include?
 13 A Correct.
 14 Q You try to include everything that's said during the
 15 interview that's factual?
 16 A Again, it's not a transcript; but yes.
 17 Q Okay.
 18 A The facts.
 19 Q When you said you report interviews fairly, what do
 20 you mean by that? You used the word "fairly."
 21 A No opinions. No -- no judgments.
 22 Q Okay. Other than what you described so far about not
 23 including opinions and how you conduct your
 24 interviews, anything else that DCI does to ensure
 25 that it's impartial in its investigations?

1 authors and its summary and is its conclusions --
 2 strike that.
 3 It's understood during the course of an
 4 investigation that that information is ultimately
 5 going to be disclosed to the public; is that right?
 6 A That it possibly could be disclosed.
 7 Q And is that taken into consideration as part of
 8 what's documented in a DCI investigation?
 9 A No.
 10 Q Okay. So DCI doesn't -- does DCI take steps to
 11 ensure that the factual information they include in
 12 their reports are complete, given that information's
 13 going to be shared with the public and they ought to
 14 understand everything DCI did?
 15 A That's correct.
 16 Q Okay. You said one of the DCI's -- one of DCI's
 17 roles or purposes as part of its investigations into
 18 officer-involved shootings is to remain impartial; is
 19 that right?
 20 A That's correct.
 21 Q What steps does DCI take to remain impartial?
 22 A We report the facts as they're told to us during an
 23 interview. No opinions are put in reports. When it
 24 is presented to the district attorney, it is the case
 25 file or reports with no opinions added to it or no

1 A No.
 2 Q Okay. As part of your investigations, I understand
 3 DCI forms no -- DCI shares no opinions with the
 4 district attorney; correct?
 5 A That's correct.
 6 Q Okay. Does DCI form any opinions that it may not
 7 share?
 8 A Can you be more clear, please?
 9 Q Yeah. As an agency, does DCI sort of internally say
 10 hey, we do have some conclusions and opinions about
 11 this, but those get omitted from what we share with
 12 the district attorney? Or does DCI just stay out of
 13 that business of forming opinions?
 14 A Are you asking me, as an agent, or the DCI agency?
 15 I can't answer.
 16 Q I'm asking you, as an agency.
 17 A Can't answer that.
 18 Q Okay. So as far as you understand it, does DCI ever
 19 form conclusions about what happened in an
 20 investigation or form opinions about an
 21 officer-involved -- strike that.
 22 Does -- as you understand it, does DCI ever
 23 form opinions about an officer-involved investigation
 24 that it doesn't share with the district attorney or
 25 with the public?

1 A No.

2 Q Okay. Is there any formal or informal process in

3 which DCI agents discuss opinions about an

4 investigation?

5 A No.

6 Q Okay. Do you form conclusions or opinions during the

7 course of your investigation?

8 A No.

9 Q Okay. Do you make it a point to try to avoid doing

10 that in order to avoid any sense of bias?

11 A No opinions are made during the investigation.

12 Q Okay. Did you form any opinions during your

13 investigation of the Robinson shooting matter?

14 A No.

15 Q Okay. Did you share any opinions with anyone about

16 your views of the Robinson shooting matter?

17 A No.

18 Q Okay. You said there were three instances in which

19 you've investigated a Madison Police Department --

20 strike that.

21 There were three instances in which you

22 were involved in investigating officer-involved

23 shootings in the Madison Police Department; correct?

24 A That's correct.

25 Q Okay. Other than those instances in which you were

1 then investigating the Madison behavior of some

2 officer of the Madison Police Department, do you have

3 any other interaction with the Madison Police

4 Department during your time working at DCI?

5 A Yes.

6 Q Okay. What are the circumstances in which you're

7 working with the Madison Police Department while

8 you're working at DCI, other than these three

9 shooting incidents?

10 A There may be an investigation such as a -- a Internet

11 crimes against children that may lead agents to --

12 into the city. So we would work with the city

13 officers to execute search warrants. So we would

14 meet together at a district or another location and

15 we would have those conversations prior to the search

16 warrant.

17 Q Okay. Anything else? Any other kinds of things

18 you'd do in that context other than have them help

19 you execute search warrants?

20 A When I was in the narcotics bureau, we did have cases

21 with the Madison Police Department in which we worked

22 jointly together.

23 Q Okay. And what does that mean, to work a case

24 jointly?

25 A They may have the same suspect that they're looking

1 at, so we would work together, exchange reports.

2 Q Okay. So those are circumstances in which you'd have

3 a cooperative relationship with the Madison Police

4 Department?

5 A Yes.

6 Q Okay. And would you work closely with certain

7 officers or detectives in the Madison Police

8 Department in those circumstances?

9 A Yes.

10 Q Okay. How many instances -- how many

11 investigations -- well, strike that.

12 You talk about an example of a type of

13 investigation where you might have been working with

14 the Madison Police Department. I assume that's an

15 actual instance involving an Internet crime; is that

16 right?

17 A That's correct.

18 Q Okay. How many investigations do you recall working

19 on with the Madison Police Department?

20 A I was part of the group of agents working with the

21 City of Madison officers in executing that search

22 warrant maybe ten times.

23 Q Okay. So approximately ten times you've had a reason

24 to interact with the Madison Police Department, or

25 those are instances where you've worked -- just help

1 me understand.

2 A I've worked with the case agents that were involved

3 with the City of Madison detectives; then I've worked

4 with the police officers during that time.

5 Q Does DCI, its major crimes unit that you're in, does

6 that unit interact regularly with the Madison Police

7 Department?

8 A No.

9 Q Okay. Does that unit have any cases that it works

10 jointly with the Madison Police Department?

11 A No.

12 Q You -- is the answer no or you don't know?

13 A No.

14 Q Okay.

15 A No.

16 Q When you were a -- go ahead.

17 A Are you speaking to me directly?

18 Q Correct.

19 A Okay. So no.

20 Q Okay. And when you say you directly, what you're

21 saying is you don't have any cases in major crimes

22 where you're working with the Madison Police

23 Department?

24 A Yes. That's my understanding.

25 Q Okay. Does the major crimes division, as in other

1 agents other than you, have cases that they're
 2 working jointly with the Madison Police Department?
 3 A I don't know.
 4 Q Okay. In terms of your time at narcotics, in the
 5 narcotics division, were you working any cases
 6 jointly with the Madison Police Department?
 7 A Can you repeat that?
 8 Q Yes. Were you working any cases jointly with the
 9 Madison Police Department when you were in the
 10 narcotics division?
 11 A No.
 12 Q Okay. Were other agents in the narcotics division
 13 working cases jointly with the Madison Police
 14 Department?
 15 A Yes.
 16 Q How many cases are you aware of in which other agents
 17 were working jointly with the Madison Police
 18 Department?
 19 A I don't know.
 20 Q Was it something that was going on regularly?
 21 A It's part of a task force.
 22 Q Okay. Anything you're aware of other than that task
 23 force?
 24 A No.
 25 Q Is that task force still in existence, as far as

1 A Assistant district attorneys. Yes.
 2 Q Okay. Do you work day in, day out with district
 3 attorneys?
 4 A No.
 5 Q Okay. How often are you interacting with district
 6 attorneys or assistant district attorneys?
 7 A Again, can you clarify?
 8 Q Yes. So, you know, on a -- are you seeing them day
 9 in and day out? Once a week? Once a month? Once in
 10 a rare -- in a blue moon you see a district attorney
 11 or an assistant district attorney? How regularly are
 12 you interacting with folks from the District
 13 Attorney's Office?
 14 A And just to be clear, are you talking just Dane
 15 County, or are you talking the entire state?
 16 Q Fair question. Let's start with Dane County.
 17 A Whenever I have a case in Dane County.
 18 Q How often is that, in your case?
 19 A I don't recall.
 20 Q How often are you interacting with district
 21 attorney's offices generally in the State of
 22 Wisconsin?
 23 A Once a month.
 24 Q And what's the context in which you're interacting
 25 with them?

1 you're aware of?
 2 A Yes.
 3 Q Okay. Tell me, what's DCI's relationship to the
 4 district attorney? What do you understand about what
 5 relationship DCI has with the District Attorney's
 6 Office?
 7 A I'm sorry. Can you be clearer, please?
 8 Q Yeah. Just -- let's talk specifically about your
 9 time at major crimes.
 10 A Okay.
 11 Q What is the sort of relationship between that
 12 division of DCI and the District Attorney's Office?
 13 A Reports are provided to the district attorney that
 14 are authored by DCI -- by myself.
 15 Q Anything else?
 16 A There's meetings that are conducted also throughout a
 17 case with the district attorney or District
 18 Attorney's Office.
 19 Q Right. And that's in cases where they may be
 20 prosecuting someone and they're working with you all
 21 on that prosecution; is that right?
 22 A That's correct.
 23 Q Okay. Do you all testify at trial and work with the
 24 District Attorney's Office -- district attorneys on a
 25 regular basis?

1 A When a case is completed; for prosecution; also to
 2 discuss a case, to see if it's something that will go
 3 forward.
 4 Q Okay. I want to ask you about officer-involved death
 5 investigations some more. We've talked a little bit
 6 about the purpose of those investigations. You said
 7 you're conducting a criminal investigation when
 8 you're doing your officer-involved death
 9 investigations; is that correct?
 10 A That's correct.
 11 Q Okay. And who is being investigated criminally?
 12 A The officer.
 13 Q Okay. When you conduct those investigations, are
 14 you -- well, strike that.
 15 What is the ultimate purpose of an
 16 officer-involved death investigation that DCI's
 17 conducting?
 18 A The purpose is to get an understanding of the
 19 occurrence, what occurred.
 20 Q And to do what with that information?
 21 A To provide that information to the district attorney
 22 for his or her decision.
 23 Q Okay. And so ultimately you're investigating the
 24 officer's conduct; is that right?
 25 A The officer's behavior. Yes.

1 Q Okay. Are you investigating the policies of the
 2 police department generally?
 3 A No.
 4 Q Okay. Are you investigating the policies and
 5 procedures of the police department?
 6 A No.
 7 Q Are you investigating whether the officer's conduct
 8 was constitutional? Let me ask you differently.
 9 As far as you understand, your
 10 investigation is focused specifically on whether or
 11 not the officer has committed a crime; is that right?
 12 A That's correct.
 13 Q Okay. You're not considering other things like
 14 whether the officer may or may not have violated the
 15 constitution?
 16 A That's correct.
 17 Q Okay. What is the standard by which you're
 18 investigating the officer's conduct? Well, strike
 19 that.
 20 When you say -- strike that.
 21 You're investigating the -- whether or not
 22 the officer has committed a crime; correct?
 23 A That's correct.
 24 Q When you're doing that, is the focus basically on
 25 what was the officer's decision-making? Was it

1 appropriate or inappropriate?
 2 A I'm sorry. One more time, please.
 3 Q Yeah. Let me ask -- so you're investigating -- your
 4 focus is the officer's conduct; correct?
 5 A Correct.
 6 Q Okay. In other words, you're investigating
 7 information that's important to understanding whether
 8 the officer appropriately fired his weapon; correct?
 9 A Correct.
 10 Q Okay. And when you do that, is the primary focus
 11 what information did the officer have at the time
 12 that they made the decision to pull the trigger?
 13 A No.
 14 Q Okay. What is the important information about --
 15 that you need to know when you're investigating an
 16 officer's conduct?
 17 A The entire -- the entire situation that led to that
 18 decision.
 19 Q Okay. And ultimately you're assessing whether the
 20 officer, at the moment they pulled the trigger, were
 21 justified in doing so; correct?
 22 A No.
 23 Q Okay. What are you investigating, then? Why is that
 24 wrong?
 25 A Because I'm not making the decision. The district

1 attorney is making the decision.
 2 Q Understood. You're providing factual information to
 3 the district attorney so the district attorney can
 4 decide whether or not the officer was justified at
 5 the time they pulled the trigger; is that right?
 6 A That's correct.
 7 Q Okay. And for the district attorney to make that
 8 decision, they have to understand what information
 9 did the officer have at the time they made that
 10 decision; correct?
 11 A That's part of it. Yes.
 12 Q Okay. Isn't that the most important thing?
 13 A Everything --
 14 MR. GENDREAU: I'm going to object. That
 15 calls for opinion questions.
 16 You can answer.
 17 BY MR. SWAMINATHAN:
 18 Q What is the important information that you've got to
 19 make sure you provide to the district attorney in
 20 order for them to make a decision about whether the
 21 officer's decision was justified?
 22 A The entire investigation.
 23 Q What does that entail?
 24 A That entails interviews, evidence, the medical
 25 examiner's report and their examination of the

1 decedent, the crime lab reports and their findings,
 2 scene examinations; that's what that entails.
 3 Q And ultimately you're providing this information to
 4 the district attorney so they can make a decision
 5 about whether the officer was justified at the time
 6 they pulled the trigger?
 7 A That's correct.
 8 Q Okay. And that, really, is the entire purpose;
 9 correct?
 10 A Yes.
 11 Q Okay. For the district attorney to make that
 12 decision -- strike that.
 13 Do you have an opinion about what
 14 information the district attorney should have -- or
 15 should be considering at the time that they're making
 16 that decision about whether the shooting was
 17 justified?
 18 A No.
 19 Q Do you know what information they're taking into
 20 consideration when they make that decision?
 21 A No.
 22 Q You don't know whether they're considering all the
 23 surrounding circumstances or if they're just
 24 considering whether or not, you know, what
 25 information the officer had at the moment they made

1 the decision to pull the trigger? You don't know;
 2 correct?
 3 A That's correct.
 4 Q Are you involved in those discussions with the
 5 district attorney?
 6 A No.
 7 Q Does the district attorney come to you after you've
 8 completed your report and say, here's what I'm
 9 thinking, can you share your opinions, anything like
 10 that?
 11 A No.
 12 Q Okay. Never had a circumstance where someone from
 13 the District Attorney's Office came to you and said
 14 what do you think about what we should do here about
 15 this charging decision?
 16 A No.
 17 Q Okay. Do you know what the Madison Police
 18 Department's deadly force policy is?
 19 A No.
 20 Q Okay.
 21 A I don't recall.
 22 Q Probably knew back when you were a police officer,
 23 but you don't know now?
 24 A That's correct.
 25 Q Okay. Did you consider that policy at all at the

1 A That the information is reported accurately and that
 2 it's timely and that it documents the -- attempts to
 3 document the who, what, when, where, why, and how.
 4 Q Is that policy different than the report-writing
 5 policy we've talked about today?
 6 A I don't recall.
 7 Q Information about how you go about conducting witness
 8 interviews is not contained in the report-writing
 9 policy; is that correct?
 10 A May I take a look?
 11 Q Go ahead.
 12 A That's correct.
 13 Q Okay. It's a separate policy on that?
 14 A Yes.
 15 Q Okay. Other than -- and I think you said generally
 16 the policy requires that you -- strike that.
 17 What are -- does the policy set forth any
 18 information about who you interview during a death
 19 investigation?
 20 A Clarify, please.
 21 Q Yeah. Does the policy say anything about who should
 22 be interviewed as part of a death investigation?
 23 A I don't recall.
 24 Q Does the policy say anything about when you conduct
 25 interviews during a death investigation?

1 time during your involvement in the Robinson shooting
 2 investigation?
 3 A No.
 4 Q I want to ask you about interviews with witnesses as
 5 part of DCI investigations and -- strike that.
 6 From this point through the rest of the
 7 deposition, we're talking about officer-involved
 8 shootings; does that make sense?
 9 A Officer-involved shootings.
 10 Q Yes. And officer-involved -- sorry. Let's say --
 11 officer-involved deaths is the way we should talk
 12 about it; correct?
 13 A That's correct.
 14 Q Okay. And that the Robinson shooting investigation,
 15 that was an officer-involved death investigation?
 16 A That's correct.
 17 Q That's what I'm talking about from this policy
 18 forward when I ask you about policies and practices
 19 about how these things are conducted.
 20 So for those officer-involved death
 21 investigations, are there any policies or practices
 22 that you follow in terms of interviewing witnesses?
 23 A There is a DCI policy on interviewing.
 24 Q Okay. Is that a -- what does that policy require,
 25 generally?

1 A No.
 2 Q Does the policy say anything about where you conduct
 3 those interviews?
 4 A No.
 5 Q Does the policy say anything about how you conduct
 6 the interviews of people who are younger versus older
 7 or interviews of juveniles?
 8 A I don't recall.
 9 Q Okay. Let me ask you just more generally then.
 10 In terms of your day-to-day practice when
 11 you work in DCI, what are your practices with regard
 12 to interviewing witnesses in the course of a death
 13 investigation?
 14 A If there are witnesses, they're interviewed and not
 15 necessarily recorded, and that is then documented in
 16 a report. If they're under -- if they're juveniles,
 17 they are recorded. If --
 18 Q Go ahead.
 19 A I'm sorry.
 20 Q No. Go ahead.
 21 A If they're under arrest, then they are given Miranda
 22 warnings.
 23 Q What other policies and practices do you follow when
 24 you're conducting interviews as part of a death
 25 investigation?

1 A Generally?
 2 Q Yes.
 3 A As a general rule?
 4 Q Yes.
 5 A I conduct the interviews with another agent or
 6 another investigator, not necessarily a DCI agent.
 7 And I destroy my notes after a report has been
 8 approved.
 9 Q Why are your notes destroyed?
 10 A That's our policy.
 11 Q Why is it the policy?
 12 A I don't know.
 13 Q Were you given any information about why that's the
 14 policy?
 15 A I can't recall.
 16 Q You said some interviews are recorded; correct?
 17 A That's correct.
 18 Q Is that video recorded or audio recorded?
 19 A At a minimum, audio recorded. Sometimes they're
 20 both.
 21 Q When you said "at a minimum," does that mean all
 22 interviews are recorded?
 23 A No.
 24 Q Explain.
 25 A If they're under arrest, it is recorded --

1 record interviews and what are the circumstances in
 2 which you say I'm not going to record this interview?
 3 A If the person is under arrest, of course, it's
 4 recorded.
 5 Q Right.
 6 A If a person is a suspect and -- there is a statute
 7 requirement for juveniles; I just don't recall
 8 exactly --
 9 Q Okay.
 10 A -- what that says.
 11 Q Other than the requirement for juveniles that you're
 12 not sure about right now and when an individual's
 13 under arrest, what are the other circumstances in
 14 which you will record an interview?
 15 A Those are the only circumstances.
 16 Q Okay. Otherwise, the policy doesn't require any
 17 other circumstances when you must record the
 18 interview?
 19 A That's correct.
 20 Q Do you sometimes record an interview outside of those
 21 circumstances?
 22 A No.
 23 Q Okay. So only where it's required do you record the
 24 interview?
 25 A That's correct.

1 Q Any --
 2 A -- and they're give Miranda warnings; then it is
 3 recorded. If we have the ability to do video and
 4 audio, we do will that. If there's -- we're in a
 5 remote area --
 6 Q You just do audio?
 7 A We just do audio.
 8 Q So one of the circumstances in which you are required
 9 to do a recording is where someone's been arrested
 10 and read their Miranda rights; is that correct?
 11 A That's correct.
 12 Q And other circumstances is where it's a juvenile
 13 witness; is that right?
 14 A I -- I don't recall.
 15 Q Do you, as a matter of practice, record interviews
 16 with juveniles?
 17 A If they're a victim -- I believe if they're victims.
 18 I -- you know, I don't recall.
 19 Q All right. So is the case that some interviews can
 20 be -- will ultimately be recorded by DCI and some
 21 interviews will not?
 22 A That's correct.
 23 Q What are the circumstances in which you record
 24 interviews? And let me ask this way.
 25 What are the circumstances in which you

1 Q Okay. Is it the case that other agencies that are
 2 involved in the investigation may record the
 3 interview, even though you're involved and you
 4 wouldn't normally record those interviews?
 5 A If I'm involved in the interview in one of those
 6 circumstances, they're not under arrest, it's not a
 7 juvenile suspect or -- I would not record it and they
 8 would not record it.
 9 Q Okay. When you're -- when you are performing an
 10 interview in your capacity as a DCI agent and there
 11 are other agencies involved assisting you, are you
 12 sort of the lead person conducting the interview?
 13 A Sometimes.
 14 Q So in other words, is DCI sort of the -- when they
 15 come in, they're sort of in charge?
 16 A Not necessarily.
 17 Q Okay. In death investigations is that the case?
 18 A If we are called, we are the lead.
 19 Q Okay.
 20 A We're being called because of the statute
 21 requirement, so we would be the lead.
 22 Q Okay. So in those instances when you're conducting
 23 an interview with DCI, you're the lead, even if there
 24 are other folks involved in the investigation;
 25 correct?

1 A That's correct.
 2 Q Okay. And so you sort of decide -- you'll ultimately
 3 get to decide whether or not an interview is recorded
 4 or not recorded; is that correct?
 5 A That's correct.
 6 Q Okay. When you're performing -- are there any
 7 policies or practices about -- well, strike that.
 8 In death investigations, it's common to
 9 have multiple agents involved; correct?
 10 A That's correct.
 11 Q Okay. How is it decided how you split up the
 12 interviews?
 13 A Normally it's a supervisor or the case lead, and
 14 sometimes co-lead.
 15 Q They'll decide how to split up interviews?
 16 A That's correct.
 17 Q Okay. Are there any policies about how interviews
 18 are supposed to be split up?
 19 A No.
 20 Q Is there any requirement that you don't have one
 21 agent interview multiple police officers involved in
 22 the case?
 23 A No.
 24 Q Okay. Is there any requirements about -- strike
 25 that.

1 Are there any policies about whether or not
 2 the agency being -- strike that.
 3 You're not investigating an agency,
 4 correct, or a police department, correct, at DCI?
 5 You're exclusively investigating the conduct of a
 6 specific officer; correct?
 7 A Again, we're talking about officer-involved death
 8 investigations?
 9 Q Yes. Only officer-involved death investigations.
 10 A That's correct.
 11 Q Okay. The police department for that -- who that
 12 officer worked for, will they sometimes be involved
 13 in your death investigations?
 14 A Sometimes.
 15 Q Okay. Are there any policies around their
 16 involvement in death investigations?
 17 A I don't recall.
 18 Q Are there any policies about what they can do and
 19 cannot do during the course of an investigation of
 20 one of their officers?
 21 A I can't recall.
 22 Q Okay. Do you have any practices that you follow in
 23 terms of what officers from the police department can
 24 do and cannot do?
 25 A I'm sorry. Can you repeat that one more time?

1 Q Yeah. So do you have any policies or practices that
 2 you follow in terms of -- strike that.
 3 In some instances you will have employees
 4 of a police department -- strike that. I'm trying to
 5 ask this without asking you a convoluted question.
 6 In some cases the police department will
 7 participate in an investigation where their officer
 8 is being investigated; correct?
 9 A Correct.
 10 Q And that was the case with the Madison Police
 11 Department in the Robinson shooting; correct?
 12 A Correct.
 13 Q Are there any practices that you follow about what
 14 those Madison Police Department officers can do and
 15 cannot do as part of their involvement in the
 16 investigation?
 17 A Practices?
 18 Q Yes.
 19 A Yes.
 20 Q Okay. What are those practices, the sort of rules
 21 you have in place about what those individuals can do
 22 and cannot do?
 23 A Again, can you be clear about "rules"?
 24 Q Yeah. You're -- what are the practices that you
 25 follow -- well, strike that.

1 You've sort of suggested you have some
 2 practices on this issue; correct?
 3 A Practices, yes, but --
 4 Q Tell me what they are.
 5 A -- not necessarily rules.
 6 They sometimes change, depending on the
 7 situation and what police department we're talking
 8 about --
 9 Q Right.
 10 A -- and the resources.
 11 Q Okay. So let's start with the Madison Police
 12 Department, since that's what this case is ultimately
 13 about.
 14 A Yes.
 15 Q Did you have any instructions that you provided to
 16 Madison police officers involved in the Robinson
 17 shooting investigation about what they could do and
 18 cannot do?
 19 A That I, specifically, provided? No.
 20 Q Did -- are there any instructions you're aware of
 21 that the Madison Police Department officers were
 22 provided at all from DCI related to the Robinson
 23 shooting investigation?
 24 A Yes.
 25 Q What were those instructions?

1 A They were instructed to contain the scene prior to
 2 DCI arrival. Also, to take names of any witnesses
 3 and possibly conduct quick interviews with these
 4 witnesses. And they were also asked to wait until
 5 DCI came on scene to release any officers involved.
 6 Q What do you mean by that?
 7 A Officer Kenny, Matt Kenny, City of Madison Police
 8 Department, who was involved, he was transported to
 9 get medical attention. So he knows, based on DCI's
 10 practices, to wait until DCI arrives at the hospital.
 11 Other officers were instructed to
 12 transport witnesses to locations in which they could
 13 be interviewed. And then yet other officers were
 14 asked to contain the scene of the actual incident of
 15 this officer-involved shooting.
 16 Q So the Madison Police Department was essentially
 17 assisting in the investigation; correct?
 18 A No.
 19 Q Why isn't that the case?
 20 A They weren't -- they weren't actually providing roles
 21 in which -- prior to DCI's arrival. This was -- I'm
 22 sorry. This was their actions before DCI arrived on
 23 scene. So it's before we become involved in the
 24 scene.
 25 Q Once DCI got involved though, the Madison Police

1 Q Okay. And in a number of instances, they
 2 participated in the interviews; correct?
 3 A No.
 4 Q Explain why that's wrong.
 5 A They were there because, for safety purposes, an
 6 interview should not be conducted solo. So they were
 7 present. They did not necessarily -- in my
 8 interviews is what I'm referring to -- necessarily
 9 provide questions to the person being interviewed.
 10 Q So you had a -- did you instruct the Madison police
 11 officers who sat in on your interviews that they were
 12 not to ask questions during those interviews?
 13 A Not all the time. I asked the detective in one
 14 instance, if you have questions at the end of my
 15 interview, you can ask those questions.
 16 Q Okay. Which interview was that?
 17 A That would be the interview of Kelly Austin.
 18 Q Okay. And why did you give that instruction to the
 19 detective?
 20 A That's just my style. When I'm with another
 21 investigator, I've never been on an interview with
 22 this person, and I just wanted to continue the flow
 23 of the investigation or the interview.
 24 Q Did you tell that -- did you give that same
 25 instruction to the other Madison police officers who

1 Department continued to assist DCI; correct?
 2 A There were some sections. Yes.
 3 Q Okay. And in fact, most of the interviews you
 4 conducted during the Robinson shooting investigation,
 5 Madison police officers had previously interviewed
 6 the person already; correct?
 7 A That's correct.
 8 Q Okay. In terms of instructions -- well, strike that.
 9 So let's put Officer Kenny to the side for
 10 a moment. There were other Madison police detectives
 11 and officers who were involved in helping or
 12 assisting your investigation; correct?
 13 A That's correct.
 14 Q Okay. Were those folks -- and some of them were
 15 involved in participating in the interviews of
 16 witnesses; correct?
 17 A Can you be clear on what you mean by "participating"?
 18 Q Yeah. So you did a number of -- you and other DCI
 19 agents did interviews with a number of witnesses who
 20 are involved in the Robinson shooting incident;
 21 correct?
 22 A That's correct.
 23 Q In a number of those interviews, Madison police
 24 officers were in those meetings; correct?
 25 A Yes.

1 sat in on your interviews?
 2 A There was no other detectives I actually had an
 3 interview with, an individual. There was -- there
 4 was things we did together, but they didn't
 5 participate in an interview-type setting.
 6 Q That's the only instance in which you remember a
 7 Madison police officer participating in the interview
 8 of a witness?
 9 A Right.
 10 Q Okay.
 11 A That's correct.
 12 Q And you gave that instruction to the detective who
 13 was involved in the Austin interview in advance?
 14 A Yes.
 15 Q Okay. And did the detective involved in that
 16 interview ask you any questions that they wanted
 17 asked of Ms. Austin?
 18 A They actually asked Ms. Austin, but at end of my
 19 questioning.
 20 Q So after you've asked your questions, then the
 21 detective was allowed to ask Ms. Austin some
 22 additional questions?
 23 A If there were any. Yes.
 24 Q Okay. What questions were asked by that detective of
 25 Ms. Austin?

1 A I don't recall.
 2 Q Okay. Do you recall a subject matter of those
 3 questions?
 4 A I don't recall.
 5 Q Did -- if those questions were answered by
 6 Ms. Austin, did you record those answers in your
 7 report?
 8 A Yes.
 9 Q Okay. So even though the question wasn't asked by
 10 you, it was asked by this Madison detective, you
 11 would have included that information in your report?
 12 A Yes.
 13 Q Okay. That instruction you gave to that officer was
 14 not a matter of a policy, it was simply your
 15 practice?
 16 A That's correct.
 17 Q Are there any policies about what a police officer
 18 who's not from DCI who's participating in interviews
 19 can and cannot do in those interviews?
 20 A No.
 21 Q Okay. Were you in any training on what they can and
 22 can't do in those interviews?
 23 A No.
 24 Q Okay. And these non-DCI officers who are involved in
 25 an investigation, do you recall any other

1 A Focused on whatever our interview is at the time.
 2 Q Okay. So if you know if another agent has met and
 3 interviewed a few people and now you're going into an
 4 interview, you don't have any obligation to have
 5 reviewed the information that that agent had learned
 6 from those other interviewees; correct?
 7 A No.
 8 Q It's not something you do as a matter of practice?
 9 A I would do that if I knew that that was the case.
 10 Q Okay. So as a matter of practice, you would go and
 11 talk to the other agents about everyone they've
 12 already spoken to?
 13 A If I was going to interview the same person that
 14 agent had interviewed, then I would speak to them
 15 regarding what additional information --
 16 Q Understood. And this -- but other witnesses -- you
 17 don't go learn from them -- what they learned from those
 18 other witnesses before you speak to your witness;
 19 correct?
 20 A Sometimes.
 21 Q It's sort of ad hoc, it's not a matter of routine
 22 practice or policy; correct?
 23 A It's case by case.
 24 Q So there may be instances in which you do, don't?
 25 A Correct.

1 instructions that were given to them -- strike that.
 2 Did you give any instructions other than
 3 what you've just told me about in the Ms. Austin
 4 interview to any Madison police officers who
 5 participated in your interviews?
 6 A Yes.
 7 Q Tell me.
 8 A I would author the report. They do not author any of
 9 the reports.
 10 Q Okay. Any other instruction?
 11 A No.
 12 Q Okay. When you're performing your interviews as --
 13 and let's look at the Robinson investigation again.
 14 When you're conducting your interviews in the
 15 Robinson investigation, did you review the others
 16 that had been done by other agents before you walked
 17 in to each of your interviews?
 18 A By "other agents" --
 19 Q Yeah. Let me ask you this way. What I'm trying to
 20 get at is are there any policies you're supposed
 21 follow about making sure you know everything that's
 22 going on in the investigation, you know, sort of
 23 staying contemporaneously up to date on what's
 24 happening, or are each of you kind of focused on
 25 whatever your interviewees are?

1 Q Okay. In terms of reports authored by other folks
 2 during the Robinson shooting investigation -- strike
 3 that.
 4 In terms of reports authored by other
 5 agents during the Robinson shooting investigation,
 6 did you review those reports as they were being
 7 completed, or did you review them at some point after
 8 you completed your interviews?
 9 A At some point after I completed my interview.
 10 Q Okay. So at the time you were doing your interviews,
 11 you had not reviewed any of the reports authored by
 12 any of the other agents; correct?
 13 A That's correct.
 14 Q Okay. What about your case report? Would that be an
 15 exception to that?
 16 A By the time I authored that, then I did review the
 17 case file.
 18 Q Okay. So with the exception of that case summary
 19 report, the reports that you did of your interviews
 20 of witnesses, those -- when you authored those
 21 reports, you had not seen the reports of any of the
 22 other officers; is that right?
 23 A No. That's not correct.
 24 Q Let's do that again. At the time that you performed
 25 your interviews with witnesses, you had not seen any

1 of the reports of any of the other agents; is that
 2 right?
 3 A That's correct.
 4 Q Okay. At the time you wrote your report on your
 5 interviews, had you seen any of the other reports?
 6 A Yes.
 7 Q Okay. Which reports had you seen -- strike that. So
 8 right now I'm not talking about the case summary
 9 report, but I'm talking about your reports of
 10 specific interviews.
 11 A Okay.
 12 Q What was -- tell me any of the reports that you had
 13 already seen at the time that you were writing any of
 14 your reports.
 15 A By the time I authored my interview reports, I
 16 verified if there was another report written by a
 17 Madison police officer, sometimes initial reports, in
 18 which they took statements of the same person.
 19 Q Okay. How do you go about doing that?
 20 A There was one City of Madison detective that was
 21 designated as the person to work as a liaison for
 22 reports.
 23 Q You said a Madison Police Department officer?
 24 A City of Madison detective.
 25 Q Okay. What was their role?

1 A They were liaison for DCI. They were the person that
 2 we went to to verify if there was any reports already
 3 authored on the same individual.
 4 Q Would that be specific to any -- the reports already
 5 authored by a Madison police officer, or would that
 6 also include reports authored by an agent of DCI?
 7 A Just City of Madison police officers.
 8 Q So when you were drafting your reports in the
 9 Robinson shooting investigation, you may have at that
 10 point already seen reports involving the same
 11 interviewee done by a Madison police officer?
 12 A That's correct.
 13 Q Okay. But other than that, there were no other
 14 circumstances in which you had reviewed someone's
 15 report before authoring your report of an interview?
 16 Let me ask you differently. What I'm
 17 getting at is had you reviewed any reports of
 18 interviews that were done by other agents of DCI at
 19 the time you were writing any of your reports?
 20 A No.
 21 Q The only times that you had reviewed reports at the
 22 time you were writing your reports was when they were
 23 reports done by Madison police officers; correct?
 24 A Detectives or officers. Yes. That's correct.
 25 Q And those instances, it was where those Madison

1 police officers had interviewed the same person you
 2 were going to write a report about?
 3 A That's correct.
 4 Q Okay. And what was the purpose of looking at those
 5 reports at the time you were writing your reports?
 6 A The information that I obtained, if it was the same,
 7 I would indicate that in my report. And my report
 8 was additional information so as not to duplicate the
 9 same information.
 10 Q Okay. If there was information that was
 11 contradictory between the two reports, how would you
 12 handle that?
 13 A I would add it in my report. That would be new
 14 information.
 15 Q Okay. Were there any instances in which, between the
 16 course of the Robinson shooting investigation, you
 17 found that you had learned information that
 18 contradicted what was in a Madison police officer's
 19 report?
 20 A There was some differences as far as details.
 21 Sometimes I had more details, sometimes those reports
 22 had more detail.
 23 Q Were there any instances in which those details
 24 contradicted each other?
 25 A Possibly.

1 Q Do you recall any specific instances when the
 2 information you had from an interviewee was
 3 different -- strike that -- contradicted the
 4 information that you had seen in the report from the
 5 Madison police officer?
 6 A Yes.
 7 Q Okay. Tell me about that.
 8 A In the Javier Limon interview, Javier Limon had
 9 indicated to me that it was -- it was not unusual
 10 that Tony Robinson came over to 1125 Williamson
 11 Street apartment No. 2, in which they lived. But in
 12 the report -- interview report that he did with the
 13 City of Madison, he indicated that it was unusual.
 14 Q Any other differences or contradictions in the report
 15 that you saw from Madison police officers of the same
 16 folks that you had interviewed?
 17 A I don't recall.
 18 Q Okay. How did you handle that discrepancy?
 19 A I just wrote down what Javier Limon told me during
 20 the interview.
 21 Q So if you have an instance where the report of the
 22 Madison police officer was -- contradicted the
 23 information you had received from that witness, you
 24 would include that in your report?
 25 A Yes.

1 Q As in you would include the information that you
 2 received in your report?
 3 A That's correct.
 4 Q Would you note that that information contradicted
 5 what the individual had reported to the Madison
 6 police officer?
 7 A No. I just would put it down.
 8 Q Okay. Where the information that you received was
 9 the same information or consistent with what was
 10 already in the Madison police officer's report, would
 11 you include that in your report?
 12 A No.
 13 Q Okay. So you only -- so the only information you
 14 were including in your reports when there was already
 15 a report from a Madison police officer was
 16 information that was new or contradictory; is that
 17 right?
 18 A That's correct.
 19 Q Okay. So, to be clear, there was no -- was there any
 20 policy of DCI that required you to be fully abreast
 21 of the current state of the DCI investigation at all
 22 times?
 23 A No.
 24 Q Okay. Was there a practice in which you made sure
 25 you were fully abreast of the status of the

1 was De La Rosa?
 2 A Yes. It was Agent De La Rosa.
 3 Q Okay. And did you have -- was there a requirement as
 4 a matter of DCI policy that you also have a full
 5 understanding of the DCI investigation as secondary
 6 lead?
 7 A It's not policy.
 8 Q Okay. Was it a -- was it a practice of yours, where
 9 you were the secondary, to have an understanding of
 10 the investigation?
 11 A Yes.
 12 Q Okay. Other than you and De La Rosa, was there
 13 anyone else who was an agent of DCI who was
 14 responsible for having a complete understanding of
 15 the investigation?
 16 A Clarify. Did you say "agent"?
 17 Q Yes.
 18 A Okay. No.
 19 Q Okay. Other than agents, was there anyone else who
 20 was required to have a complete understanding?
 21 A Special Agent in Charge James Engels, our supervisor.
 22 Q Okay. So, in order to have that complete
 23 understanding, what would Agent in Charge Engels have
 24 done?
 25 A He's the one that reads every report and approves the

1 investigation at all times?
 2 A No.
 3 Q So in other words, at any given moment in time, there
 4 may be a number of things that DCI investigators are
 5 doing, and you don't know about that information?
 6 A That's correct.
 7 Q And you may ultimately never learn about the full
 8 scope of the investigation done by DCI; is that
 9 right?
 10 A No.
 11 Q Okay. Explain.
 12 A Being that my position was a co-lead, one way or the
 13 other, I know about what investigative things
 14 occurred. Also, when I had to author the summary, I
 15 read the reports, so I know what the other DCI agents
 16 had done.
 17 Q Okay. So in the case of the primary lead and
 18 secondary lead, there -- are they responsible for
 19 understanding the full scope of the investigation
 20 done by DCI?
 21 A At some point during the investigation, yes.
 22 Q And that's through both the primary lead and the
 23 secondary lead?
 24 A It mainly falls -- responsibility on the primary.
 25 Q Okay. And in this case -- in the Robinson case it

1 reports.
 2 Q Okay. Did you have to read all of the reports in
 3 your role as secondary investigator?
 4 A No.
 5 Q Did you review all of the reports?
 6 A Yes.
 7 Q You reviewed every report that was a part of the DCI
 8 investigation?
 9 A Yes.
 10 Q Okay. And for what reason did you do that?
 11 A For the purposes of authoring the summary report.
 12 Q Okay. Any other reason?
 13 A No.
 14 Q Okay. So let's talk about the summary report. Why
 15 was that done by you instead of Agent De La Rosa?
 16 A That was a decision by my supervisor, James Engels.
 17 Q Do you know why Agent Engels decided to have you do
 18 it rather than De La Rosa?
 19 A Yes.
 20 Q What was the reason?
 21 A Agent De La Rosa was taking a leave of absence.
 22 Q Okay. After he had completed his involvement in the
 23 investigation?
 24 A No. During this investigation, he was taking some
 25 time off for a personal matter.

1 Q Okay. Other than that, is there any other reason why
 2 you authored the report rather than Agent De La Rosa?
 3 A I don't know.
 4 Q Okay. For the purposes of writing the report, are
 5 there any policies about what information you're
 6 supposed to gather before you write your report?
 7 A Can you clarify which report?
 8 Q The case summary report.
 9 A Okay.
 10 Q Are there any policies about what information you've
 11 got to gather to write your case summary report?
 12 A Yes.
 13 Q Okay. What do the policies require?
 14 A It's the template that I alluded to earlier.
 15 Q What else?
 16 A That -- that is what we use.
 17 Q Okay. What is a -- what is the -- can you describe
 18 for me what the template is in terms of what's
 19 supposed to be the layout?
 20 A The template is suggestions of the titles of certain
 21 sections in the summary report. It also gives us
 22 guidelines for how to refer to different agents or to
 23 witnesses or to officers.
 24 It can't be redacted. It is something
 25 that's going to be put out to the public if the

1 information you gather before writing your case
 2 summary report, other than what you've just told me
 3 about?
 4 A No.
 5 Q Okay. In term of your practices, what was your
 6 practice in terms of the information you gathered
 7 before authoring your case summary report?
 8 A After reading the reports, relevant information was
 9 gathered and put into the summary report.
 10 Q Anything -- anything else in terms of practices?
 11 A No.
 12 Q Okay. In order to draft that report, would it be
 13 correct to say a number of the interviews that are
 14 discussed in your report are interviews that you did
 15 not conduct; correct?
 16 A That's correct.
 17 Q And how did you go about including information about
 18 those interviews in your report if you hadn't
 19 conducted the interviews?
 20 A I read the reports.
 21 Q Okay. So the way you got information into the
 22 summary report of an interview you did not conduct
 23 was taking information directly from the reports of
 24 those interviews; is that correct?
 25 A That's correct.

1 district attorney makes a decision not to prosecute
 2 the officer or officers involved.
 3 Q Okay. Other than that, anything else as part of that
 4 template?
 5 A The template lists the guidelines as to which
 6 categories we need to include in this summary report
 7 and the amount of information in each section that
 8 should be in there.
 9 Q What did it say about the amount of information
 10 that's supposed to be in each section?
 11 A For example, one of the sections, autopsy. There's
 12 certain things we don't put in there. We don't
 13 get -- put the whole file of the autopsy report in
 14 there.
 15 Q What about the terms of interviews? Are there any
 16 requirements about the amount of information in
 17 interviews?
 18 A No. It is a summary.
 19 Q Any information that's suppose to be in there -- any
 20 requirements in that template about what information
 21 is supposed to be included about the forensic and
 22 other physical evidence?
 23 A I don't recall.
 24 Q Okay. Any other policies that you're aware of that
 25 you're supposed to follow in terms of what

1 Q Any other way in which you collected information to
 2 include in your summary report other than what came
 3 from the report of the interview?
 4 A Yes.
 5 Q Tell me about that.
 6 A I had conversations with the case agent, had
 7 conversations with Special Agent in Charge Engels and
 8 also with the agent who -- or agents who conducted
 9 the actual interviews or found information.
 10 Q Okay. What were the circumstances in which -- were
 11 there circumstances in which you relied exclusively
 12 on the report that you received of an interview when
 13 you included that information in your case summary
 14 report?
 15 A No.
 16 Q Let me ask you -- let me ask you a different
 17 question.
 18 Did you include information in your case
 19 summary report about every interview that was
 20 conducted by DCI?
 21 A No.
 22 Q How did you decide which interviews to include in
 23 your case summary report?
 24 A If the activity was relevant to the investigation,
 25 relevant to the information of the facts of this

1 officer-involved investigation, then they were
 2 included in the summary.
 3 Q So what are examples of interviews that were not
 4 included in your case summary report?
 5 A There was a canvassing of the area, local businesses.
 6 A lot of people were spoken with. But they either
 7 heard something but they couldn't say what it was,
 8 they didn't see anything; those would be interviews
 9 that were not included in the summary report.
 10 Q Any other circumstances in which you decided it was
 11 information that did not need to be included in the
 12 summary report?
 13 A No.
 14 Q Okay. In terms of the interviews that were included
 15 in the summary report, was your primary source of the
 16 information for your summary report the written
 17 reports of the other agents of those interviews?
 18 A Yes.
 19 Q Okay. In how many instances did you use information
 20 other than just the information contained in the
 21 written reports of those agents in your summary
 22 report?
 23 A I don't recall.
 24 Q Okay. All right. I'm going to ask you about your
 25 practices with regard to documentation. Are there

1 Q Okay. Did you -- did you keep any of your notes
 2 through the point that you authored your case summary
 3 report?
 4 A No.
 5 Q Okay. So the time you wrote your case summary
 6 report, you didn't have any of your handwritten notes
 7 anymore; correct?
 8 A That's correct.
 9 Q The -- you didn't have any notes at all anymore other
 10 than just the reports themselves; correct?
 11 A That's correct.
 12 Q Did you have any notes of any other officers at the
 13 time that you wrote your case summary report?
 14 A No.
 15 Q Okay. In the Robinson shooting investigation, DCI
 16 relied on Madison police officers to conduct
 17 preliminary interviews; is that right?
 18 A That's correct.
 19 Q Why was that?
 20 A Because we know from doing these officer-involved
 21 death investigations that witnesses leave the scene
 22 and you may not have a chance again to interview
 23 them. So it's -- we instruct the agencies to at
 24 least get names, and if they can get a statement,
 25 that they should do so.

1 any policies about what information -- well, let me
 2 ask you a different question.
 3 Was there a point in the investigation at
 4 which you reviewed -- well, strike that.
 5 Did you take notes during your interviews
 6 in the Robinson shooting investigation?
 7 A Yes.
 8 Q How would you take notes?
 9 A I would take a notebook and just handwrite notes.
 10 Q Okay. And what did you do with those notes?
 11 A I would use them to write my report.
 12 Q Okay. Did you use anything else to write your
 13 reports other than those notes?
 14 A If there was another agent, I used their notes as
 15 well, or detective, I used their notes as well.
 16 Q Okay. What else would you use to write your reports
 17 other than the various notes of the agents involved?
 18 A If there was an officer report, City of Madison
 19 office report, I would review that first.
 20 Q What did you do with your notes when you were done
 21 authoring your report?
 22 A I shredded my notes.
 23 Q You shredded all of your notes?
 24 A After the report was approved by a supervisor is when
 25 I shredded my notes.

1 Q You instruct them to avoid having substantive
 2 conversations about the incident so that you all can
 3 have those conversations first?
 4 A We would do follow-up interviews with these
 5 individuals.
 6 Q Do you have any concerns about officers from the --
 7 from the police department that -- whose officer's
 8 the subject of an investigation to speak to witnesses
 9 before DCI does?
 10 A Can you clarify that, please?
 11 Q Yeah. Does DCI ever say -- do you, as a DCI agent,
 12 ever have concerns about having police officers
 13 interview witnesses when those police officers
 14 conducting the interviews may be friends of the
 15 officer involved in the shooting that you're
 16 investigating?
 17 A No.
 18 Q Okay. It's not a concern?
 19 A No.
 20 Q Okay. When you -- how common is it to have officers
 21 from the police department that -- for the officer
 22 being investigated to participate in some sort of
 23 preliminary interview?
 24 A It's common.
 25 Q Okay. Are there any instructions that are given

1 about what information they can share with witnesses
 2 during those interviews?
 3 A There's no formal instruction.
 4 Q Are there any instructions -- what is the informal
 5 instruction?
 6 A They know -- they don't share information.
 7 Q Okay.
 8 A They're just asking questions.
 9 Q Why don't they share information?
 10 A That's -- there's no -- well, because as law
 11 enforcement officers, we don't share information from
 12 people that we're interviewing. We just are
 13 gathering information.
 14 Q During the course of your interviews as a DCI agent
 15 in death investigations, do you share information
 16 with the witnesses who you're speaking to?
 17 A Limited.
 18 Q What kind of information?
 19 A The status of the residence; in this case, that was
 20 shared, that it was closed and they weren't allowed
 21 to return.
 22 Q Any other kind of information?
 23 A In this instance, we did -- the status of Tony
 24 Robinson.
 25 Q That he had passed away?

1 A Yes.
 2 Q Any other information?
 3 A Not that I recall.
 4 Q So, general principal, you're not sharing
 5 investigative information with the witnesses that
 6 you're interviewing; is that right?
 7 A That's correct.
 8 Q Do you share any information with them about what
 9 you've learned from the -- what the forensic evidence
 10 is showing or what other witnesses are saying?
 11 A No.
 12 Q You don't to that?
 13 A No.
 14 Q Are you allowed to do that?
 15 A No.
 16 Q Is there a policy against doing that?
 17 A I don't know.
 18 Q It's considered bad practice?
 19 A Yes.
 20 Q Okay. You said earlier that Madison police officers
 21 sometimes sat in on the interviews that you were
 22 conducting with witnesses; correct?
 23 A Yes. That's correct.
 24 Q And I think you mentioned that one of the reasons was
 25 safety?

1 A Yes.
 2 Q Explain what you mean by that.
 3 A Well, as a practice, we don't conduct interviews by
 4 ourselves. It's just regular practice of DCI.
 5 Q Okay. Are there any other reasons why you had
 6 Madison police officers participate in your
 7 interviews other than for safety reasons?
 8 A There's very -- in this investigation, there were so
 9 many DCI agents that were assisting, and they were
 10 assisting for many hours. There's not many of us, so
 11 just because of their resources, we would take
 12 another law enforcement officer with us.
 13 Q But that's a safety reason?
 14 A It is, because there's not enough DCI agents.
 15 Q In other words, you didn't have the resources to have
 16 two DCI agents together doing the interview, so you
 17 had a Madison police officer serve as the second
 18 person?
 19 A Yes. That's correct.
 20 Q So other than this safety-related reason for having a
 21 Madison police officer sit in on an interview, were
 22 there any other reasons that Madison police officers
 23 sat in on your interviews?
 24 A No.
 25 Q Okay. So if you had two DCI agents at an interview,

1 were there any instances which you also had a Madison
 2 police officer at that interview?
 3 A No.
 4 Q Okay. Would that have been against policy?
 5 A No. It's not written in policy.
 6 Q That was the practice, though?
 7 A Practice.
 8 Q Where Madison police officers sat in on interviews,
 9 were they given any instructions about what they
 10 could share about those interviews back to other
 11 employees in the Madison Police Department?
 12 A No.
 13 Q Okay. Were there any policies about what information
 14 they could or could not share about what they were
 15 learning in those interviews back to Madison police
 16 officers?
 17 A Are you referring to my interviews specifically?
 18 Q Well, let me ask you first about policies.
 19 Does DCI have any policies about when
 20 officers from the police department are participating
 21 in these interviews, potentially for security
 22 reasons, about what information they can share or not
 23 share back to officers from their own police
 24 department?
 25 A No.

1 Q Okay. Did you have any practices about that?

2 A No.

3 Q Okay. When you had Madison police officers sit in on

4 some of your interviews in the Robinson shooting

5 case, did you give them any instructions about what

6 information they could share from those interviews

7 back to other Madison police officers?

8 A No.

9 Q Okay. Do you know whether they shared any

10 information from your interviews back to other

11 Madison police officers?

12 A No.

13 Q Don't know either way?

14 A No.

15 Q So it's possible that information that Madison police

16 officers who sat in on your interviews learned could

17 have been shared back to other Madison police

18 officers?

19 A It's possible.

20 Q Okay. I want to ask you one other thing about report

21 writing. And let me start by asking this. Did

22 you -- what was the policy with regard to drafts?

23 Would you create drafts of your reports, whether it's

24 reports of interviews or your case summary report?

25 A No.

1 Q Okay. So explain to me how you'd write your report,

2 just so I understand whether or not there are drafts

3 or not and what the product looked like.

4 When you sit down to write a report, how

5 would you do that?

6 A I would go to my Word document and I would start to

7 type. At the end of the day, I would save it. Next

8 day I'd come back, open it up and continue, or make

9 any changes. But the original would be gone. Once I

10 make the changes, that became the original.

11 Q Right. You said you have one file and you just

12 continue to make changes to that one file until you

13 finish the report?

14 A Correct.

15 Q Do you share -- do you ever share the reports in its

16 sort of pre-finished status with anyone else from

17 DCI?

18 A I don't recall.

19 Q Would you ever take your DCI reports that you're

20 working on and they're still -- you're still sort of

21 working on it and share with your -- with the agent

22 in charge, get some feedback, and then continue to

23 work on it?

24 A No.

25 Q Never did that?

1 A No.

2 Q Okay. And during the course of the Robinson shooting

3 investigation, were there any instances in which you

4 shared drafts of your reports with anyone?

5 A I don't recall.

6 Q Is it a common practice of yours to share drafts of

7 your reports with anyone?

8 A It's not a common practice.

9 Q Okay. How often does it happen?

10 A During a case, maybe once or twice.

11 Q Okay. What are the circumstances in which you'd be

12 sharing drafts of your reports with someone else?

13 A If an agent asked, if he sat in or she sat in with me

14 and they asked to see the report.

15 Q Do you recall any instances during the Robinson

16 shooting investigation in which you shared drafts of

17 your reports with any other DCI agents?

18 A I don't recall.

19 Q Do you recall any instances in which you shared any

20 of your drafts of your reports with any Madison

21 police officers?

22 A No.

23 Q Okay. Have you ever shared drafts of your reports

24 with the police department that's the subject of the

25 investigation?

1 A No.

2 Q Okay. During the course of the Robinson shooting

3 investigation, did you prepare any reports where,

4 after you completed the report, you had to make

5 additional changes based on somebody else's guidance?

6 A No.

7 Q Were there any reports that, after you finished them

8 on your Word document -- well strike that.

9 Once you finished your -- you work on a

10 file, you complete that report, and then you send it

11 on to someone; is that right?

12 A That's correct.

13 Q Who do you send it to?

14 A Special Agent in Charge.

15 Q Okay. Do you send it to anyone else?

16 A No.

17 Q Okay. In the Robinson shooting case, you're not

18 aware of any instances where you shared any

19 information from any of your reports with anyone

20 before it went to Special Agent in Charge Engels;

21 correct?

22 A It was Special Agent in Charge Engels or Special

23 Agent in Charge Crowe, and no.

24 Q So as far as you know, during the Madison shooting

25 investigation, no one saw any reports from you until

1 they were seen by the special agents in charge;
 2 correct?
 3 A That's correct.
 4 Q Okay. Did they ever give you any feedback to change
 5 anything in your reports after you'd submitted it to
 6 them?
 7 A No.
 8 Q Okay. Did anyone else ever give you any feedback to
 9 change any of your reports after you had submitted it
 10 to them?
 11 A No.
 12 Q Okay. So your reports, essentially, after you
 13 finished them, never changed; is that right?
 14 A After they were approved, they were never changed.
 15 Q Okay. Between the time -- between the time you
 16 submitted them and the time they were approved, were
 17 any of them changed?
 18 A I don't recall.
 19 Q Do you recall any instances in which -- well, what
 20 would be the circumstances in which the report would
 21 change between the time it was submitted and the time
 22 it was approved?
 23 A I would submit it, and then if I thought I wanted to
 24 check it for grammar again, I would open it up again,
 25 and then I would resubmit it.

1 Q Any other circumstances?
 2 A No.
 3 Q There were no other circumstances in which you'd have
 4 made changes after you submitted it before approval?
 5 A I don't recall.
 6 Q In the Robinson shooting case, do you recall any
 7 instances when you made -- when you submitted it and
 8 then made additional changes related to grammar?
 9 A I don't recall.
 10 Q Was that something you do commonly?
 11 A Not commonly. But I have done it in the past.
 12 Q Okay. And you don't recall any instances you did
 13 that in the Robinson case?
 14 A I don't recall.
 15 Q Are there other type of circumstances in which you
 16 will -- other than grammar issues, where you have
 17 submitted your report to the supervisor, and before
 18 it's approved, you've made changes?
 19 A Same type of situation. I may have submitted it,
 20 then I wanted to -- would want to make sure that I
 21 reread it, so I would call it back up, reread it, and
 22 then resubmit it.
 23 Q Okay. Do you recall that happening at all during the
 24 Robinson shooting investigation?
 25 A I don't recall. It may have.

1 Q Okay. You just don't know either way?
 2 A That's correct.
 3 Q Okay. Were there any other circumstances -- are
 4 there any other circumstances in which you had made
 5 changes to your reports after you've submitted them
 6 before they're approved?
 7 A No.
 8 Q Okay. Ever the case that the supervisor in charge
 9 says to you, "I'm not approving this report. I want
 10 you to make some changes before I approve it"?
 11 A In this instance, no.
 12 Q Okay. So in this investigation, your supervisors did
 13 not ask you to make any changes to your reports after
 14 you submitted them?
 15 A That's correct.
 16 Q Okay. So the reports as approved are exactly the
 17 same as they were as submitted; correct?
 18 A That's correct.
 19 Q Okay. Do you speak to anyone from the District
 20 Attorney's Office related to this investigation?
 21 A Yes.
 22 Q Okay. Who did you speak with from the District
 23 Attorney's Office about the Robinson shooting
 24 investigation?
 25 A District Attorney Ismael Ozanne.

1 Q Anyone else?
 2 A There was an assistant district attorney present at
 3 some of the meetings, but I don't recall her name.
 4 Q But at the meetings with Ismael Ozanne?
 5 A Yes.
 6 Q Okay. Were there any district attorneys present for
 7 any meetings other than that meeting with Mr. Ozanne?
 8 A Yes. There was District Attorney Investigator Linda
 9 Kohlmeyer.
 10 Q All right. Other than speaking with Ismael Ozanne,
 11 another assistant district attorney who participated
 12 in those meetings, and Ms. Kohlmeyer, did you have
 13 any other conversations with anyone from the District
 14 Attorney's Office during this investigation?
 15 A No.
 16 Q Okay. Were all of those conversations with those
 17 three individuals, did they all happen at the same
 18 time?
 19 So we've got Ismael Ozanne; did you have
 20 meetings with him?
 21 A Yes.
 22 Q And did you have phone calls with him, as well?
 23 A Yes.
 24 Q Okay. How many meetings did you have with
 25 Mr. Ozanne?

1 A I don't recall.
 2 Q Was it as many as ten?
 3 A No.
 4 Q Can you tell me approximately how many it was?
 5 A Six.
 6 Q Okay. Where did those meetings take place?
 7 A At the Dane County District Attorney's Office.
 8 Q Okay. That's where all these meetings took place?
 9 A Yes. In a conference room.
 10 Q Okay. How many calls did you have with Mr. Ozanne?
 11 A One.
 12 Q How long was that call?
 13 A Ten minutes.
 14 Q Do you know anyone else who participated in that call
 15 other than Mr. Ozanne?
 16 A Special Agent Rafael De La Rosa.
 17 Q Anyone else?
 18 A No.
 19 Q Do you know when that meeting took place?
 20 A No, I don't.
 21 Q Okay. What was the subject of that meeting, that
 22 phone call?
 23 A I don't recall.
 24 Q Do you recall anything about what was discussed on
 25 that call?

1 Sorry.
 2 Q Okay. So that call -- did you talk substantively
 3 about the case at all on that call?
 4 A We talked about making sure that reports were taken
 5 over to the District Attorney's Office.
 6 Q Explain what you mean by that.
 7 A Some district attorneys will take a portion of the
 8 reports as the investigation continues; others would
 9 like it after it's completed.
 10 Q And what was the -- what was the preference in this
 11 instance in the Robinson shooting case?
 12 A As a packet as they were completed. So not one or
 13 two reports, but when we had, like, ten or twenty
 14 reports.
 15 Q So they were getting reports even before the case
 16 summary report was authored; correct?
 17 A Yes. Yes.
 18 Q And whose preference was that in this case? Was it
 19 Mr. Ozanne or was it an assistant district attorney?
 20 A It was the district attorney.
 21 Q And was that something he communicated to you on that
 22 phone call is that he wanted to make sure he's
 23 continuing to get these packets of updates?
 24 A Yes. A reminder.
 25 Q Okay. Anything -- anything else that was discussed

1 A I don't recall.
 2 Q Was that -- did that call take place at some point
 3 during the course of the investigation? Did it take
 4 place after the investigation? What can you tell me
 5 about that?
 6 A During the investigation.
 7 Q Okay. So approximately where were you in the
 8 investigation at the time this conversation takes
 9 place with Mr. Ozanne?
 10 A Towards the end.
 11 Q Okay. When you say "towards the end," what are we
 12 talking about? Before your summary report or after?
 13 A Before the summary report.
 14 Q Okay. So it was after you had conducted all of your
 15 interviews, but before your summary report; is that
 16 right?
 17 A Yes.
 18 Q And anything else you can tell me in terms of what
 19 the timing was, other than that?
 20 A It was before special Agent De La Rosa was taking his
 21 leave. We wanted to let the district attorney know
 22 that all conversations would be conducted with me
 23 since he was on leave.
 24 Q Okay. Was that the purpose of the call?
 25 A Now that we're talk -- I -- it's coming back to me.

1 on that call that you can recall other than
 2 Officer De La Rosa's leave and giving him updated
 3 packets?
 4 A Not that I recall.
 5 Q Okay. Do you recall any -- was there any
 6 conversation -- strike that.
 7 Was there any discussion during that phone
 8 call about the substance of what you were learning in
 9 the investigation?
 10 A No.
 11 Q Okay. You said other than that phone call, you had
 12 approximately six meetings in person with Mr. Ozanne;
 13 correct?
 14 A That's correct.
 15 Q And that would be the entirety of your communication
 16 with Mr. Ozanne; is that correct?
 17 A That's correct.
 18 Q Did you have any e-mail exchanges or correspondence
 19 with Mr. Ozanne?
 20 A Yes.
 21 Q How many of those did you have?
 22 A One or two.
 23 Q Okay. Did any of those discuss the substance of the
 24 case?
 25 A No.

1 Q Okay. In the meetings you had with Mr. Ozanne, the
 2 six meetings, when was the first of those meetings?
 3 A Shortly after the investigation started.
 4 Q Okay. When was the last of those meetings?
 5 A When I went to the District Attorney's Office to
 6 deliver more reports.
 7 Q And when was that? Was that before you had done your
 8 summary report?
 9 A No. That was after.
 10 Q Okay. So the last meeting was after you had done
 11 your summary reports?
 12 A That's correct.
 13 Q Okay. And do you recall with any more precision as
 14 to when your first or last meeting was?
 15 A No.
 16 Q Okay. Your first meeting, was it before you had
 17 spoken to any witnesses?
 18 A No.
 19 Q So do you know approximately when after the shooting
 20 your meeting with Mr. Ozanne was, first meeting?
 21 A No.
 22 Q Okay. And you met with him before? Had you met him
 23 before that?
 24 A Have I met him as a district attorney?
 25 Q Yes.

1 A Yes.
 2 Q How many times?
 3 A Twice.
 4 Q Okay. During that first meeting with him, did he
 5 give you any instructions related to the
 6 investigation?
 7 A No.
 8 Q What happened in that first meeting? Tell me.
 9 A I started in the meeting. It began. And then I had
 10 to leave to attend to something else, so I didn't
 11 stay for the completion of the meeting. So I can't
 12 answer that question.
 13 Q Who else attended that meeting?
 14 A Special Agent in Charge Engels and Special Agent
 15 Rafael De La Rosa.
 16 Q Anything else from Mr. Ozanne's office in that first
 17 meeting?
 18 A I don't know, because I left.
 19 Q At the time you were there, the only person from the
 20 District Attorney's Office there was Mr. Ozanne?
 21 A That's correct.
 22 Q Okay. What was the purpose of that meeting?
 23 A Everyone was introducing themselves. We were
 24 discussing the role -- the roles that we were taking
 25 and who the case lead was, who the co-lead was, who

1 our supervisor was. And by that time, I left.
 2 Q Okay. When you said you were discussing your roles,
 3 what did you discuss about the roles that you were
 4 taking?
 5 A There were some clarifications as far as what DCI's
 6 role was going to be in this investigation as far as
 7 the lead, what the lead meant.
 8 Q "Lead" meaning the lead investigator?
 9 A The lead -- yes. The lead investigator, the lead of
 10 the case.
 11 Q Versus the Madison Police Department?
 12 A Right. They weren't going to participate. We were
 13 the lead agency.
 14 Q Okay. So in that meeting, you discussed with
 15 Mr. Ozanne that DCI would be the lead investigator
 16 and the Madison Police Department would not
 17 participate; is that what you're saying?
 18 A Yes. There was some logistics that were spoken
 19 about.
 20 Q Was that an instruction from Mr. Ozanne or just what
 21 you were communicating to him?
 22 A Just a communication.
 23 Q From you to him?
 24 A Right.
 25 Q What did -- did he say what roles he wanted DCI to

1 play in that meeting?
 2 A I don't recall what he said. I --
 3 Q Did he give any instructions at that meeting?
 4 A No.
 5 Q Do you recall anything that he said in that meeting?
 6 A I wasn't in there long enough, so no.
 7 Q Do you recall anything that he said specifically
 8 during that meeting while you were in there?
 9 A No, I do not.
 10 Q Did you get any information after that meeting was
 11 over from the special agent in charge or Agent De La
 12 Rosa about what had happened during the rest of that
 13 meeting?
 14 A I don't recall.
 15 Q All right. Do you -- you said you had a number of
 16 additional meetings with Mr. Ozanne. When did those
 17 meetings take place?
 18 A Throughout the investigation.
 19 Q How often?
 20 A I don't recall.
 21 Q Approximately once a week?
 22 A No.
 23 Q Give me -- was it approximately every couple days?
 24 A No. It -- maybe once every three weeks.
 25 Q Okay. So after your first meeting with him, shortly

1 after the investigation begins, your next meeting
 2 with him was approximately three weeks later?
 3 A That's correct.
 4 Q And what do you recall about why you had that
 5 meeting?
 6 A That meeting was to discuss things like the autopsy
 7 and who the medical examiner was, what was -- what
 8 was found. They work pretty closely together, so we
 9 were discussing some of those items.
 10 Q Who participated in that meeting?
 11 A I don't recall.
 12 Q Who was in that meeting other than you and
 13 Mr. Ozanne?
 14 A Special Agent De La Rosa and Special Agent in Charge
 15 James Engels.
 16 Q Anyone else from the District Attorney's Office?
 17 A No.
 18 Q Other than discussing the medical examiner report and
 19 information, what else was discussed in that meeting
 20 related to the investigation?
 21 A The crime scene report and what was found during the
 22 crime scene.
 23 Q What information was communicated about that to
 24 Mr. Ozanne?
 25 A What was in the crime scene report. I don't believe

1 Q Okay. Is there any -- strike that.
 2 Did you or any of the other DCI agents in
 3 the meetings you attended with Mr. Ozanne share any
 4 opinions with Mr. Ozanne about the investigation?
 5 A No.
 6 Q Okay. And you didn't form any opinions during the
 7 course of your investigation; correct?
 8 A That's correct.
 9 Q Okay. Did Mr. Ozanne share any opinions with you all
 10 during the course of those meetings?
 11 A No.
 12 Q Okay. Did Mr. Ozanne share any understanding of the
 13 facts during the course of those meetings with you
 14 all?
 15 A No.
 16 Q Did you communicate any information to Mr. Ozanne
 17 during those meetings about information you'd learned
 18 during your interviews?
 19 A Yes.
 20 Q What information did you share -- did you share
 21 information about specific interviews with
 22 Mr. Ozanne?
 23 A Yes.
 24 Q Okay. Which interviews were discussed with
 25 Mr. Ozanne during those meetings?

1 the agent who actually was in charge of the scene was
 2 there. I don't recall.
 3 Q What else was communicated in that meeting?
 4 A I don't recall.
 5 Q Did you have any meeting with Mr. Ozanne where you
 6 reviewed any audio or video?
 7 A Yes.
 8 Q Okay. When -- tell me about that.
 9 A The medical examiner did a video of his findings, so
 10 we did review that.
 11 Q With Mr. Ozanne?
 12 A Yes. With Mr. Ozanne and the medical examiner
 13 Dr. Vincent Tranchida.
 14 Q Was there in person?
 15 A I'm sorry?
 16 Q The doctor was there in person for that meeting?
 17 A Yes, he was. He's the one who took us through the
 18 video and he explained the video and what he found,
 19 his findings.
 20 Q The video was an autopsy video?
 21 A It wasn't the autopsy video. It was a -- it was a
 22 diagram to indicate where the shots had hit the body.
 23 Q I see. Any other video that was reviewed with
 24 Mr. Ozanne?
 25 A Not that I was present for.

1 A I don't recall.
 2 Q Do you recall any of them?
 3 A No.
 4 Q Do you recall if the interview with Mr. Kenny was
 5 discussed during that meeting -- any of the meetings
 6 with Mr. Ozanne?
 7 A Not that I was present for.
 8 Q Okay. Do you know if the interviews with Officer
 9 Gary or Officer Christian was discussed at all during
 10 the meetings you were present for with Mr. Ozanne?
 11 A No.
 12 Q Okay. Did you have any other meetings with other
 13 folks from the District Attorney's Office other than
 14 the meetings with Mr. Ozanne we just discussed?
 15 A No.
 16 Q Okay. So when you said -- you talked earlier about
 17 an assistant district attorney who you had some
 18 communication with. Was that also in the context of
 19 those meetings with Mr. Ozanne?
 20 A That was a one-time instance, and so that's why I
 21 don't remember who that assistant attorney -- ADA
 22 was.
 23 Q And was that -- and when you met with that -- is that
 24 a meeting you had with that assistant?
 25 A She was present with the district attorney.

1 Q Got it.
 2 A She was in the same room.
 3 Q Got it. Okay.
 4 And then you said you had some
 5 communications with a District Attorney's Office
 6 investigator?
 7 A Yes.
 8 Q Ms. Kohlmeyer?
 9 A Yes.
 10 Q Okay. How many meetings or discussions did you have
 11 with Ms. Kohlmeyer?
 12 A She was present during the district attorney
 13 meetings. She was present in two of those meetings.
 14 Q Okay. Did you have any conversation with her outside
 15 of those meetings?
 16 A No.
 17 Q Did she ask any questions during the course of those
 18 meetings?
 19 A No.
 20 Q Did she share any substantive information during
 21 those meetings?
 22 A Yes.
 23 Q What information did she share?
 24 A She had conducted a follow-up investigation to an
 25 interview that I had conducted.

1 Q Who was that with?
 2 A Javier Limon.
 3 Q Tell me about what she had done.
 4 A She had inquired to some damage that was located in
 5 the residence of Tony Robinson where the incident
 6 occurred on Williamson Street, and she had asked the
 7 question and it was answered.
 8 Q What was the question she asked?
 9 A It was -- it had to do with when the damage occurred
 10 that was located in the hallway by the stairwell.
 11 Q So she shared information with you about what she
 12 learned?
 13 A She shared information with the group, not with me
 14 specifically, but with the district attorney and the
 15 other -- Engels and Special Agent De La Rosa that
 16 were in this meeting.
 17 Q Did she share any other information during that
 18 meeting other than the information about -- from
 19 Javier Limon?
 20 A No.
 21 Q Okay. What was the answer about that issue of damage
 22 in the stairwell?
 23 A I don't recall.
 24 Q You don't recall either way?
 25 A No, I don't recall.

1 Q Okay. Do you know why it was important to find out
 2 about that, about the damage in the stairwell?
 3 A That was one of the -- that was what I wanted to ask
 4 Javier Limon in a follow-up interview, but his
 5 attorney would not allow it. So that's why it was
 6 important that someone just ask it, because there was
 7 damage in the hallway and we wanted to know when it
 8 had occurred.
 9 Q And you don't know what the answer was as to when it
 10 had occurred?
 11 A I don't recall.
 12 Q You ultimately learned the answer, you just don't
 13 know what it is?
 14 A That's correct.
 15 Q It wasn't particularly relevant to anything you were
 16 looking into?
 17 A When the damage occurred was the question. And --
 18 yeah, I --
 19 Q That's something that you wanted to do follow-up on
 20 with Mr. Limon?
 21 A Yes.
 22 Q What caused you to want to do that particular
 23 follow-up?
 24 A Because when I originally interviewed him, I did not
 25 know anything about the scene. And later on, I

1 learned that there was some damage, and I wanted to
 2 know when it was -- when it had occurred.
 3 Q So that was something you decided you wanted to
 4 follow up on on your own?
 5 A Yes.
 6 Q Did anyone else instruct you to go and find out that
 7 information?
 8 A After I brought it up, then it was, "we should find
 9 out what that question is."
 10 Q Okay. And you ultimately didn't get an answer to
 11 that?
 12 A Excuse me?
 13 Q You ultimately didn't go get that information? You
 14 weren't able to get that --
 15 A I was not able to.
 16 Q Okay. But the DA investigator Ms. Kohlmeyer was?
 17 A That's correct.
 18 Q Okay. Do you know how she was able to get the
 19 information?
 20 A Yes.
 21 Q What's the answer?
 22 A She made the phone call to the attorney for Javier
 23 Limon and he was -- he answered the question. I
 24 don't know if it was in person or via phone.
 25 Q When you say "he answered the question," the attorney

1 or Mr. Limon?
 2 A Mr. Limon.
 3 Q All right. Do you know if there's any documentation
 4 of the information that was communicated by Mr. Limon
 5 about the damage to the stairwell?
 6 A To investigator Kohlmeyer?
 7 Q Yes.
 8 A Yes.
 9 Q Okay. How was documented?
 10 A It was documented in a report.
 11 Q By who?
 12 A By Investigator Kohlmeyer.
 13 Q Okay. And do you have a copy of that report?
 14 A I do not.
 15 Q Where is that -- who keeps a copy of that report?
 16 A That would be the District Attorney's Office.
 17 Q Was a copy of that report shared with DCI?
 18 A I did not see it, so --
 19 Q You've never -- you know that there is a report, but
 20 you have not seen the report?
 21 A Right. That's correct.
 22 Q Was the report shared with anyone from DCI?
 23 A I don't know.
 24 Q Okay. And how do you know that there's a report if
 25 you haven't seen it?

1 A Because during that meeting, Investigator Kohlmeyer
 2 mentioned this information.
 3 Q Okay. And mentioned that she had documented it?
 4 A Correct.
 5 Q Okay. Any communications other than -- other than
 6 the telephone calls and meetings you discussed with
 7 me so far, did you have any other communications with
 8 anyone from the District Attorney's Office about the
 9 Robinson shooting case?
 10 A No.
 11 Q Even -- what about e-mails?
 12 A One or two to the district attorney.
 13 Q Other than that, no other communications?
 14 A No.
 15 Q Any other substantive conversations with the District
 16 Attorney's Office about the Robinson shooting other
 17 than what you told me about so far?
 18 A No.
 19 MR. SWAMINATHAN: Let's pause for one
 20 second.
 21 (A recess is taken from 11:55 a.m. to 12:51 p.m.)
 22 BY MR. SWAMINATHAN:
 23 Q All right. So I want to ask you some more questions
 24 about the Robinson shooting investigation, and start
 25 by asking you when was the first point at which you

1 were called into this investigation?
 2 A On the night of the shooting, I was called by my
 3 supervisor.
 4 Q Okay. And what were you -- and what were you -- what
 5 was that call? What was communicated on that call?
 6 A Just the City of Madison had a shooting and it was
 7 asking if I could respond. Or he was asking.
 8 Q Okay. And at that time, did you know what your role
 9 was going to be in terms of lead investigator or
 10 secondary lead investigator?
 11 A No.
 12 Q Okay. At what time did you learn what your role
 13 would be?
 14 A When I arrived on Williamson Street, there was a
 15 command post, and I met my supervisor at that time.
 16 And that's when he told me what my role would be.
 17 Q Okay. So when you first got the call, you were at
 18 home?
 19 A Yes.
 20 Q Okay. And then when you got the call, where did you
 21 go?
 22 A I went directly to the scene.
 23 Q And then from the scene -- and the scene is where you
 24 first learned that you would be sort of the secondary
 25 lead?

1 A Yes.
 2 Q That's a fair way to describe it, second lead or
 3 secondary lead?
 4 A Yes. That's fine.
 5 Q When you got to the scene, what did you do there?
 6 A There was a command post, which is like a mobile
 7 command unit. I went into the mobile command unit,
 8 met with other agents and the supervisor, and we
 9 waited until we got a snapshot of what had occurred
 10 from the supervisor who had spoken to Officer Kenny.
 11 Q When you say a "supervisor," you mean a DCI
 12 supervisor or a Madison Police Department supervisor?
 13 A A City of Madison Police Department supervisor.
 14 Q So you waited there until you got a snapshot from
 15 that supervisor?
 16 A That was the original plan.
 17 Q Was that what actually happened?
 18 A No.
 19 Q Okay. Did you ever get a snapshot while you where
 20 there at the command post?
 21 A I did not.
 22 Q Okay. Did any of your colleagues get a snapshot
 23 while they were there?
 24 A Yes.
 25 Q Who did?

1 A Officer -- or, excuse me, Special Agent De La Rosa,
 2 Special Agent in Charge James Engels, Special Agent
 3 Jim Pertzborn, and Special Agent James Holmes.
 4 That's who I saw once I left the mobile command post.
 5 Q As in you saw them meaning you left and they stayed
 6 there?
 7 A That's correct.
 8 Q And they stayed and got a snapshot?
 9 A That's correct.
 10 Q And who did they get a snapshot from?
 11 A I don't know.
 12 Q Do you know what information -- did they communicate
 13 to you what they learned in the snapshot?
 14 A No.
 15 Q Did you ever learn what they -- what had been
 16 communicated to them during the snapshot?
 17 A At some point I did.
 18 Q Do you know when?
 19 A Later that evening after my interviews.
 20 Q After your interviews on March 6th?
 21 A After the interviews on March 6th.
 22 Q You then learned that -- what the information had
 23 been -- sorry. You learned what the snapshot was?
 24 A Correct.
 25 Q What were you told about the snapshot?

1 A I don't recall.
 2 Q Who communicated to you about the snapshot?
 3 A Special Agent De La Rosa.
 4 Q Okay. Tell us what a snapshot is.
 5 A "Snapshot" is the term that they give when a
 6 supervisor is getting the story from the officer who
 7 was involved in what had occurred.
 8 Q Okay. When you say term "they use," who is "they"?
 9 DCI?
 10 A DCI uses it, City of Madison uses it, but other
 11 people have used different terms meaning a snapshot.
 12 Q Do you remember -- do you recall -- so, in essence,
 13 the snapshot was going to be a quick synopsis of what
 14 Officer Kenny communicated to his supervisor; is that
 15 right?
 16 A That's correct.
 17 Q And do you recall anything about what that
 18 communication was?
 19 A I do know that Officer Kenny was involved.
 20 Q That's all that you know?
 21 A That's all I recall.
 22 Q Okay. From the time you received -- you said you
 23 received a call initially from Special Agent in
 24 Charge Engels?
 25 A That's correct.

1 Q From the time you got the call from Agent Engels to
 2 the time you arrived at the command post, what
 3 information did you have during that period?
 4 So let me ask it differently. On the phone
 5 with Special Agent Engels, you were just told there's
 6 been an officer-involved shooting and you should just
 7 head to the location; correct?
 8 A Yeah. This is the location; head there.
 9 Q Other than the location of the shooting, did you have
 10 any other information about the shooting?
 11 A No, I did not.
 12 Q Okay. From the time -- did you learn anything more
 13 about the shooting from the time you got the call
 14 until the time you arrived at the location?
 15 A I learned that one individual is deceased and there
 16 was one officer that was involved.
 17 Q Okay. How did you learn that?
 18 A That was relayed to me by Officer -- or Special Agent
 19 in Charge Engels.
 20 Q Is that while you were in transit?
 21 A I don't recall if that was while I was in transit or
 22 initially. I don't recall.
 23 Q Approximately how long did it take from the time you
 24 got the call to the time you arrived on the scene?
 25 A 30 minutes.

1 Q Once you were on scene, as I understand it, you were
 2 waiting to get a snapshot; correct?
 3 A Correct.
 4 Q And you ultimately didn't get a snapshot while you
 5 were there; correct?
 6 A Correct.
 7 Q Is that because you ultimately left?
 8 A Yes.
 9 Q And did you leave and go to the hospital?
 10 A I did.
 11 Q Okay. So while you were on scene, approximately how
 12 long was that?
 13 A 15 minutes.
 14 Q What did you learn while you were on scene?
 15 A I didn't. I was waiting for -- I didn't know who had
 16 the information, so essentially we were just standing
 17 around waiting.
 18 Q So while you were on scene, you basically learned no
 19 additional information from what you had already
 20 learned on your -- basically before you got to the
 21 scene; is that correct?
 22 A That's correct.
 23 Q Okay. So what did you do next?
 24 A I was instructed by Special Agent in Charge Engels to
 25 go to St. Mary's Hospital here in Madison and to meet

1 Officer Kenny, Matthew Kenny.
 2 Q Okay. While you were on scene, did you -- did you or
 3 any of the other agents go out to the scene and see
 4 what had happened?
 5 A No.
 6 Q Okay. Why not?
 7 A I was waiting for the snapshot. That was the
 8 instruction --
 9 Q Okay.
 10 A -- was to wait.
 11 Q Did any of the DCI special agents go over to the
 12 house and look at the scene where the shooting took
 13 place?
 14 A I don't know.
 15 Q Okay. You did not?
 16 A I did not.
 17 Q Okay. Who gave you the instruction to go to the
 18 hospital?
 19 A Special Agent in Charge Engels.
 20 Q Did he give you any instruction other than to go
 21 speak with Officer Kenny at the hospital?
 22 A No. The --
 23 Q Okay. What was your purpose in going to have that
 24 discussion with Officer Kenny?
 25 A I went to introduce myself as a special agent with

1 DCI, to provide a business card, also to make sure
 2 that his injuries were documented, make sure that he
 3 knew that he would be contacted via his union
 4 representative or his attorney, that a formal
 5 interview would be conducted at a later time.
 6 Q Why was it important to go introduce yourself to him?
 7 A It is our practice and it's our policy that we go do
 8 that so that they know who's in charge of the
 9 investigation.
 10 Q Why?
 11 A It's the policy of DCI.
 12 Q Do you know why?
 13 A I guess, can you be clear?
 14 Q Do you know why that's the policy? Why is it done?
 15 A No.
 16 Q Okay. I mean, it's not something you do for any
 17 average witness; correct? Do sort of a preliminary
 18 introduction, "Hey, hi, how are you? I'll come talk
 19 to you some other time"?
 20 A No.
 21 Q All right. So you leave the scene and go to the
 22 hospital; is that right?
 23 A That's correct.
 24 Q And when you go to the hospital, have you learned any
 25 more information from what you have told me so far?

1 A No.
 2 Q So when you get to the hospital, what do you do
 3 there?
 4 A I wait.
 5 Q Okay. How long do you wait?
 6 A About an hour and a half, maybe two hours.
 7 Q Who were you waiting for?
 8 A Officer Matthew Kenny was meeting with his Wisconsin
 9 Police Professional Association members in a
 10 conference room. I was waiting until he was done.
 11 Q Okay. Did he know that you were waiting?
 12 A Yes.
 13 Q Okay. And did you do anything else while you were
 14 there during the hour and a half you were waiting?
 15 A There were other representatives from Madison Police
 16 in the hallway, so I just waited with them, said
 17 hello.
 18 Q Did you learn any other information while you were
 19 waiting?
 20 A No.
 21 Q Okay. So what happens after you wait?
 22 A After I wait, eventually I got into the room and I
 23 introduced myself, gave him a business card, asked
 24 him if he was okay, if he was injured. He did
 25 indicate where he was injured.

1 I asked if it was documented with
 2 photographs because I had been told that there was a
 3 Madison -- City of Madison photographer who came to
 4 the hospital before my arrival. So I asked if they
 5 were photographed. He said they were. I looked at
 6 where he was pointing.
 7 And then I talked to the representative
 8 who was there and said that he would be contacted
 9 either by myself or Special Agent De La Rosa, who was
 10 the lead investigator in this case.
 11 Q Did you learn any information during that discussion?
 12 A With Officer Kenny?
 13 Q Yes.
 14 A I learned that he had been struck on the top of his
 15 head and he had a lump on the top of his head.
 16 Q Any other information?
 17 A That his uniform had been taken as evidence.
 18 Q Anything else that you learned?
 19 A That photographs had been taken. And that was it.
 20 Q Did you ask him any questions about the shooting or
 21 the incident?
 22 A No, I did not.
 23 Q Okay. Why not?
 24 A It's our practice not to ask any questions at that
 25 time. It's just an introduction at that time.

1 Q Okay. Why is that the policy?
 2 A It's been our policy. We don't ask questions. It's
 3 been a dynamic situation. The officer at this point
 4 is not ready to take any questions, and I'm not ready
 5 even to ask him any questions at this point.
 6 Q What do you mean they're "not ready to take any
 7 questions"?"
 8 A It's been a chaotic scene. Sometimes they're upset.
 9 He was in the process of talking with his
 10 representative. It was not the time or the place to
 11 do any questioning.
 12 Q Is that -- is that what the policy says or is that
 13 your personal opinion?
 14 A That's the practice.
 15 Q Is that also your personal opinion?
 16 A I don't have --
 17 MR. GENDREAU: I'm going to object to the
 18 extent you're asking opinion questions.
 19 You can go ahead and answer.
 20 A I don't have a personal opinion.
 21 Q Okay. When you spoke with Officer Kenny, you said
 22 you basically had an opportunity to observe hem;
 23 correct?
 24 A Yes.
 25 Q Okay. Tell me what injuries he had, if any.

1 A He pointed to his head. There was a -- it was the
 2 left side of his head. He pointed that there was an
 3 injury there.
 4 Q When you saw him, did you observe any injuries?
 5 A It looked to be a contusion on the top of his head.
 6 Q Can you describe it for me?
 7 A It was a lump.
 8 Q How big?
 9 A I don't recall.
 10 Q Did you notice it before he said -- before he pointed
 11 it out to you?
 12 A He's quite a bit taller than me, so no.
 13 Q Okay. And after he pointed it out, did you look at
 14 it more closely?
 15 A I did.
 16 Q Okay. And so tell me -- describe for me what you saw
 17 other than just saying it was a contusion.
 18 A It was a good-size lump on the top of his head on the
 19 left side.
 20 Q Any bleeding?
 21 A I didn't see any bleeding.
 22 Q Did you see any other injuries on Mr. Kenny when you
 23 saw him at that time?
 24 A I didn't observe him without clothing. And he didn't
 25 point to any others. He might have had a scratch or

1 something, but I can't recall.
 2 Q Okay. Did you ask him about any other injuries that
 3 he had?
 4 A I asked.
 5 Q Okay. So did he report -- he reported to you the
 6 contusion on his head?
 7 A That's correct.
 8 Q Did he report anything else?
 9 A Not that I recall.
 10 Q So in the -- at the end of that meeting, the only
 11 information you had about injuries to Mr. Kenny were
 12 the contusion to his head; correct?
 13 A That's correct.
 14 Q Okay. And where did that conversation with Mr. Kenny
 15 take place?
 16 A At the St. Mary's Hospital. There's a family room on
 17 the first level.
 18 Q Was he being treated by a doctor at the time you met
 19 with him?
 20 A No.
 21 Q Was he being treated by a doctor during the hour and
 22 a half you were waiting?
 23 A No.
 24 Q Okay. He was -- he was speaking with his attorneys
 25 at that time; correct?

1 A That's correct.
 2 Q At any time that you were at the hospital, did you
 3 see Mr. Kenny receiving any treatment?
 4 A No.
 5 Q Okay. When you spoke to him, did he seem able to
 6 understand your questions or understand the
 7 information you were communicating to him?
 8 A I don't know.
 9 Q How would you describe his demeanor?
 10 A Visibly upset.
 11 Q Okay. How did he look "visibly upset"? Can you
 12 explain?
 13 A His face was red. I just remember his face being
 14 very red.
 15 Q Anything else?
 16 A Kept holding his head.
 17 Q Anything else that you remember?
 18 A No.
 19 Q When you said "holding his head," do you mean, like,
 20 in pain, or just sort of you mean more distressed?
 21 A It appeared to be pain.
 22 Q Okay. And that's related to the contusion, you
 23 believe?
 24 MR. HALL: Objection. Form.
 25 A I don't know.

1 Q Okay. Did he say anything to you at that time about
 2 his injuries other than what you've communicated to
 3 me so far?
 4 A I don't recall.
 5 Q Okay. Approximately how long did that conversation
 6 last?
 7 A Ten minutes.
 8 Q Okay. What was the next thing you did after that
 9 conversation?
 10 A I was going back to my vehicle to return to the
 11 scene, and I received a call from Special Agent in
 12 Charge Engels.
 13 Q And what was communicated on that call?
 14 A He asked me to respond to the City of Madison central
 15 office to meet with two individuals who wanted to
 16 talk.
 17 Q Do you know who -- did he tell who you those
 18 individuals were?
 19 A No.
 20 Q Is that what you did, you went to the office to meet
 21 with those individuals?
 22 A Yes. He told me there would be another agent there.
 23 Q Okay. And so you went to the -- to the police
 24 department?
 25 A Yes.

1 Q Okay. And then did you begin your investigation --
 2 strike that.
 3 Did you then start talking to witnesses?
 4 A No.
 5 Q What did you do next?
 6 A I met with the other special agent that I was told to
 7 meet with.
 8 Q Who was that?
 9 A Special Agent Benjamin Poller.
 10 Q Okay. So when you left the hospital, the next thing
 11 you did was went to the police department and met
 12 with Special Agent Poller?
 13 A Yes.
 14 Q And what did you do after that?
 15 A I met with City of Madison Police Chief Mike Koval.
 16 Q And how long did that meeting last?
 17 A Seconds.
 18 Q What was -- tell me what happened at that meeting.
 19 A It was a brief conversation. He mentioned that there
 20 was -- there were two individuals in the hallway at
 21 the central police district who were related to the
 22 two individuals I went to interview, and they wanted
 23 to speak with DCI agents.
 24 Q Okay. Is that what you -- and so what did you do
 25 next?

1 A So I walked into the hallway with Special Agent
 2 Poller and met with these two individuals.
 3 Q Who were they?
 4 A One was Attorney Everett Mitchell, and the other was
 5 a female who identified herself as the aunt of the
 6 Limon brothers.
 7 Q Okay. And were the Limon brothers the two
 8 individuals who were the witnesses who were at the
 9 police station?
 10 A I eventually learned that that's who I was going to
 11 meet there.
 12 Q Okay. Between -- was there a point in time -- well,
 13 strike that.
 14 So from -- you've took me up to a certain
 15 point in time. And from this point going forward, I
 16 assume you start to talk to witnesses who saw events
 17 related to the shooting; is that correct?
 18 A Yes.
 19 Q Okay. Anything else to communicate to me about the
 20 information you had before you start to go conduct
 21 these interviews?
 22 A Can you be clearer?
 23 Q Yeah. Is there anything else -- well, strike that.
 24 You have the conversation with Police Chief
 25 Koval, and then you spoke to the two individuals he

1 had told you about; correct?
 2 A Correct.
 3 Q And after you do that, what do you do next?
 4 A Then I returned back into the central police
 5 district. And there was two rooms, and in each room
 6 there was Anthony Limon and Javier Limon.
 7 Q They were in separate rooms?
 8 A They were.
 9 Q Okay. And what -- you said they were in separate
 10 rooms. What did you do next?
 11 A Special Agent Poller and myself entered one room and
 12 we began our interview.
 13 Q Okay. Did you get any additional information about
 14 the shooting or the incident before you then went in
 15 to talk to these two individuals?
 16 A I did not.
 17 Q Okay. Do you remember which of the two Limon
 18 brothers you went and spoke to first?
 19 A Anthony Limon.
 20 Q And when you went in to speak with him -- well,
 21 strike that.
 22 So any other information other than what
 23 you've communicated to me so far that you had about
 24 the shooting incident from the time you took the
 25 phone call to the time you walk in to meet Anthony

1 Limon?
 2 A Somewhere between there, I learned that the
 3 individual that was deceased was an individual by the
 4 name of Tony Robinson.
 5 Q Do you know who you learned that from?
 6 A No, I don't know.
 7 Q Did you learn anything else this you can remember
 8 between those two points in time?
 9 A I also learned that the incident occurred on
 10 Williamson Street.
 11 Q Okay. You had been on Williamson Street earlier?
 12 A I was. But I didn't know where the scene was.
 13 Q Anything else?
 14 A No.
 15 Q Okay. I want to ask you about the time in which --
 16 well, let me ask you this. Did you ever see a video
 17 of -- the dash cam video of the shooting? Do you
 18 know what I'm talking about? Officer -- the video
 19 from Officer Kenny's dash cam?
 20 A I know what you're talking about. Yes.
 21 Q Okay. Did you ever see that video?
 22 A Can you clarify when?
 23 Q Yeah. Was there any point in which you saw the video
 24 from the dash cam of Officer Kenny's car?
 25 A During the entire investigation?

1 Q During the entire investigation.
 2 A At some point, yes.
 3 Q When?
 4 A After the formal interview with the officer.
 5 Q With which officer?
 6 A Excuse me. With Officer Matthew Kenny, at some point
 7 after that interview took place.
 8 Q That's the first time that you, then, saw the video?
 9 A That's correct.
 10 Q Okay. What was the circumstance in which you saw the
 11 video?
 12 A Special Agent De La Rosa was reviewing it.
 13 Q And he showed it to you?
 14 A I was -- I came in his office. I don't think he
 15 showed me specifically. I came in.
 16 Q Did you have a conversation with Officer De La Rosa
 17 about the shooting?
 18 A Can you clarify when?
 19 Q When you were looking at the video.
 20 A I don't recall what conversation, if any, we had.
 21 Q Did you guys talk at all about what you were
 22 observing on the video?
 23 A No.
 24 Q Did you talk at all about how the video synced up
 25 with Officer Kenny's interview?

1 A No.
 2 Q Did you have any conversation about whether the video
 3 was consistent or contradictory to his testimony?
 4 A No.
 5 Q Okay. Was that the only time you saw the video?
 6 A No.
 7 Q When is the next time you saw the video?
 8 A At the completion of the investigation, it was played
 9 on YouTube or something.
 10 Q You saw it --
 11 A On television.
 12 Q Go ahead. You saw it online or on a --
 13 A On TV.
 14 Q Was that after you had issued your case summary
 15 report?
 16 A It was at the completion of the investigation, and
 17 the district attorney had made his decision.
 18 Q What is the completion of the investigation? Let's
 19 start there.
 20 A The district attorney makes his determination.
 21 Q And that's the official sort of end of the
 22 investigation?
 23 A That is the completion of the investigation.
 24 Q So it's sometime after that you saw the video again?
 25 A Sometime after that.

1 Q So until the -- during the course of the
 2 investigation, you saw the video once with Officer
 3 De La Rosa?
 4 A With Agent De La Rosa.
 5 Q Okay. Sorry. Agent De La Rosa.
 6 A That's fine.
 7 Q When you saw that video with Agent De La Rosa, it was
 8 synced up with the audio?
 9 A I don't recall.
 10 Q Do you recall hearing audio when you saw the video?
 11 A No.
 12 Q Okay. So there was not audio?
 13 A I don't recall.
 14 Q Okay. Did you hear any other audio recording --
 15 strike that.
 16 Let's put aside interviews for a moment,
 17 okay. Did you hear any other audio recordings during
 18 the course of your investigation?
 19 A No, I did not.
 20 Q Okay. Did you hear any audio recordings of 911
 21 calls?
 22 A I did not.
 23 Q Did you see any dispatch notes about 911 calls? Did
 24 you see any transcripts of 911 calls?
 25 A Yes.

1 Q When did you see those?
 2 A During my completion of the summary report.
 3 Q So at the time you're doing your summary, you saw
 4 documents related to the dispatch records?
 5 A Yes.
 6 Q Describe for me what you saw.
 7 A I don't recall in which report, but they were
 8 included, and I just reviewed them.
 9 Q And were they dispatch notes or 911 calls?
 10 A They were the computer aided reports, generated
 11 reports, from the CAD system.
 12 Q Okay. Did you review any other type of audio,
 13 putting aside audio interviews?
 14 A No, I did not.
 15 Q Okay. Did you review any other radio calls, dispatch
 16 information, anything along those lines, other than
 17 what you've just told me about from the CAD system?
 18 A I don't recall.
 19 Q Did you review all the forensic evidence in the case?
 20 A No.
 21 Q Okay. What forensic information did you review?
 22 A When I received the reports from the crime lab, I did
 23 examination of records. So that -- that was my limit
 24 of -- when you say "examined," that's what I did.
 25 Q What do you mean you did an "examination of records"?

1 was not the entirety of the forensic evidence in the
 2 case?
 3 A That's correct.
 4 Q Did you view any media statements?
 5 A I don't recall.
 6 Q Do you recall any media statements that you've seen
 7 during the course of the investigation?
 8 A Can you repeat that question?
 9 Q Do you -- do you recall seeing any media statements
 10 during the course of the investigation?
 11 A Yes.
 12 Q What did you see or learn about?
 13 A There was media coverage on the protest on Williamson
 14 Street, a protest by the Dane County Courthouse at
 15 some point, and there was a lot of media surrounding
 16 this investigation.
 17 Q Okay. So keeping track of what the media was?
 18 A I wasn't keeping track. I did see it.
 19 Q Couldn't help but be exposed to it?
 20 A Yes.
 21 Q Did any of that impact any of the work you were doing
 22 in your investigation?
 23 A No.
 24 Q Okay. Any other video that you observed as part of
 25 your investigation or during the course of the

1 A I drafted a report based on the crime lab's
 2 determination and analysis.
 3 Q And what was your -- what did your report contain?
 4 A My report just contains "I received this report" and
 5 what it -- what the report is about.
 6 Q Did you summarize what the report's conclusions were?
 7 A No, I did not.
 8 Q You just literally state, "I received this report"?
 9 A That's correct.
 10 Q Okay. Did you review the report, other than just --
 11 you know, you obviously -- you identified you
 12 received it, but did you review it yourself
 13 personally and, you know, extract information from
 14 it?
 15 A Yes.
 16 Q Okay. And what did you do with the information you
 17 learned from that report?
 18 A That report was included in a report that I authored.
 19 So it was an attachment to the report.
 20 Q Was it an attachment to your summary report?
 21 A That's correct.
 22 Q Any other forensic type of evidence that you
 23 reviewed?
 24 A No.
 25 Q Okay. And you agree the forensic evidence you saw

1 investigation other than the shooting itself? Strike
 2 that.
 3 You saw the video with Officer De La Rosa
 4 -- with Agent De La Rosa from the dash cam. Was
 5 there any other video that you saw during your
 6 investigation?
 7 A Well, I did make reference to the medical
 8 examiner's -- it's actually a PowerPoint, so --
 9 Q Anything else?
 10 A No.
 11 Q Did you review -- you said you reviewed some Madison
 12 Police Department reports form the incident; correct?
 13 A That's correct.
 14 Q Did you review all of the Madison Police Department
 15 police reports related to the incident?
 16 A No.
 17 Q Are the Madison Police Department reports that you
 18 reviewed the ones where they had a report for the
 19 same individual that you were interviewing?
 20 A That's correct.
 21 Q Okay. And those were the only ones that you
 22 reviewed?
 23 A That's correct.
 24 Q Okay. I want to ask you about your independent
 25 recollection of events, and I'm focused on the course

1 of the investigation itself, so your role during the
 2 investigation. And let me focus in particular on
 3 your interviews with folks, okay.
 4 Do you have a specific memory of those
 5 interviews, what you said to people, what people said
 6 back to you?
 7 A No.
 8 Q Okay. So this was essentially -- this was one of
 9 numerous investigations that you conduct and -- is
 10 that true?
 11 A That would be correct.
 12 Q How many interviews do you think you've conducted
 13 related to death investigations during the time
 14 you've been at DCI?
 15 A I don't know.
 16 Q Do you have any specific memory about this case more
 17 than any of the other investigations that you've
 18 done?
 19 A No.
 20 Q Okay. When I asked you if you have any specific
 21 memory, let me ask it another way. You know,
 22 sometimes you can see something sort of in your head,
 23 sort of visually picture, you know, events; do you
 24 know what I'm talking about?
 25 A Sure.

1 Q Do you have that kind of memory about any of the
 2 interviews you did in the Robinson shooting case?
 3 A Portions.
 4 Q Tell me what you can sort of still see in your head
 5 in terms of your interviews with folks.
 6 A I recall going to the central police district and
 7 meeting the Limon brothers.
 8 Q Okay.
 9 A I recall going to Kelly Austin's home --
 10 Q Uh-huh.
 11 A -- and doing that interview.
 12 Q What else can you still sort of picture in your head?
 13 What else can you see?
 14 A I recall speaking on the phone with representative
 15 Chris Taylor.
 16 Q Okay.
 17 A And meeting the owner of the residence on Williamson
 18 Street because I drove to that location.
 19 Q Uh-huh.
 20 A And then eventually getting to the scene on
 21 Williamson Street prior to its release.
 22 Q Okay. When you reviewed your reports in preparation
 23 for today's deposition, you reviewed reports relating
 24 to all of those meetings and interviews; correct?
 25 A That's correct.

1 Q Okay. Is there anything you reviewed -- strike that.
 2 When you reviewed those reports, did you
 3 find that there was anything you remembered about
 4 those interviews that was not in the reports you had
 5 written?
 6 A No.
 7 Q Okay. Is there anything about the Robinson shooting
 8 investigation that stands out to you compared to any
 9 of the other death investigations that you've done?
 10 A No.
 11 Q Okay. Would it be correct to say that the entirety
 12 of your memory about the -- about your involvement in
 13 the Robinson shooting case is captured in reports
 14 that are part of the investigation?
 15 A That would be correct.
 16 Q Okay. If you remembered something additional that
 17 was an important fact about the case, say today or
 18 say tomorrow, is there anything you should do? Is
 19 that something you should supplement to the
 20 investigation? Could you still supplement the
 21 investigation or share that information in some way?
 22 MR. GENDREAU: I'm going to object to the
 23 form.
 24 You can answer.
 25 A If it was something relevant, I would definitely make

1 it known.
 2 Q Okay. Let me -- and how would you do that? How
 3 would you make it known?
 4 A Through the chain of command with my supervisor.
 5 Q Would you write a report?
 6 A I would discuss that with my supervisor.
 7 Q Okay. If you learned -- something sort of popped
 8 back into your head about the investigation that you
 9 felt was important, safe to say that you would share
 10 that information with your supervisors and get it
 11 documented in some fashion?
 12 A Can you clarify what you mean by "important"?
 13 Q Yeah. If you just sort of -- you woke up one day and
 14 you remembered something related to the investigation
 15 that -- that was important, that you believed was in
 16 some way relevant to the overall course of events
 17 that you had looked into, would you supplement or
 18 share that information with other folks from DCI?
 19 A I would share it with my supervisor.
 20 Q Okay. Would you expect that you would put that in
 21 writing in some form?
 22 A I would --
 23 MR. GENDREAU: I'm going to object. Asked
 24 and answered.
 25 You can answer.

1 A I would follow what my supervisor advised me to do.
 2 Q Okay. I want to ask you about something you
 3 testified about earlier.
 4 You testified earlier that, you know -- and
 5 let me preface this by saying I'm talking about
 6 investigations generally, okay, and specifically the
 7 types of investigations you've done while a police
 8 officer and while working for DCI, okay.
 9 I think you testified earlier that when you
 10 do investigation, you don't, as matter of practice,
 11 share information about what you're learning in your
 12 investigation with the people who you're interviewing
 13 as witnesses; is that right?
 14 A That's correct.
 15 Q Okay. Would that also be true of people who are
 16 potential suspects in the investigation?
 17 A No.
 18 Q Explain.
 19 A Well, there's certain information that I may share
 20 with a suspect.
 21 Q For example?
 22 A I may share something that I know in order to extract
 23 further information from a suspect.
 24 Q Give me an example.
 25 A I may ask a person what they were doing at the

1 which you may share evidence with the person who's a
 2 potential suspect?
 3 A There's very few. I can't recall right now.
 4 Q Can you think of any other kinds of examples, other
 5 than the example you just gave me where you want to
 6 try to catch them in a contradiction?
 7 A I -- I don't know.
 8 Q Okay. So you can't -- you can't think of any others?
 9 A No, I can't.
 10 Q Okay. So one example of a scenario where you would
 11 share information with a suspect is where you're
 12 trying to catch them in a potential lie; correct?
 13 A I'm just trying to judge their level of honesty.
 14 Q Okay. Is that something you -- that's an important
 15 role when interviewing suspects; correct?
 16 A At times, yes, it is. It is.
 17 Q Okay. And so when you have someone who's a potential
 18 suspect, for the most part, you're not sharing
 19 information with them about the underlying incident
 20 and what you have learned about it; correct?
 21 A That's correct.
 22 Q Okay. And the reason -- part of the reason is
 23 because you want to see what they're going to say
 24 about that to see if you can catch them in any lies,
 25 for example; correct?

1 grocery store.
 2 Q And what would be the purpose of that?
 3 A Because I would have video that they were at the
 4 grocery store, so I would see if they would say yes,
 5 I was at the grocery store, or no, I was not.
 6 Q So you would assess whether they're potentially lying
 7 or not?
 8 A That's correct.
 9 Q Okay. But, now, you wouldn't show them that first;
 10 you would show that, and then after you asked them
 11 first whether or not they had been at the grocery
 12 store, see if they're going to tell you the truth or
 13 not? In that example.
 14 A In that example, I may or may not show them.
 15 Q In that example, if you were going to show them the
 16 video, you would do it after you'd already asked them
 17 so you could find out whether or not they were lying,
 18 whether they were going to lie about it; correct?
 19 A That's correct.
 20 Q Right. So you'd ask them whether they were at the
 21 grocery store, and then afterward, you might show
 22 them the video to prove that they, in fact, were at
 23 the grocery store?
 24 A I may.
 25 Q Okay. So what are other types of circumstances in

1 A Well, even if they are going to lie and I do know
 2 about it, it's just a way so that I can document what
 3 they're saying. Even if I know it's not true, it's a
 4 documentation of what they believe at that time.
 5 Q Okay. And so -- and that's one of the reasons why
 6 you're not showing them evidence from -- that you
 7 learned during the course of your investigation;
 8 correct?
 9 A That's correct.
 10 Q Okay. All right. Now, when you have someone who's a
 11 suspect or potential suspect in a criminal
 12 investigation, would you agree they're one of the key
 13 witnesses in the case?
 14 A Yes.
 15 Q Okay. What kinds of things do you do when you
 16 prepare for an interview with a key witness like
 17 that?
 18 A Gather as much information as I can about the
 19 investigation, I gather what type of evidence has
 20 been located on scene, and I get a game plan together
 21 as far as what type of questions I'm going to ask
 22 before going in --
 23 Q What are -- oh, go ahead.
 24 A Before going in to ask those question.
 25 Q What are the kinds of -- do you have strategies

1 about the kinds of questions that you would ask when
 2 you go into an interview like that?
 3 A I want to be able to answer the who, what, where,
 4 when, why, how.
 5 Q You -- what do you mean by you want to be able to
 6 answer that?
 7 A I want to have in my mind that those are the answers
 8 I'm trying to extract from the individual so I have
 9 an understanding.
 10 Q Okay. And when you're trying to get those answers
 11 from them, what are you assessing about that
 12 individual when they're giving you those answers?
 13 We're talking about a potential suspect here.
 14 A Sure. Their truthfulness in the answering of the
 15 questions and their understanding of the questions
 16 that are being asked.
 17 Q And would you say that the interview of the a suspect
 18 is often one of the key components of a decision
 19 about whether to charge that potential suspect?
 20 MR. GENDREAU: I'm going to object to the
 21 extent you're asking an opinion question.
 22 You can answer.
 23 A I'm just documenting what the individual says so that
 24 I can present that information to the person who will
 25 make that decision.

1 Q All right. And it's often -- it's been the case in
 2 your career that the interview with the potential
 3 suspect has often become a key piece of evidence that
 4 determines whether or not you're going to charge that
 5 person?
 6 A If --
 7 MR. GENDREAU: Same objection.
 8 You can answer.
 9 A Again, for the individual who's going to make that
 10 charging decision, that's a key -- a key focus.
 11 Q Okay. In fact, you've had instances in your career,
 12 I assume, where your interview with the potential
 13 suspect became a key piece of the decision to charge
 14 that person; right?
 15 A That's correct.
 16 Q Often because that person lied when they spoke to
 17 you; correct?
 18 A There's many different factors why.
 19 Q What are the kinds of things that a person could do
 20 in an interview who's a potential suspect that would
 21 sort of be nail in the coffin, we're going to charge
 22 you?
 23 A Confess.
 24 Q What else?
 25 A Minimize their role.

1 Q What else?
 2 A They could omit certain information.
 3 Q What else?
 4 A And they could provide false information.
 5 Q What else? Anything else? Sorry. You just --
 6 verbally.
 7 A I'm sorry.
 8 Q That's what you can think of now?
 9 A That's what I can --
 10 Q Potentially other things as well, but that's --
 11 A Potentially. Sorry.
 12 Q Do you recognize that Officer Kenny was a key suspect
 13 in this case? Do you agree?
 14 MR. GENDREAU: Objection in the sense
 15 you're asking for opinion testimony.
 16 You can answer.
 17 A He was a key interview.
 18 Q And he was -- in fact, he was the suspect in this
 19 case; correct?
 20 A I -- yes.
 21 Q Yes?
 22 A Uh-huh.
 23 Q He was the person you were investigating criminally
 24 in this case?
 25 A That's correct.

1 Q Would you agree that Officer Kenny was afforded
 2 certain privileges that are not afforded to the usual
 3 witness --
 4 MR. GENDREAU: Object.
 5 BY MR. SWAMINATHAN:
 6 Q -- in your other cases?
 7 MR. GENDREAU: Object. Asking opinion
 8 questions.
 9 You can answer.
 10 MR. HALL: Objection to form. Go ahead.
 11 A No.
 12 Q Why do you disagree?
 13 A He was -- he was interviewed just like anyone else
 14 would have been interviewed.
 15 Q So you believe he was treated -- your testimony is
 16 that he was treated exactly the way you treat any
 17 other potential suspect?
 18 MR. HALL: Objection to form.
 19 Go ahead.
 20 A There's many different forms of conducting an
 21 interview. So it's not exactly the same.
 22 Q Putting aside instances in which you're interviewing
 23 an officer in a police shooting, would you agree
 24 that -- well, strike that.
 25 Let's put it this way. Would you agree

1 that Officer Kenny was treated differently than the
 2 vast majority of folks who you interview when you're
 3 investigating crimes?
 4 MR. GENDREAU: Objection as to opinion
 5 question.
 6 You can answer.
 7 MR. HALL: And I'll object to form.
 8 Go ahead.
 9 A There was some differences.
 10 Q What were the differences?
 11 A Timing. When he was interviewed.
 12 Q Explain.
 13 A We allow the officer, when they're ready, to make the
 14 interview -- formal interview with you. It's our
 15 policy to wait a minimum of 72 hours.
 16 Q Okay. And that's not something you do for witnesses
 17 in the normal course of your investigations; correct?
 18 A In other criminal cases, not officer-involved death
 19 investigations, that's correct.
 20 Q Okay. They don't get the same 72-hour waiting
 21 period; correct?
 22 A Depends. Sometimes.
 23 Q What are the circumstances?
 24 A If the individual is in the hospital for some reason,
 25 if they're under some medication, we wait until they

1 can understand the questioning.
 2 Q So putting aside sort of exigent medical
 3 circumstances, there's no -- there's not a
 4 circumstance in which you, for other witness,
 5 non-officers in a non-officer-involved death
 6 investigations, where you have a policy of putting it
 7 off for 72 hours?
 8 A That's correct.
 9 Q Okay. What are the other differences in terms of how
 10 Officer Kenny was treated versus other criminal
 11 suspects?
 12 MR. HALL: I'll just object to form.
 13 Go ahead.
 14 A His interview was a voluntary interview.
 15 Q Explain what you mean by that.
 16 A So he didn't have to interview with us. He was not
 17 being ordered by his department. So it was
 18 voluntary.
 19 Q Okay. And if he had not volunteered to do it, would
 20 you all have conducted his interview?
 21 A No.
 22 Q Okay. You wouldn't have been able to conduct his
 23 interview unless he voluntarily did it?
 24 A That's correct.
 25 Q Okay. Any other differences?

1 A He had representation there. That's not always the
 2 case.
 3 Q And when you say "that's not always the case,"
 4 individuals have the opportunity to have an attorney
 5 be there; is that true?
 6 A That's correct.
 7 Q Okay. If an individual says "I'd like my attorney to
 8 be there" in a normal investigation, what do you do?
 9 A We wait until they have representation there.
 10 Q Okay. In Officer Kenny's case, what's the
 11 difference?
 12 A He was represented by, in this case, WPPA, so we went
 13 through their -- his attorney to set up the interview
 14 and to actually have the formal interview.
 15 Q And you wouldn't have been allowed to talk to Officer
 16 Kenny directly without his attorney being present;
 17 correct?
 18 A Correct.
 19 Q And that's a matter of policy?
 20 A Yes.
 21 Q Whose policy?
 22 A That's been DCI's practice. I guess I don't know if
 23 it's our policy.
 24 Q Okay. What other differences?
 25 A That's all I can recall at this time.

1 Q Did he get to review any information that you
 2 wouldn't normally share with a criminal suspect, the
 3 other criminal suspects?
 4 A I don't know.
 5 Q You don't know whether he was allowed to view any
 6 evidence or information from the case before he was
 7 interviewed?
 8 A I don't know.
 9 Q Okay. So you -- during the course of the time that
 10 you -- strike that.
 11 During the course of your involvement in
 12 this investigation including through the time that
 13 you wrote your summary report, you don't know whether
 14 Officer Kenny had access to any information about the
 15 underlying circumstances of the case or the evidence
 16 that had been developed at the time he was
 17 interviewed; is that true?
 18 MR. HALL: Objection. Form.
 19 Go ahead.
 20 A He -- okay. Can you repeat the question one more
 21 time?
 22 Q Yeah. Let me ask it in a better way.
 23 Do you have any knowledge about whether
 24 Officer Kenny had a chance to review any information
 25 related to the circumstances of the shooting before

1 he was interviewed?
 2 MR. HALL: Objection to form.
 3 Go ahead.
 4 A No.
 5 Q Okay. So you -- even to the time you wrote your
 6 summary report, you didn't learn any information
 7 about that?
 8 A No. I'm saying he did not.
 9 Q He did not? So --
 10 A Correct.
 11 Q Okay. So you're saying at no point before he had his
 12 interview was he allowed -- was any information
 13 shared with him about evidence or information from
 14 the case; is that right?
 15 A Okay, by who? Can you be -- can you clarify that?
 16 Q Well, fair.
 17 Was any information that was learned during
 18 the course of the investigation shared by any DCI
 19 agent with Officer Kenny before his interview?
 20 A No.
 21 Q Okay. Do you know if any information at all was
 22 shared with Officer Kenny before his interview?
 23 A No, I do not.
 24 Q Okay. As you sit here today, do you have an
 25 understanding about whether Officer Kenny received

1 any information about the underlying evidence in the
 2 case before his interview?
 3 A No, I do not.
 4 Q Okay. Does DCI have any policies or practices to try
 5 to ensure that the person who's the suspect and is
 6 going to be interviewed does not have access to
 7 information about the underlying evidence that's been
 8 obtained?
 9 A It's our practice we don't share any of our
 10 information with anyone.
 11 Q So DCI's policy is you would not share any
 12 information about any evidence you've obtained during
 13 the investigation with Officer Kenny?
 14 A It's our practice.
 15 Q And as far as you know, that was not -- no
 16 information was shared with him; is that right?
 17 A That's correct.
 18 Q Okay. Did Officer Kenny -- was Officer Kenny taken
 19 on a walkthrough of the site of the shooting?
 20 A I don't recall.
 21 Q You don't know either way?
 22 A I don't.
 23 Q Does DCI have a policy or practice that says the
 24 officer should not conduct a walkthrough before we
 25 conduct our interview of the officer?

1 A No.
 2 Q DCI has a policy that says you don't interview the
 3 officer for at least 72 hours; correct?
 4 A It's a practice and it's a suggestion.
 5 Q Okay. So DCI has a practice of not interviewing
 6 officers for at least 72 hours; correct?
 7 A At least.
 8 Q Okay. But DCI doesn't have any practice that says
 9 during those 72 hours, officer, don't go do a
 10 walkthrough of the -- of the location of the shooting
 11 incident?
 12 A No.
 13 Q Okay. They have no such practice?
 14 A Can you clarify?
 15 Q Yes. DCI has a practice about putting off any
 16 interviews of the officers for 72 hours; correct?
 17 A At a minimum.
 18 Q Okay. Does DCI have any practice in which they say,
 19 but during those 72 hours or more, the officer shall
 20 not do a walkthrough or review any evidence from the
 21 underlying shooting incident?
 22 MR. HALL: I'm going to object to form.
 23 Go ahead.
 24 A I'm sorry. Can you break down that question for me,
 25 please?

1 MR. SWAMINATHAN: Can you read that back,
 2 please?
 3 (Record was read back as requested.)
 4 A We don't have anything written that says that. It's
 5 just our practice.
 6 Q Your practice is to tell -- is that the officer
 7 should not do a walkthrough?
 8 A We don't have those conversations with the officer.
 9 We ourselves would try to conduct a walkthrough that
 10 evening, if possible.
 11 Q Let me see if I understand that. When you say you
 12 try to conduct a walkthrough, you mean for
 13 yourselves?
 14 A No. We would -- if it's possible, if it's not going
 15 to put the officer in jeopardy for his safety or
 16 evidence that's not going to be destroyed, we would
 17 ask or request a walkthrough with the officer who's
 18 involved. But it's not always conducted.
 19 Q When do you look for that? When do you ask to do
 20 that walkthrough?
 21 A That evening.
 22 Q The evening of the incident itself?
 23 A We try. If certain things are -- are not occurring
 24 at the scene.
 25 Q Okay. And in this instance, there were things

1 occurring at the scene, being protests, for example?
 2 A Protests is one example.
 3 Q So if there hadn't been the protests, ideally you all
 4 would have gone back and done a walkthrough with
 5 Officer Kenny at the scene; correct?
 6 A In this instance, no.
 7 Q Explain.
 8 A There was evidence still at the scene. And to have
 9 the scene integrity, we did not have Officer Kenny
 10 come back to the scene. It wasn't feasible.
 11 Q Okay. So if it had been feasible, ideally you do a
 12 walkthrough with the officer the same day of the
 13 incident; is that correct?
 14 A If the officer and his attorney would allow that.
 15 It's up to them.
 16 Q If they consent?
 17 A If they consent.
 18 Q All right. So actually, the practice is not that you
 19 say -- that you prohibit the officer from doing it --
 20 doing a walkthrough in those 72 hours, the practice
 21 is let's try to do a walkthrough during those
 22 72 hours; correct?
 23 A If it's feasible, yes, that's correct.
 24 Q So your goal is to try to do a walkthrough with the
 25 officer to review the location of the incident before

1 they're interviewed; correct?
 2 A That would be correct.
 3 Q Okay. And that is not something you would do during
 4 the course of your normal investigations of criminal
 5 suspects; correct?
 6 MR. HALL: Object to form.
 7 Go ahead.
 8 A Possibly.
 9 Q Is that something you make a normal practice to try
 10 to do, to take the criminal suspect and walk them
 11 through the location of an underlying crime?
 12 A No.
 13 Q Okay. Why not?
 14 A Well, for safety purposes, you wouldn't take a
 15 suspect back to the scene.
 16 Q Okay. Any other reasons?
 17 A They probably would be in custody by then.
 18 Q Okay. Any other reasons?
 19 A Again, scene integrity. If there was a chance of
 20 collecting further evidence after the interview, I
 21 wouldn't want anyone returning back to the scene.
 22 Q Any other reasons?
 23 A No.
 24 Q Why are none of those things an issue in an
 25 officer-involved shooting?

1 MR. GENDREAU: Object to the extent you're
 2 asking opinion questions.
 3 You can answer.
 4 A In officer-involved death investigations, the scene
 5 is temporarily closed, locked down. It's taped off.
 6 There's officers surrounding that scene. The scene
 7 integrity is there. It wouldn't be an issue.
 8 Q So ideally, when you have potential criminal suspects
 9 where you don't have any scene integrity issues and
 10 you don't have any issues about safety, is it your
 11 normal practice to take those suspects through the
 12 scene before you ask them questions?
 13 A No, it's not.
 14 Q The practices that are in place that you've just
 15 described to me about waiting 72 hours, do you know
 16 why that practice is in place?
 17 MR. HALL: Object to form. Asked and
 18 answered.
 19 A It is DCI's practice. We do follow some of the
 20 guidelines that are set forth in Force Science --
 21 it's a training institute -- and we do follow some of
 22 those guidelines. And that is one the guidelines
 23 they suggest.
 24 MR. SWAMINATHAN: I'm sorry. Can you read
 25 that back, please?

1 (Record was read back as requested.)
 2 Q So the reason DCI has the 72 hour policy is because
 3 of a training from Force Science?
 4 A That is one of the reasons, yes. Force Science is a
 5 training that a lot of the administrators,
 6 supervisors, we look at for training purposes as far
 7 as some of their suggestions, guidelines on
 8 officer-involved death investigations.
 9 Q Okay. And what is the reason for the guideline to
 10 say "wait 72 hours," according to Force Science?
 11 A Force Science says memories can be enhanced with
 12 time, and that because a scene is so chaotic for an
 13 officer, that they might not remember as well if you
 14 took an interview that evening versus waiting the
 15 72-hour suggested time frame.
 16 It's -- the blood pressure rises in an
 17 instant, and it may take days for that to come down.
 18 So that's why the memories get enhanced also.
 19 Q Memory gets enhanced over time?
 20 A That's correct.
 21 Q That's what Force Science says?
 22 A That's what they say.
 23 Q Do you agree with that?
 24 MR. GENDREAU: Object to the extent you're
 25 asking an opinion question.

1 MR. HALL: Objection to form and
 2 foundation.
 3 Go ahead.
 4 A It has been my finding that when you wait a couple
 5 days, memories can be enhanced.
 6 Q Okay. And that wouldn't -- I'm sorry.
 7 A No. Go ahead.
 8 Q That would be true both for officers and for any
 9 other individuals; correct?
 10 MR. HALL: Objection. Form. Foundation.
 11 Go ahead.
 12 A Not necessarily.
 13 Q It's unique to police officers?
 14 A I'm not saying that. It's unique to when a situation
 15 can be very dynamic and there could be a lot of
 16 different emotions, a lot of different reactions
 17 going on.
 18 Q So that's not unique to police officers;
 19 circumstances in which there are -- which it's
 20 dynamic and there could be a lot of emotions, those
 21 are circumstances in which it might be appropriate to
 22 wait an additional period of time; correct?
 23 A Possibly, yes.
 24 Q Okay. And -- but that's not a luxury that's granted
 25 to your average criminal suspect; correct?

1 MR. HALL: Objection. Form.
 2 A Not necessarily.
 3 Q Okay. In fact, for the most part, it's not; correct?
 4 A That would be correct.
 5 Q Okay. Any other reasons for the 72-hour policy,
 6 other than what Force Science suggests?
 7 A That's been DCI's practice, and that's what we do.
 8 Q Okay. Any other reasons for that practice that
 9 you're aware of other than this Force Science
 10 directive or suggestion?
 11 A No.
 12 Q Okay. All right. I'm going to walk through some
 13 documents.
 14 MR. SWAMINATHAN: Can you mark this?
 15 (Exhibit No. 46 was marked for identification.)
 16 BY MR. SWAMINATHAN:
 17 Q Hand you what's Bates-stamped 654 through 655. It's
 18 a report dated March 16, 2015, at the top.
 19 Are you familiar with this document?
 20 A I am.
 21 Q Can you tell me what this document is?
 22 A It is a DCI report that I authored regarding the
 23 contact with officer Matthew M. Kenny at St. Mary's
 24 Hospital.
 25 Q Is this one of the documents you reviewed in

1 preparation for today's deposition?
 2 A It is.
 3 Q Okay. I want you to take a quick look at this
 4 document. Or, take as long as you need to look at
 5 this document and let me know if there's anything
 6 else about your meeting with Officer Kenny that you
 7 recall that's not reported in this report.
 8 A Okay.
 9 Q Having now had a chance to review this report,
 10 anything else you remember about your interaction
 11 with Officer Kenny at the hospital that's not
 12 contained in this report?
 13 A No.
 14 Q Okay. If you look at the fourth paragraph, there's a
 15 statement in the middle of the paragraph that says,
 16 "Special Agent Fernandez introduced herself and
 17 provided Officer Kenny her contact information."
 18 Do you see that?
 19 A Yes, I do.
 20 Q Okay. Did he ever contact you after you provided him
 21 with your contact information?
 22 A No, he did not.
 23 Q Okay. Done with that one.
 24 (Exhibit No. 47 marked for identification.)
 25 BY MR. SWAMINATHAN:

1 Q Showing you a document marked Exhibit 47,
 2 Bates-stamped DCI 87 through DCI 93. Take a moment
 3 and look at this document. Let me know when you've
 4 had a chance to take a look.
 5 And I'm going to ask you the same question
 6 for each of these documents, which is just to review
 7 them and let me know if you have anything else to add
 8 about the underlying interview, just so you're aware.
 9 But let me start by having you just take a
 10 quick look at the document and tell me if you're
 11 familiar with it.
 12 A I am familiar with it.
 13 Q Okay. Is this one of the documents you reviewed in
 14 preparation for today's deposition?
 15 A No, it's not.
 16 Q Okay. All right. Can you tell me what this document
 17 is?
 18 A Sure. It's a Wisconsin Department of Justice DCI
 19 report regarding the interview with Anthony Michael
 20 Limon. It's authored by Benjamin Poller.
 21 Q Okay. So you were not the author of this report?
 22 A I was not.
 23 Q Okay. Did you participate in the interview of
 24 Anthony Limon?
 25 A Yes, I did.

1 Q Okay. What was your involvement in that interview?
 2 A I was the second agent in this interview with Special
 3 Agent Poller.
 4 Q Okay. Can you review this report, take as much time
 5 as you need, and let me know if there's anything else
 6 you remember of that interview with Mr. Limon,
 7 Mr. Anthony Limon, that's not contained in this
 8 report.
 9 A Sure.
 10 Q Have you had a chance to review the document?
 11 A I have.
 12 Q Is there anything else that you remember about your
 13 interview with Anthony Limon that's not contained in
 14 the report you just reviewed?
 15 A Not that I recall.
 16 Q Okay. Looking at the second paragraph here, this is
 17 on DCI 89, the second paragraph of the text of the
 18 report, it says, "Officer Bart O'Shea informed
 19 Special Agent Poller that the video camera was
 20 recording in the interview room."
 21 Who's Officer Bart O'Shea?
 22 A He's a City of Madison police officer.
 23 Q And so who had requested that -- so was he
 24 communicating that there the interview was being
 25 recorded?

1 A Yes.
 2 Q Okay. Who had made the decision to video record the
 3 interview?
 4 A City of Madison police officer Bart O'Shea.
 5 Q Okay. So he decided that they were going to
 6 videotape that interview, not Special Agent Poller or
 7 yourself?
 8 A That's correct.
 9 Q Okay. Do you know why the decision was made to
 10 record the video or record the interview?
 11 A No.
 12 Q Okay. Did you guys have any problems with the fact
 13 that the interview was being recorded?
 14 A No.
 15 Q Were you intending to record the interview?
 16 A No.
 17 Q Do you know what -- were you guys provided a copy of
 18 that video?
 19 A Yes.
 20 Q Okay. Let me ask you about paragraph 6. It says,
 21 "Limon stated that he was good talking to police with
 22 his aunt and attorney present."
 23 Is that exactly what his language was, he
 24 was "good talking to police with his aunt and
 25 attorney present"?

1 A I don't recall.
 2 Q Do you recall either way exactly how it came out?
 3 A I don't recall how it came out.
 4 Q So basically you recall that he was communicating to
 5 you all that at that point he wanted to have his
 6 attorney present?
 7 A Yes.
 8 Q Okay. And that's when Poller went out to go get his
 9 attorney and his aunt; correct?
 10 A Yes.
 11 Q Okay. And what happened next? Did you then ask
 12 Limon some additional questions about having his
 13 attorney present?
 14 A No. I asked if he knew who his attorney was.
 15 Q So you asked him some additional questions about his
 16 attorney?
 17 A Yeah. I didn't know the name of the individual or
 18 couldn't recall.
 19 Q Okay. So after he had said he wanted to have his
 20 attorney present and his aunt present, you then asked
 21 him additional questions about the attorney; correct?
 22 A That question.
 23 Q Okay. And what was the question?
 24 A "Do you know who he is?"
 25 Q Okay. And ultimately when you asked him these

1 additional questions, you all then determined that,
 2 in fact, he didn't need to have an attorney present;
 3 correct?
 4 A No.
 5 Q Explain what happened.
 6 A He indicated that he didn't even know who he was.
 7 Q Okay.
 8 A And that --
 9 Q That's not a communication that he does not want an
 10 attorney present, is it?
 11 A No.
 12 Q Okay. So why did you -- why did -- after he said he
 13 wanted to have an attorney present, did you
 14 ultimately not -- why did you not honor that? Why
 15 did you ultimately have -- do the interview without
 16 an attorney present?
 17 A There were conversations after that.
 18 Q But why did you have additional conversations with
 19 him? He already said he wanted to have an attorney
 20 present.
 21 A When the interview started, there were conversations
 22 at that point, and he said he didn't want the
 23 attorney present or his aunt.
 24 Q So the attorney and aunt came into the room?
 25 A They didn't.

1 Q Okay. So he had said he wanted to have an attorney
 2 present, then you asked him about the attorney?
 3 A No. That's not correct.
 4 Q Explain.
 5 A He said -- his -- he said, best of my recollection,
 6 that that was fine that the attorney was there. He
 7 didn't ask for the attorney, just that it was fine.
 8 And then later, as the attorney was going to get the
 9 attorney, he said he didn't need his attorney or his
 10 aunt in the room.
 11 Q Okay. And that was in response to a question you
 12 asked him about this attorney, who this attorney
 13 person was?
 14 A Just the name.
 15 Q Okay.
 16 A Yes.
 17 Q And he had -- he had made enough of an indication
 18 about having the attorney present that Agent Poller
 19 had gone out to go get the attorney; correct?
 20 A That's correct.
 21 Q Okay. So after that happens, why didn't y'all just
 22 have the attorney be there?
 23 A It was his decision not to have the attorney there.
 24 Q Okay. Did he specifically --
 25 MR. GENDREAU: "His decision," you mean

1 the witness's?
 2 A Yes. By Anthony Limon.
 3 Q Okay. You proposed a suggestion to him; right? You
 4 said, "Well, you could -- why don't you have your
 5 aunt and attorney wait outside, and if you want them
 6 to join us, they can join us"; right? That was the
 7 suggestion -- proposal you made?
 8 A I don't recall.
 9 Q Okay. Did you suggest to him at all that you don't
 10 need to have an attorney there?
 11 A I don't recall.
 12 Q Okay. Why didn't you just say to him when he was
 13 asking you these questions, "Yeah, you can have your
 14 attorney there, and then if you want to have your
 15 attorney leave because you'd rather not have your
 16 attorney here, we can go that direction instead."
 17 Why did you propose having the attorney
 18 stay out and then, if he needs, he can bring the
 19 attorney in?
 20 A Anthony Limon was coming in as a witness. He was not
 21 under arrest.
 22 Q And he had requested that his attorney be brought in?
 23 A He didn't request it. He -- he was saying it was
 24 fine and -- it wasn't a request by him.
 25 Q And you all were going to get his attorney; correct?

1 A Agent Poller was going to have further conversations.
 2 Q And through the additional questioning that you then
 3 asked him, ultimately he agreed not to have an
 4 attorney present; correct?
 5 A Again, I didn't question him about it. It was more
 6 who is this person.
 7 Q Do you have a preference about whether someone has
 8 their attorney present or not present when they're
 9 interviewing witnesses?
 10 A No, I don't.
 11 Q No preference whatsoever?
 12 A No.
 13 Q Okay. Let's turn to the last page, page 5 of the
 14 report. It's DCI 93.
 15 Under evidence disposition, it says "SA
 16 Poller placed one optical disk with a recorded
 17 interview that SA Poller received from SA Raphael De
 18 La Rosa on 3/12/2015 into evidence."
 19 Do you know what optical disk of recorded
 20 interview this is referring to?
 21 A That would be the interview with Anthony Limon.
 22 Q Okay. Let's move on.
 23 (Exhibit No. 48 was marked for identification.)
 24 BY MR. SWAMINATHAN:
 25 Q Handing you a document marked Exhibit 48. It's

1 Bates-stamped DCI 16 through 27. Wisconsin
 2 Department of Justice DCI interview and report dated
 3 March 8, 2015.
 4 Do you recognize this document?
 5 A I do.
 6 Q Is this a document you reviewed in preparation for
 7 today's deposition?
 8 A It is.
 9 Q And can you tell us generally what that document is?
 10 A It is an interview with Javier Limon, DCI report that
 11 I authored.
 12 Q I'd like you to take a look at this report. And let
 13 me know when you're done reviewing it and I'll ask
 14 you whether or not you have anything else that you
 15 remember about this interview that's not contained in
 16 this report.
 17 A Okay.
 18 Q Having had a chance to review this report, is there
 19 anything that you recall about your interview with
 20 Javier Limon that's not contained in this written
 21 report?
 22 A No.
 23 Q All right. In the case of Javier Limon, is it
 24 correct to understand that he had been interviewed by
 25 the Madison Police Department before you conducted

1 your interview?
 2 A That's correct.
 3 Q Okay. If you look at the first, second, third
 4 paragraph under "prior to start of interview," it
 5 says, "Gilbertson told agent that she understood"; do
 6 you see that paragraph?
 7 A Yes.
 8 Q Okay. What I want to understand is were Javier Limon
 9 and Anthony Limon still at the police station at that
 10 time?
 11 A Yes.
 12 Q Anthony had already been interviewed; correct?
 13 A No.
 14 Q Okay. Explain to me how it went down.
 15 A When City of Madison Police Chief Koval advised us
 16 that there was two individuals in the hallway that's
 17 adjoining the interview rooms and that one was an
 18 attorney and one was the aunt of Anthony and Javier
 19 Limon and that they wanted to speak with us prior to
 20 the interview, that was prior to Anthony Limon's
 21 interview.
 22 Q I see. Okay.
 23 Let me turn to the last page. And it's
 24 last page of the written text. So that's DCI
 25 Bates-stamped 20.

1 And before I -- I'm going to ask you about
 2 the last paragraph, but before I do, was this
 3 interview recorded?
 4 A A portion had been inadvertently recorded.
 5 Q Okay. What portion was inadvertently recorded?
 6 A The beginning.
 7 Q And who was that recorded by inadvertently?
 8 A City of Madison police officer Bart O'Shea.
 9 Q Okay. And when you say "the beginning" of the
 10 interview, what -- what was the -- what happened in
 11 that part of the video?
 12 A I don't recall.
 13 Q Okay. Do you know why it was inadvertently recorded?
 14 A Because the Limon brothers were there as witnesses.
 15 They were voluntarily there. It was not policy or
 16 even my practice to record witnesses. So when I
 17 learned that it was recorded, I made the decision to
 18 not record it.
 19 Q Okay. So the interview of Javier Limon that -- the
 20 piece of it that was recorded, that was inadvertent?
 21 A That's correct.
 22 Q Okay. And you ultimately did get a copy of that
 23 recording?
 24 A That's correct.
 25 Q Okay. The interview with Anthony Limon was also

1 recorded?
 2 A That's correct.
 3 Q Was that also inadvertent?
 4 A No. I didn't know that that was one was recorded at
 5 all.
 6 Q Okay. So I guess it was inadvertent in the sense
 7 that you didn't -- if you learned about it during the
 8 course of that interview, you would have probably
 9 stopped that recording as well; correct?
 10 A Possibly.
 11 Q Okay. You stopped the recording of Javier Limon when
 12 you learned about it; correct?
 13 A I did.
 14 Q So in both cases you didn't have any intention of
 15 those recordings to take place?
 16 A I didn't.
 17 Q All right. Did Mr. O'Shea tell you why he was
 18 recording those interviews?
 19 A No. I didn't ask.
 20 Q Okay. And I have asked you about the -- this report,
 21 and I just want to make sure I'm clear. The last few
 22 pages of this Exhibit 48 are the Madison Police
 23 Department report of their interview with Javier
 24 Limon that's Bates-stamped DCI 24 through 27.
 25 Did you have a chance to review those as

1 well when you were reviewing this document?
 2 A No.
 3 Q Okay. So I guess my question is going to be -- if
 4 you haven't had a chance to look at this yet, please
 5 do.
 6 But my question is, is there anything about
 7 your memory of what Javier Limon had to say about the
 8 Robinson shooting that is not contained in this part
 9 of the report, as well? And so let me ask that
 10 differently.
 11 When I asked you earlier, having read the
 12 report, if there's anything else that you remember
 13 that's not contained in the report, you were
 14 referring exclusively to the DCI portion of the
 15 report?
 16 A That's correct.
 17 Q Okay. What I'd like you to do is look at the portion
 18 that's been authored by Mr. Ware of the Madison
 19 Police Department --
 20 A Okay.
 21 Q -- and let me know if that causes you to remember
 22 anything else about the information Javier Limon
 23 communicated that you -- that's not contained in this
 24 document.
 25 A So just to clarify --

1 Q Yes.

2 A -- are you asking me to review the report authored by

3 detective Bradley Ware and to indicate if there's any

4 information that Javier Limon told Detective Ware

5 that's not in his report?

6 Q Well, what I want to do is -- fair.

7 You were not there for that?

8 A That's correct.

9 Q Correct. You were not there for -- let me ask you --

10 you were not there for the interview of Javier Limon

11 by Madison police officer Bradley Ware; correct?

12 A That's correct.

13 Q What I want you to do is just look at this

14 document --

15 A Okay.

16 Q -- the report by Mr. Ware, and tell me if it

17 refreshes your recollection about anything else that

18 Mr. Limon communicated to you all.

19 Do you understand what I'm asking?

20 A So are you asking me to compare my report to his

21 report?

22 Q I don't need to you compare them. I'm not asking you

23 to say, you know, what are the contradictions between

24 what he told you all and what he told Madison police.

25 What I want to do, I want to make sure

1 there's nothing else that, down the road, you're

2 going tell me, hey, actually, I looked at Officer

3 Ware's report, and now suddenly I remember that he

4 said these additional things.

5 So I want you to just look at the report

6 prepared by Officer Ware and tell me if it refreshes

7 your recollection of anything else said by Mr. Limon

8 that was not contained in these two written reports.

9 A That makes sense.

10 (Exhibit No. 49 was marked for identification.)

11 BY MR. SWAMINATHAN:

12 Q Have you had a chance to review it?

13 A I have.

14 Q Having had a chance to review Police Officer Ware's

15 interview of Javier Limon, is there anything else you

16 remember about your interview of Javier Limon that's

17 not contained in these two written reports?

18 A No.

19 Q Okay. Is there anything else you remember at all

20 about Javier Limon's testimony or involvement or

21 knowledge about the case that's not contained in the

22 DCI and Madison police reports of his interviews?

23 A No.

24 Q Let's move on. Next one is Exhibit 49. It's

25 Bates-stamped DCI 620 through 622. It's a report

1 dated March 15th -- has a report date of March 15th,

2 2015.

3 Are you familiar with this document?

4 A It is. I'm sorry. I am.

5 Q Can you tell me what this document is?

6 A It is DCI report regarding the attempt to contact

7 Geoffrey Ketter. It's authored by myself.

8 Q Did you ever speak with Mr. Ketter?

9 A No, I did not.

10 Q Do you know if any other DCI agents spoke with

11 Mr. Ketter?

12 A I don't know.

13 Q Okay. Did you ever try again to contact Mr. Ketter

14 after the communication that's reflected in this

15 report?

16 A No, I did not.

17 Q Okay. So after you left -- basically you left him a

18 voice mail according to this report; correct?

19 A That's correct.

20 Q And then you never heard back from Mr. Ketter?

21 A That's correct.

22 (Exhibit No. 50 was marked for identification.)

23 BY MR. SWAMINATHAN:

24 Q This is marked Exhibit 50. It's Bates-stamped DCI 33

25 through DCI 40. Are you familiar with this document?

1 A Yes, I am.

2 Q Can you tell me what this document is?

3 A It's a DCI report regarding the interview with Kelly

4 Austin. It's a report that I authored.

5 Q Okay. Did you review this report in preparation for

6 today's deposition?

7 A I did.

8 Q Okay. Take a chance to review this report and let me

9 know when you're done.

10 Have you had chance to review it?

11 A I did.

12 Q Okay. Having had a chance to review this report, is

13 there anything you remember about your interview view

14 with Ms. Austin that's not contained in the written

15 report?

16 A No.

17 Q And I think you reviewed the DCI report, is that

18 right, that you authored?

19 A That's correct.

20 Q Can you look at, as well -- I think it's a page and a

21 half in the report of police officer -- Madison

22 police officer Naylor about his interview with

23 Ms. Austin. Can you look at that -- this is on page

24 DCI Bates stamp 38. Look at the section of his

25 interview with Ms. Austin.

1 Can you review that and let me know if it
 2 refreshes your recollection about anything else about
 3 Ms. Austin's knowledge of the Robinson shooting
 4 investigation.
 5 A I did review it.
 6 Q Okay.
 7 A And no, there is nothing else.
 8 Q Okay. Turning to page -- the first page of the text
 9 of the report, DCI 34.
 10 A Yes.
 11 Q Ms. Austin was interviewed first by the Madison
 12 Police Department; correct?
 13 A That's correct.
 14 Q And subsequently she was interviewed by you and a
 15 Madison police detective; correct?
 16 A That's correct.
 17 Q Ms. Kathleen Riley is the Madison Police Department
 18 detective who participated in your interview of
 19 Ms. Austin; correct?
 20 A That's correct.
 21 Q Okay. I think you testified earlier that there was
 22 an instance in which a Madison detective had wanted
 23 to ask some follow-up questions at the end of your
 24 interview?
 25 A That's correct.

1 Q Is that the interview?
 2 A That would be correct.
 3 Q Okay. So Ms. Riley had some additional questions?
 4 A Clarifications.
 5 Q Okay. Do you recall what her clarification questions
 6 were?
 7 A No.
 8 Q Do you recall how many questions Ms. Riley had?
 9 A No, I don't.
 10 MR. SWAMINATHAN: We can take a quick
 11 break.
 12 (A recess is taken from 2:19 p.m. to 2:26 p.m.)
 13 (Exhibit No. 51 was marked for identification.)
 14 BY MR. SWAMINATHAN:
 15 Q Okay. All right. Handing you a document marked
 16 Exhibit 51, Bates-stamped DCI 41 through 42. Take a
 17 chance to read this document and let me know what it
 18 is.
 19 A This is a DCI report regarding the attempt to contact
 20 the Konkol family. It's authored by myself.
 21 Q Okay. Did you make contact with the Konkol family?
 22 A No, I did not.
 23 Q Okay. Did you speak with anyone from the Konkol
 24 family in relation to the Robinson investigation?
 25 A No, I did not.

1 Q Okay. Having had a chance to review this report, is
 2 there anything else you remember about the
 3 involvement or noninvolvement of the Konkol family
 4 that is not contained in this document?
 5 A Yes.
 6 Q Tell me.
 7 A There's another report written by a City of Madison
 8 police officer regarding the contact with the Konkol
 9 family.
 10 Q Okay. And do you recall the contents of that report?
 11 A I don't.
 12 Q You weren't involved in that interview that was
 13 conducted by that Madison police officer; correct?
 14 A That's correct.
 15 Q Anything else you remember, having had chance to
 16 review that document?
 17 A No.
 18 (Exhibit No. 52 was marked for identification.)
 19 BY MR. SWAMINATHAN:
 20 Q Handing you a document marked Exhibit 52,
 21 Bates-stamped DCI 28 through 32. After having a
 22 chance to review it, let me know if you're familiar
 23 with this document.
 24 A I have had the chance to review it. I am familiar
 25 with the document.

1 Q Okay. Can you tell me what the document is?
 2 A A DCI report regarding the interview with State
 3 assembly person Chris Taylor. It's a report that I
 4 authored.
 5 Q Okay. Is this a document you reviewed in preparation
 6 for today's deposition?
 7 A It is.
 8 Q Okay. Having had a chance to review the report, is
 9 there anything you remember about your interview with
 10 Chris Taylor that's not contained in this report?
 11 A No.
 12 Q Go ahead.
 13 A I'm sorry. Can I add -- there's a telephone call,
 14 but I believe it's documented in another report.
 15 Q Okay. I was going to ask you about something here.
 16 I can't find it.
 17 At the bottom of page 1 of text, that's DCI
 18 29, the last paragraph begins with "Taylor put her
 19 car into park"; do you see?
 20 A Yes.
 21 Q There's -- the next -- the next sentence reads, "She
 22 saw a person who she believed was an officer out of
 23 the corner of her eyes moving quickly toward the
 24 direction of an unknown person she saw standing on
 25 Williamson Street."

1 Do you know what officer she's referring to
 2 there?
 3 A No, I do not.
 4 Q Did you ask her what officer she was referring to or
 5 what -- strike that. Do you know which officer it
 6 was?
 7 A No, I do not.
 8 Q Did you ask her which officer it was?
 9 A I don't recall.
 10 Q Okay. Did you show her anything to help her identify
 11 which officer it might have been?
 12 A No, I did not.
 13 Q Okay.
 14 (Exhibit No. 53 was marked for identification.)
 15 BY MR. SWAMINATHAN:
 16 Q Handing you a document marked Exhibit 53,
 17 Bates-stamped DCI 122 through 123.
 18 Are you familiar with this document?
 19 A I am.
 20 Q Can you tell me what this document is?
 21 A This is a DCI report regarding the receipt of an
 22 external drive with video from the Spirit Gas
 23 Station. It's authored by myself.
 24 Q Okay. Is this one of the reports you reviewed in
 25 preparation for today's deposition?

1 A Yes, it is.
 2 Q Okay. Can you -- basically, does this report
 3 summarize that you received the video form the Spirit
 4 Gas Station, the surveillance video from the Spirit
 5 Gas Station?
 6 A No.
 7 Q Explain.
 8 A Special Agent Jed Roffers received the video from the
 9 Spirit Gas Station. I received it from Special Agent
 10 Roffers.
 11 Q Got it. Anything else that had -- that happened with
 12 the video from the Spirit Gas Station other than what
 13 you've communicated here?
 14 A Outside of the report? No.
 15 Q Okay. Did you review the video?
 16 A No, I did not.
 17 Q Okay. Have you ever seen the video?
 18 A No, I did not.
 19 (Exhibit No. 54 was marked for identification.)
 20 BY MR. SWAMINATHAN:
 21 Q Handing you a document marked Exhibit 54,
 22 Bates-stamped DCI 49 through 53.
 23 Can you tell me what this document is?
 24 A This is a DCI report regarding the contact and return
 25 of property, an iPhone, to Anthony Limon.

1 Q Is this authored by you?
 2 A It is authored by me.
 3 Q Is this one of the documents you reviewed in
 4 preparation for today's deposition?
 5 A I don't recall.
 6 Q Okay. Take a chance and review this document and
 7 I'll ask you again if you remember anything else
 8 about that meeting with Anthony Limon that's
 9 documented in this report.
 10 Have you had chance to review the document?
 11 A I have.
 12 Q What is chinchilla food?
 13 A They had a chinchilla in the Williamson Street
 14 address, so they had to go get chinchilla food.
 15 Q What is food for a chinchilla?
 16 A It was, like, little pellets.
 17 Q All right. Having had a chance to review this
 18 report, is there anything else you remember about
 19 this contact with Anthony Limon?
 20 A No.
 21 (Exhibit No. 55 was marked for identification.)
 22 BY MR. SWAMINATHAN:
 23 Q Handing you a document marked Exhibit 55. It's
 24 Bates-stamped DCI 47 through 48.
 25 Are you familiar with this document?

1 A I am.
 2 Q Okay. Can you tell me what this document is?
 3 A It's a DCI report regarding the telephone contact
 4 with assembly person Chris Taylor that I authored.
 5 Q Okay. In this instance, you received a phone call
 6 from Representative Taylor; is that right?
 7 A That's correct.
 8 Q Okay. Having had a chance to review this document,
 9 is there anything else you remember about that
 10 telephone conversation that's not contained in this
 11 written report?
 12 A No.
 13 Q Okay. Anything else you remember about conversations
 14 with State Representative Taylor other than what's
 15 contained in this report and the earlier report that
 16 we discussed?
 17 A No.
 18 Q Okay.
 19 (Exhibit No. 56 was marked for identification.)
 20 BY MR. SWAMINATHAN:
 21 Q Handing you a document marked Exhibit 56,
 22 Bates-stamped DCI 54 through 55. Can you tell me
 23 what this document is?
 24 A This is a DCI report regarding the attempt to
 25 interview Julian King. It's authored by myself.

1 Q Did you have a chance to review this document in
 2 preparation to today's deposition?
 3 A I did.
 4 Q Having had a chance to review this document, is there
 5 anything else you remember about your attempts to
 6 interview Mr. King that are not contained in this
 7 report?
 8 A No, there's not.
 9 Q Okay. Were you ultimately able to speak with
 10 Mr. King?
 11 A No, I was not.
 12 Q Okay. Tell me about any other -- so tell me what
 13 efforts you made to reach out to Mr. King.
 14 A I drove to the residence. I made contact with
 15 someone at the residence and requested to speak with
 16 Julian King. I waited, I think it was like,
 17 15 minutes, and then the person returned and said he
 18 did not want to talk to investigators.
 19 Q Okay. And then did you make any follow-up attempts
 20 to speak with Mr. King?
 21 A I did not.
 22 Q Okay. Did you or any other DCI agents ever end up
 23 speaking with Mr. King?
 24 A Yes.
 25 Q Who spoke with Mr. King?

1 A I do not recall.
 2 Q So you believe another DCI agent did end up having a
 3 conversation with Mr. King?
 4 A Yes.
 5 Q Okay. Did you participate in that conversation?
 6 A No, I did not.
 7 Q Okay. Did you learn anything about that
 8 conversation?
 9 A Not that I recall.
 10 Q Okay.
 11 (Exhibit No. 57 was marked for identification.)
 12 BY MR. SWAMINATHAN:
 13 Q Handing you a document marked Exhibit 57,
 14 Bates-stamped DCI 138 through 139.
 15 Tell me what this document is.
 16 A This is a DCI report regarding attorney Syovata Edari
 17 and -- regarding Anthony Limon that's authored by
 18 myself.
 19 Q Did you have a chance to review this document in
 20 preparation for today's deposition?
 21 A I did.
 22 Q Okay. Having had a chance to review this report, is
 23 there anything you recall about your conversation
 24 with Attorney Edari about Anthony Limon that's not
 25 contained in this report?

1 A No.
 2 Q Okay. Turn to the last paragraph of this document.
 3 I think the second to last sentence says "Attorney
 4 Edari then inquired if there were any criminal
 5 charges against her client"; do you see that?
 6 A Yes.
 7 Q Okay. Were there any criminal charges against her
 8 client Anthony Limon?
 9 A No.
 10 Q Okay. And then it says, "Special Agent Fernandez
 11 told Attorney Edari that she could not comment at any
 12 part of the investigation, but that she would advise
 13 other investigators that she was representing Anthony
 14 Limon."
 15 Did you communicate to Attorney Edari that
 16 Anthony Limon was not the subject of any criminal
 17 charges?
 18 A No.
 19 Q Okay. Why didn't you?
 20 A Because I -- as my report says, I couldn't comment on
 21 any part of the investigation.
 22 Q Why can't you?
 23 A That's not my role. My role is to gather the facts,
 24 and that's what I was doing.
 25 Q But your criminal investigation was exclusively with

1 regard to Officer Kenny; correct?
 2 A The investigation was ongoing. I did not know what
 3 other investigators were finding.
 4 Q Was part of DCI's role also to look into potential
 5 criminal charges against any of the witnesses for the
 6 Robinson shooting?
 7 A Our focus was the officer-involved death
 8 investigation.
 9 Q Okay. So there was no investigation being done by
 10 DCI, I mean -- strike that.
 11 DCI's investigation in the case that you
 12 were involved with, at no point was the purpose or
 13 function of it to look into potential criminal
 14 charges against any of the witnesses to the events;
 15 correct?
 16 A That's correct.
 17 Q Okay. So would the -- would the answer to
 18 Mr. Edari's question be no, there were no criminal
 19 charges?
 20 A To Attorney Edari's question, I, again, did not know
 21 at that time, and I wasn't commenting. It wasn't my
 22 role to comment on the investigation.
 23 Q Whose role would it have been?
 24 A The district attorney.
 25 (Exhibit No. 58 was marked for identification.)

1 BY MR. SWAMINATHAN:
 2 Q Handing you a document marked Exhibit 58,
 3 Bates-stamped DCI 134 through 135.
 4 Can you tell me what this document is?
 5 A This is a DCI report regarding the interview with Ray
 6 Peterson, the property owner of 1125 Williamson
 7 Street. I authored this report.
 8 Q Did you review this report in preparation for today's
 9 deposition?
 10 A I did.
 11 Q Okay. And now having had a chance to review this
 12 report again today, is there anything else you
 13 remember about your interaction with Mr. Peterson
 14 that's not contained in this report?
 15 A No, there's not.
 16 Q Okay. My understanding is the report makes reference
 17 to a lock that needed to be fixed; is that right?
 18 A That's correct.
 19 Q Was that lock something that needed to be replaced or
 20 fixed because of the events during the course of the
 21 night of the Robinson shooting?
 22 A I don't know.
 23 Q Okay.
 24 (Exhibit No. 59 was marked for identification.)
 25 BY MR. SWAMINATHAN:

1 Q Handing you a document marked Exhibit 59,
 2 Bates-stamped DCI 140 to 141.
 3 Can you tell me what this document is?
 4 A It is a DCI report regarding the release of a scene
 5 and the door lock repair at 1125 Williamson Street
 6 No. 2. It's authored by me.
 7 Q Did you have a chance to review this document --
 8 strike that.
 9 Did you review this document in preparation
 10 for today's deposition?
 11 A Yes, I did.
 12 Q Okay. And having now had a chance to review the
 13 document again at today's deposition, is there
 14 anything else you recall about the release of the
 15 scene and your conversations with Mr. Peterson or
 16 Mr. Green that are not contained in this written
 17 report?
 18 A No, there's not.
 19 Q Okay.
 20 (Exhibit No. 60 was marked for identification.)
 21 BY MR. SWAMINATHAN:
 22 Q Handing you a document marked Exhibit 60. It's
 23 Bates-stamped DCI 142 to 143.
 24 Tell me what this document is.
 25 A This is a DCI report regarding the key for the new

1 lock taken to Attorney Edari's office. I authored
 2 this report.
 3 Q Okay. And did you review this in preparation for
 4 today's deposition?
 5 A I did.
 6 Q Okay. Anything else you remember about delivery of
 7 the key to Attorney Edari or your conversations with
 8 Attorney Edari that are not contained in this written
 9 report?
 10 A No.
 11 (Exhibit No. 61 was marked for identification.)
 12 BY MR. SWAMINATHAN:
 13 Q Handing you a document marked Exhibit 61,
 14 Bates-stamped DCI 1140.
 15 Can you tell me what this document is?
 16 A This is a Madison Police Department supplemental
 17 report. It appears to be authored by Detective
 18 Michelle Riesterer of the City of Madison Police
 19 Department.
 20 Q Have you seen this report before today?
 21 A No, I have not.
 22 Q Okay. So this is not a report that you authored, but
 23 it is of the styling of the Madison Police
 24 Department's reports; correct?
 25 A That's correct.

1 Q Okay. And this report by Detective Riesterer says
 2 that "On March 10th, DCI agent Fernandez requested a
 3 copy of the interview of Javier Limon, and I turned
 4 over to her five copies." Do you see that?
 5 A I do.
 6 Q Okay. Could you tell me about -- why did you request
 7 a copy of that interview on March 10th?
 8 A That would be so that that interview recording could
 9 be placed into evidence and the remaining copies
 10 would be turned over to the case agent, Agent De La
 11 Rosa, as common practice.
 12 Q Okay. So ultimately this -- the copies of the
 13 interview were going to be ultimately handed over to
 14 Officer De La Rosa as the -- Agent De La Rosa as the
 15 primary investigator for the scene?
 16 A That's correct.
 17 Q Okay. Did you review a copy of the interview?
 18 A I did attempt to review it. There was not much on
 19 it.
 20 Q Okay. This was the partial --
 21 A I would say yes.
 22 Q This was the partial interview?
 23 A That's correct.
 24 Q Nothing on it of any substance?
 25 A I don't recall. But it was very short.

1 Q Okay. What was the context in which you were trying
 2 to review that interview?
 3 A It was before I actually authored my report.
 4 Q Okay.
 5 (Exhibit No. 62 was marked for identification.)
 6 BY MR. SWAMINATHAN:
 7 Q Handing you a document marked Exhibit 62. It's
 8 Bates-stamped DCI 306 through 307. Do you know what
 9 this document is?
 10 A Yes.
 11 Q Go ahead. Tell me.
 12 A This is a DCI report regarding the work done by one
 13 of our computer analysts Ashley Boldig.
 14 Q What -- is this something you had requested that she
 15 do?
 16 A Yes.
 17 Q Okay. What did you request that Ms. Boldig do?
 18 A We made reference to the external hard drive from the
 19 Spirit Gas Station earlier, so she was asked to place
 20 the external hard drive on a -- to copy it on a
 21 second external hard drive which would be a working
 22 copy. So that was her -- her role.
 23 Q Okay. So she was creating a working copy for you?
 24 A She was creating a working copy for the case agent,
 25 not for me.

1 Q Okay. And that's for Officer De La Rosa?
 2 A Yes.
 3 Q Agent De La Rosa.
 4 A Yes.
 5 Q Okay. Thank you.
 6 Did you -- and you said earlier you didn't
 7 review the video from the Spirit Gas Station?
 8 A I did not.
 9 Q Okay.
 10 (Exhibit No. 63 was marked for identification.)
 11 BY MR. SWAMINATHAN:
 12 Q Handing you a document marked Exhibit 63,
 13 Bates-stamped 675 through -- DCI 675 through 677.
 14 Can you tell me what this document is?
 15 A This is a DCI report regarding the MPD report
 16 attachment for DCI report 15-1188/4. This report is
 17 authored by myself.
 18 Q Okay. Did you review this document in preparation
 19 for today's deposition?
 20 A I did not.
 21 Q Okay. Have you had a chance to review it just now?
 22 A Yes.
 23 Q Having had a chance to review it, is there anything
 24 else you remember about your discussions with
 25 Mr. Taylor that are not contained in this report or

1 the earlier reports involving Mr. Taylor?
 2 A This was an attachment to Representative Taylor's
 3 report that I inadvertently forgot to attach to my
 4 original report, so that's what this is.
 5 Q Oh. Can you explain what you mean?
 6 A It -- I became aware that there was an actual contact
 7 with Representative Taylor by City of Madison officer
 8 Michael Ott prior to DCI's arrival at -- when I
 9 became aware of it, I was supposed to attach it to my
 10 report, and I inadvertently forgot to do so, so then
 11 I did.
 12 Q So you're -- the reason for your report on DCI 676
 13 was to attach the Madison police report involving the
 14 communication with Mr. Taylor?
 15 A Yes. That's correct.
 16 Q Got it. Was there anything -- did you review the
 17 Madison police officer's report when you attached it?
 18 A I did.
 19 Q Okay. Was there anything about it you found
 20 consistent or inconsistent with what your discussions
 21 had been with Mr. Taylor?
 22 A Well, there was things that were consistent with the
 23 report.
 24 Q Was there anything inconsistent?
 25 A No.

1 Q Okay.
 2 (Exhibit No. 64 was marked for identification.)
 3 BY MR. SWAMINATHAN:
 4 Q Handing you a document marked Exhibit 64,
 5 Bates-stamped DCI 704 through 705.
 6 Can you tell me what this document is?
 7 A This is a DCI report regarding a contact with
 8 Attorney Eric Schulenburg. I authored this report.
 9 Q Did you review this document in preparation for
 10 today's deposition?
 11 A I did not.
 12 Q Having had a chance to review it, is there anything
 13 else you remember about this communication with
 14 Attorney Schulenburg that's not contained in this
 15 report?
 16 A No.
 17 Q Okay. In the second paragraph, it says, "Special
 18 Agent Fernandez further states that she was aware
 19 that he had been retained to represent Javier Limon
 20 and she would like to arrange for a time and date to
 21 conduct a follow-up regarding the previous interview
 22 she conducted with Limon on March 6, 2015"; do you
 23 see that?
 24 A Yes, I do.
 25 Q What is the follow-up that you wanted to conduct with

1 Mr. Limon?
 2 A I wanted to ask Mr. Limon about some damage that was
 3 found at 1125 Williamson Street.
 4 Q Damage where?
 5 A Damage in the hallway --
 6 Q When you -- go ahead.
 7 A -- hallway outside the apartment building.
 8 Q Is that the stairwell?
 9 A The stairwell. Better descriptor.
 10 Q Did you ever get those answers from Javier Limon?
 11 A No, I did not.
 12 Q Okay. You testified earlier about a conversation
 13 with a district attorney investigator, who's name I
 14 can't remember, but did that investigator learn any
 15 information from Javier Limon about the damage to the
 16 stairwell?
 17 A Investigator Linda Kohlmeyer from the Dane County
 18 Courthouse did get information. It's -- I don't
 19 recall if it was from Javier or Anthony.
 20 Q She got information from one of the two?
 21 A That's correct.
 22 Q But not both?
 23 A That's correct.
 24 Q All right. And do you remember what answer she got?
 25 A I don't.

1 Q Okay. Why did you want follow-up -- why did you want
 2 to get follow-up information about the damage to the
 3 hallway?
 4 A Because during the scene examination and after the
 5 reports were written, authored by Special Agent James
 6 Holmes, I noticed that he had made mention of that
 7 damage.
 8 Q Why did you feel that -- sorry. Go ahead.
 9 A I'm sorry. But I just wanted to get a better answer
 10 from Javier or Anthony Limon.
 11 Q Why did you feel that it was important to get
 12 information about the damage to the stairwell?
 13 A Just part of the overall investigation, to be
 14 thorough as far as any damage that was located.
 15 Q Okay. Anything specific about the damage in the
 16 stairwell that was important to you as part of this
 17 investigation?
 18 A It was mentioned in the scene examination. It was
 19 mentioned by Special Agent Holmes.
 20 Q Okay. Other than that, is there any -- did you have
 21 any understanding of why it was important to know the
 22 reason for the damage to the stairwell?
 23 A Based on the interview with City of Madison police
 24 officer Kenny, there was some altercation, and I
 25 wanted to know if this damage was part of that.

1 Q Okay. You wanted to know ultimately whether it was
 2 consistent with what Officer Kenny had described
 3 about the altercation; is that right?
 4 A That's correct.
 5 Q Okay. And did you ultimately get an answer on that
 6 question?
 7 A I don't recall.
 8 Q Okay. All right.
 9 So it was your -- let me ask you another
 10 question. It was your review of the interview with
 11 Matt Kenny that sparked that question; is that right?
 12 A No. That wouldn't be correct.
 13 Q Okay. Please explain.
 14 A It was just conversations. And I don't know with
 15 what agent exactly --
 16 Q Did you ever --
 17 A -- I had those conversations.
 18 Q I'm sorry. Did you ever review the interview of Matt
 19 Kenny?
 20 A I did.
 21 Q Okay. Did you participate in that interview?
 22 A I did not.
 23 Q Okay. When did you review the interview with Matt
 24 Kenny?
 25 A When I was doing the transcription. I did not

1 actually do the transcription when I was verifying it
 2 for accuracy. And also when I was writing the
 3 summary report.
 4 Q Okay. Any other time?
 5 A No.
 6 Q Okay. Was that -- were you reviewing the -- well,
 7 you reviewed the -- when you reviewed it, was it an
 8 audio or video?
 9 A It was -- the report?
 10 Q The -- the testimony of Matt Kenny that you reviewed
 11 since you weren't there, what form was it in when you
 12 were reviewing it?
 13 A Sorry. It was the audio.
 14 Q You were reviewing an audio recording, and first you
 15 were checking it for accuracy against a
 16 transcription?
 17 A That's correct.
 18 Q And then it was that transcript that you were then
 19 reviewing at the time you were writing your case
 20 summary report; is that right?
 21 A No, that's not correct. It was the report that was
 22 authored by Special Agent De La Rosa.
 23 Q At the time of your case summary report?
 24 A That's correct.
 25 Q All right. So you reviewed the interview of Matt

1 Kenny for the purposes of ensuring accurate
 2 transcription first? Let me rephrase that.
 3 The first time you reviewed the testimony
 4 of Officer Kenny that was given to Agent De La Rosa
 5 was in the form of a audio recording; correct?
 6 MR. HALL: I'll object to form.
 7 Go ahead.
 8 A I don't recall which form is which first.
 9 Q First time you saw Officer Kenny's testimony was when
 10 it was in the context of an effort to transcribe his
 11 testimony; correct?
 12 MR. HALL: Just so we're clear, it's not
 13 testimony; right?
 14 A That's correct.
 15 MR. HALL: That's the basis of my
 16 objection.
 17 BY MR. SWAMINATHAN:
 18 Q Go ahead.
 19 A The formal interview I reviewed in a report form. I
 20 don't recall if I reviewed the report form first or
 21 listened to the audio.
 22 Q So at some point you reviewed the -- you listened to
 23 the audio?
 24 A At some point.
 25 Q And at another time you viewed -- you reviewed Agent

1 De La Rosa's report about that interview; correct?
 2 A That would be correct.
 3 Q Okay.
 4 (Exhibit No. 65 was marked for identification.)
 5 BY MR. SWAMINATHAN:
 6 Q Handing you a document marked Exhibit 65,
 7 Bates-stamped DCI 887 through 891.
 8 Can you tell me what this document is?
 9 A This is a DCI report regarding the Wisconsin Crime
 10 Lab receipt of physical evidence, forms for crime lab
 11 items A through M. It's authored by myself.
 12 Q Did you review this document in preparation for
 13 today's deposition?
 14 A I did.
 15 Q Okay. Can you tell me what the purpose of this
 16 report is?
 17 A This is -- report was authored to document that
 18 Special Agent De La Rosa had received these receipts
 19 of physical evidence from the crime lab of certain
 20 items that were recovered from Williamson Street.
 21 Q Why isn't that something De La Rosa wrote himself if
 22 it was being received by De La Rosa?
 23 A He was on leave during that time.
 24 Q Okay. So by March 19th he was on leave?
 25 A That's correct.

1 Q Okay.
 2 (Exhibit No. 66 was marked for identification.)
 3 BY MR. SWAMINATHAN:
 4 Q Handing you a document marked Exhibit 66,
 5 Bates-stamped DCI 714 through 717.
 6 Are you familiar with this document?
 7 A I am.
 8 Q Can you tell me what this document is?
 9 A This is a DCI report regarding the contacts with
 10 Attorney Syovata Edari. I authored this report.
 11 Q Did you review it in preparation for today's
 12 deposition?
 13 A I did.
 14 Q Having had a chance to review it now, is there
 15 anything about the conversation with Attorney Edari
 16 that you remember that's not communicated in this
 17 report?
 18 A No.
 19 Q Okay. On page 1 of the report, DCI 715, the fourth
 20 paragraph, it says, "Special Agent Fernandez further
 21 stated that she would like to arrange for a time and
 22 date to conduct follow-up with Anthony Limon."
 23 What was the subject in which you wanted to
 24 follow-up with Anthony Limon?
 25 A That was the information that I previously mentioned

1 regarding the damage in the stairwell.
 2 Q And you never got that answer yourself?
 3 A That's correct.
 4 Q Turn to the next page, page 2. At the bottom of the
 5 page, the last two paragraphs, turning your attention
 6 to the last paragraph in particular on page 2. It
 7 says, "Attorney Edari told agents that she noticed
 8 that many of the Madison police officers have law
 9 degrees and that they like to draw conclusions in
 10 their reports.
 11 She said that the MPD officers should not
 12 try to be lawyers, but should leave that to those
 13 that are real attorneys.
 14 She also commented that she practices law
 15 in Milwaukee and she preferred Milwaukee to Madison.
 16 She stated that she preferred how the Milwaukee
 17 police chief handles things because he is honest,
 18 unlike Madison's police chief."
 19 Why did you include this in the report?
 20 A That was said by Attorney Edari.
 21 Q Isn't it totally irrelevant?
 22 A It's what she said. I document the facts. She made
 23 that comment.
 24 Q So in an effort -- you included this because, in an
 25 effort to be complete, you wanted to include -- you

1 felt you should include this information?
 2 A That was part of the conversation. The paragraph
 3 before that, she was inquiring about my background,
 4 so she made that comment, and that was part of our
 5 conversation.
 6 Q So in this instance, you agree this information that
 7 you communicated here that I have just read is almost
 8 certain to have no relevance to the decision about
 9 whether or not to prosecute or, you know, the
 10 decisions about what happened in the Robinson
 11 shooting; correct?
 12 A It's the same reason why I included the information
 13 about the chinchilla; it is information that
 14 occurred.
 15 Q Okay.
 16 A I don't -- I don't take out certain information that
 17 is said to me. It's reflected in the report.
 18 Q So your practice is basically to be as complete as
 19 possible?
 20 A As complete as possible.
 21 Q Okay. So you're really not making determinations
 22 about whether or not information is relevant or not
 23 relevant; if someone said it, you're going to include
 24 it?
 25 A Well, it's not a transcription --

1 Q Understood.
 2 A -- don't get me wrong. I'm not saying it's a
 3 transcription of the conversation. I'm saying if it
 4 was said in the context of my communication with a
 5 person or question, I include it in the report.
 6 Q Okay. Even if it's very likely to be totally
 7 irrelevant to the investigation, in the interest of
 8 being complete, you're going to include it?
 9 A In the interest of being thorough. I'm not making a
 10 decision if it's relevant or not at this point. I --
 11 if it's part of the conversation, it went in there.
 12 Q Okay. During the course of your documenting the
 13 interviews that you did, writing reports on the
 14 interviews that you did, you don't make
 15 determinations about whether something is relevant or
 16 not relevant, you just try to be complete about
 17 communicating what was said during those interviews;
 18 correct? Am I understanding you correctly?
 19 A Yeah. I think we have gone back and forth on that.
 20 I do attempt to be thorough. Again, it's not a
 21 transcription.
 22 Q Okay. And the only other point that I want to make
 23 clear about is, is in the context of these interviews
 24 you're doing and the reports you're writing on these
 25 interviews, I think you said you're not making

1 determinations about what's relevant and not
 2 relevant; is that right?
 3 A That would be correct.
 4 (Exhibit No. 67 was marked for identification.)
 5 BY MR. SWAMINATHAN:
 6 Q Handing you a document marked Exhibit 67. This is
 7 Bates-stamped April 13th -- sorry. This is
 8 Bates-stamped DCI 1328 through 1332.
 9 Are you familiar with this document?
 10 A I am.
 11 Q Can you tell me what it is?
 12 A It is a DCI report regarding the Wisconsin State
 13 Crime Lab confidential report of laboratory findings,
 14 forensic imaging. I authored this report.
 15 Q Okay. Did you review the -- the report, the forensic
 16 report that was attached?
 17 A I did.
 18 Q Okay. And what do you recall about the conclusions
 19 of that report?
 20 A I'm sorry. Can you repeat that, please?
 21 Q Yeah. What do you recall about the conclusions of
 22 that report?
 23 A The report had to do with one handgun that was the
 24 handgun of City of Madison police officer Matthew
 25 Kenny. And it was images that were taken of the

1 handgun that -- that were based on the examination by
 2 the Wisconsin State Crime Lab.
 3 Q Anything in the forensic report that's attached here
 4 that was particularly important or revelatory to you?
 5 A It was just important to indicate that this was a
 6 handgun used by Officer Kenny.
 7 Q Okay.
 8 A And assigned to Officer Kenny.
 9 Q Okay. That's it?
 10 A Yes, sir.
 11 Q Okay.
 12 (Exhibit No. 68 was marked for identification.)
 13 BY MR. SWAMINATHAN:
 14 Q Handing you a document, Exhibit 68. But before we --
 15 well, let's just identify this document. Can you
 16 tell me what Exhibit 68 is?
 17 It's Bates-stamped DCI 794 through 821?
 18 A It's a DCI report regarding the case summary, and I
 19 authored this report.
 20 Q So during the course of today's deposition, when
 21 we've been referring to the case summary or case
 22 summary report, is this the document we're talking
 23 about?
 24 A That's correct.
 25 Q Okay. And tell me what the purpose of this report

1 is.

2 A As far as the statute that was passed, this is one of

3 the provisions that if the district attorney

4 determines that no charges are filed, then the

5 investigators shall release a report. DCI determined

6 that the report that we would release would be a

7 summary report. So this is the report that gets

8 released to the public if there are no charges.

9 Q Okay. So at the time you're preparing this report,

10 you know whether or not there are going to be

11 charges?

12 A No, I do not.

13 Q Okay. Only thing you know is if there are no

14 charges, this report will be released to the public?

15 A That's correct.

16 Q Okay. And for the purposes of this report, you rely

17 on a template that we talked about in the beginning

18 of this deposition; is that right?

19 A I use that template as a guideline.

20 Q Okay. And before we start talking about the contents

21 of this report that you wrote, I want to understand.

22 This report serves exclusively to summarize other

23 investigative steps or information; correct?

24 A That's correct.

25 Q It doesn't contain any new investigative steps or it

1 doesn't contain any information about new

2 investigation that's not contained in prior

3 investigation reports; correct?

4 A That's correct.

5 Q Okay. We've now talked about a number of documents

6 that you authored and some documents that you haven't

7 authored. But is there anything else -- strike that.

8 Is there anyone else that you recall

9 interviewing during the course of your involvement in

10 the Robinson shooting investigation who we've not

11 discussed today?

12 A No.

13 Q Okay. And is there anybody else who you interviewed

14 or spoke to about -- strike that.

15 Is there anyone else who you interviewed as

16 a potential witness in this case who's not -- who

17 we've not discussed in the context of reports that

18 you would have gone through so far today?

19 A No.

20 Q Okay. All right. Let's talk about the report. Tell

21 me first about your process for preparing this

22 report.

23 A I went to the DCI report system, which is ASIS. I

24 pulled up the case number, 15-1188, which is

25 designated for the Madison Police Department

1 officer-involved shooting investigation or death

2 investigation. And then I had all the reports

3 printed out, including attachments.

4 Q Okay. When you say "all the reports printed out,"

5 you're referring to all the reports done by DCI

6 agents?

7 A All the reports that were in the ASIS reporting

8 system, which would be some attachments which

9 included the City of Madison police reports, some of

10 which were attached to DCI reports.

11 Q So it would basically consist of DCI reports plus

12 Madison police reports, where they're attached to DCI

13 reports?

14 A That's correct.

15 Q Did it -- did you also -- did the ASIS system also

16 review any forensic evidence or any other information

17 like that?

18 A There was reports that were from the Wisconsin State

19 Crime Lab, Wisconsin State Patrol, that were also in

20 our ASIS system. Those were printed off, including

21 the attachments.

22 Q Okay. All right. What else -- anything else that

23 you're looking at as you begin this process of

24 preparing your report?

25 A No.

1 Q Okay. Did anybody help you write the report, or did

2 you write it entirely yourself?

3 A I authored this myself.

4 Q So one person didn't write one section and you wrote

5 another section, anything like that?

6 A No.

7 Q For the purposes of writing this report, is it the

8 same thing; you did it in one file on your -- in

9 Microsoft Word on your computer?

10 A That's correct.

11 Q Okay. Are there more than one copy of that file that

12 you -- that you used to prepare this report?

13 A Can you --

14 Q Yeah. Let me ask it this way. Is there just one

15 file that you are -- one Microsoft word file that you

16 use to write this report?

17 A There's one file with the case number.

18 Q Uh-huh.

19 A Yes. There's just one file.

20 Q Okay. You didn't keep multiple different versions of

21 the document while you were preparing the case

22 report?

23 A No, I did not.

24 Q All right. And so we agree you did not interview all

25 the people who are discussed in this report; correct?

1 A That's correct.
 2 Q Okay. So for the purposes of the people who you did
 3 not interview who are included in this report, how
 4 did you obtain the information to include in this
 5 report?
 6 A There's a couple different ways: I read reports. I
 7 spoke to the individual agents who conducted those
 8 interviews. I also was directed by Special Agent in
 9 Charge Engels to look at a certain report. He -- or
 10 Special Agent Rafael De La Rosa.
 11 Q Tell me about that last part. You were instructed by
 12 them to look at a specific report?
 13 A To make sure I included it in my review. I did read
 14 all the reports, but they also made sure that I did
 15 look at a certain report because it was a big -- it
 16 was a large file.
 17 Q They said to you, "Hey, here's a certain report that
 18 you should make sure you're looking at"; is that what
 19 you mean?
 20 A That's correct.
 21 Q Okay. Who did this?
 22 A The case agent.
 23 Q Who's that?
 24 A De La Rosa.
 25 Q Okay.

1 summary; is that right?
 2 A That's correct.
 3 Q Okay. When you wrote this summary -- so would it be
 4 correct, then, to say where this report talks
 5 about -- strike that.
 6 Where this report summarizes interviews of
 7 other witnesses, that information comes entirely from
 8 the reports of the agents of those interviews; is
 9 that right?
 10 A That would be correct.
 11 Q Would that be correct?
 12 A That would be correct.
 13 Q Okay.
 14 A Yeah. Yes.
 15 Q So we talked earlier about your process for doing
 16 reports of interviews that you conducted, and
 17 basically I think what you said is you're not making
 18 discretionary decisions about what you think is
 19 relevant and not relevant, you're just trying to
 20 report everything; correct? Go ahead.
 21 A It's -- it's -- okay. It varies. It's not a
 22 transcription.
 23 Q Right.
 24 A But there's certain information that carries a little
 25 bit more weight than another portion of a report.

1 A And Special Agent in Charge Engels.
 2 Q Okay. Which case -- which reports did De La Rosa
 3 tell you you should make sure you include in the
 4 report?
 5 A Those would be certain interviews I was not privy to,
 6 being involved in. So -- just so that my attention
 7 was drawn to those, as well.
 8 Q Okay. Did you cut and paste any information from the
 9 reports that they had prepared?
 10 A There was some, some cut and paste.
 11 Q Okay. So would you say the first place you go if
 12 you're trying to include information from an
 13 interview that wasn't done by you is the report
 14 written by that person?
 15 A That's correct.
 16 Q Okay. And then were there any -- which -- were there
 17 any specific instances when you looked at that report
 18 that was prepared by someone else and said I need to
 19 talk to that agent to learn more?
 20 A No.
 21 Q Okay. So for the purposes of your report where
 22 you're reporting on interviews that you didn't
 23 participate in, the information contained in the
 24 reports by those other agents about those interviews
 25 was sufficient for your purposes in writing this

1 It's not because I'm deeming it as important. It's
 2 the relevance to what the focus of this investigation
 3 was.
 4 Q Right. And I didn't mean to -- I'm not trying to --
 5 I understand what -- I'm not trying to -- I'm not
 6 trying to cloud it. Let me be more clear.
 7 When you made determinations -- essentially
 8 you didn't make -- you didn't say to yourself when
 9 you're doing interviews -- strike that.
 10 When you're doing your reports of
 11 interviews, you weren't saying to yourself I think
 12 this is important and I'll include it and this is
 13 unimportant so I won't include it; right?
 14 A That's correct.
 15 Q Okay. For the purposes of this summary report, is
 16 that -- is it also true or did you start to make some
 17 decisions about what to include versus to not include
 18 in the summary report?
 19 A There were some decisions of what was included and
 20 what was not included.
 21 Q Okay. So for the purposes of the summary report, you
 22 do have to make some determinations about what
 23 portion of an interview you're actually going to
 24 include in the summary report; right?
 25 A That's correct.

1 Q Okay. So there's some additional sort of analysis
 2 that you're doing to essentially select what portions
 3 of the interviews to report in this summary; is that
 4 right?
 5 A That -- that would be correct.
 6 Q Okay. So how are you making that decision?
 7 A I'm looking at the relevance to what the focus of
 8 this investigation is. This is an officer-involved
 9 death investigation, so I'm looking at the focus to
 10 that topic and to make it clear and to provide the
 11 most thorough investigation in a clear way to the
 12 district attorney for his determination.
 13 Q Okay. And ultimately the goal is to provide clear
 14 communication to the district attorney for his
 15 decision; correct?
 16 A That's correct.
 17 Q Okay. And you said the focus is the officer-involved
 18 death investigation. But -- I'm not saying this to
 19 be insulting -- but that doesn't narrow it down.
 20 Yes, this is all part of the officer-involved death
 21 investigation.
 22 So what is the focus within this
 23 officer-involved death investigation that we're
 24 talking about for the purposes of making a decision
 25 about what to include and what not to include?

1 A Well, the district attorney was provided all the
 2 reports.
 3 Q Right.
 4 A So it wasn't like this was the only document he was
 5 provided. So he essentially saw all the reports. So
 6 as far as this document, this is just a portion of
 7 everything that was provided to the district attorney
 8 for his --
 9 Q Understood. Does -- I think you said earlier that if
 10 there's a decision not to charge, this summary report
 11 will be shared with the public; correct?
 12 A That's correct.
 13 Q What about all the underlying interviews? Do those
 14 also get shared with the public if that case is not
 15 charged?
 16 A It was DCI's decision to release all the reports
 17 because of the amount of interest in this case.
 18 Q Okay. So across -- the standard practice is, where
 19 someone's not charged, the summary report is always
 20 given to the public?
 21 A No. That's -- that's not necessarily true. There
 22 are some instances where the summary report has not
 23 been released to the public.
 24 Q Is it the standard practice -- essentially it's the
 25 standard practice when you're writing the summary

1 report is that's going to be shared when the public
 2 when there's no charges?
 3 A It depends what kind of case. In officer-involved
 4 death investigation --
 5 Q Yes. Sorry. In officer-involved death
 6 investigations.
 7 A Well, there have been instances when the summary
 8 report was not released and there was no charges.
 9 Q Understood. Are those considered exceptions to the
 10 rule?
 11 A That was an exception.
 12 Q Got it. So the standard practice is -- when you're
 13 writing these reports, the expectation is it's going
 14 to be shared with the public if the officer is not
 15 charged; correct?
 16 A That would be a true statement. Yes.
 17 Q Okay. Got it. So what about in terms of the reports
 18 of the interviews of witnesses? What's the standard
 19 practice there? Putting aside exceptions, what's the
 20 standard practice?
 21 A Those traditionally have been released with
 22 redactions to protect witnesses, suspects, other
 23 identifying information.
 24 Q Okay. So just as much as the expectation when you're
 25 writing a summary report is that it's probably going

1 to be shared with the public if there are no charges,
 2 the same is true with regard to the -- when you're
 3 writing reports of interviews of witnesses?
 4 A Except for the reports are subject to open records
 5 laws, and the summary report is not. So it is
 6 written a certain way so that it -- there's no
 7 further redactions.
 8 Q Explain what you mean by "written a certain way."
 9 A Just the agent's last names are used, no first names;
 10 same with the officers. There's not any information
 11 regarding the autopsy report. And some of the
 12 specific information about the family. It is written
 13 a way so there's no need to redact it further.
 14 Q I want to turn now back to the idea of what you're
 15 trying to communicate in the summary report in terms
 16 of what you're including versus what you're not
 17 including.
 18 So what's the type of information that you
 19 consider relevant that needs to be in this report for
 20 the purposes of communicating to the public and to
 21 the district attorney?
 22 A Following my template, there's some headers that are
 23 written on that template that I need to make sure are
 24 included in the summary report.
 25 Q Okay. Take me through those, then. I know you gave

1 reference to the autopsy. What else?
 2 A If I saw the template, I could tell you.
 3 Q I didn't get a copy of it, so I would share it with
 4 you, but I didn't get a copy.
 5 A May I look through this?
 6 How DCI was made aware of this
 7 investigation is a portion of that. The request for
 8 police services. Essentially it's everything that's
 9 in bold face in my summary report. Witness
 10 interviews. Other critical witnesses. Interview of
 11 Madison police officers, which included the interview
 12 with any -- all the officers and Officer Matthew
 13 Kenny. The scene examination. The review of Dane
 14 County dispatch recordings; that's specific for this
 15 summary report. It would be any recordings in an
 16 officer-involved death investigation. Autopsy
 17 findings. Crime lab. Forensic result. Family
 18 contacts. And the district attorney review.
 19 There may be other sections that have been
 20 added since I wrote my summary report. And also the
 21 template does not mean that those have to be
 22 included. They're guidelines.
 23 Q Okay. Let's look at -- I think one of the things you
 24 referred to was the section about review of Dane
 25 County dispatch recordings on DCI 817.

1 What I notice there is, unlike the
 2 interviews which you summarized with substantial
 3 detail, the recordings, dispatch recordings, 911
 4 calls, et cetera, are not, you know, summarized or
 5 laid out. Is that standard practice? Why is that?
 6 A That is part of the template guidelines.
 7 Q What do the guidelines say about that?
 8 A I can't remember what it says. I would have to see
 9 the actual template to tell you.
 10 Q Does it basically suggest that you not summarize what
 11 those documents contain?
 12 A I -- I don't recall the exact wording. I --
 13 Q Okay. I guess what I'm trying to understand is for
 14 the purposes of these interviews with individuals,
 15 there are long -- sometimes pages-long discussion of
 16 those interviews?
 17 A That's correct.
 18 Q Okay. But we agree information like dispatch
 19 recordings and scene examination are potentially
 20 equally important sources of evidence in an
 21 investigation like this; correct?
 22 A That's correct.
 23 Q But there -- they don't contain nearly as much
 24 discussion in this report; is that right?
 25 A That's correct.

1 Q Why is that?
 2 A I followed the guidelines that were set for me in my
 3 policy.
 4 Q So the guidelines say much less information needs to
 5 be communicated in these sections of the report; is
 6 that right?
 7 A I don't know what it says at this point, sitting
 8 before you. I'd have to read the guidelines again.
 9 Q Okay. On page 24, DCI 818, it says, "Upon reviewing
 10 the recordings, Special Agent De La Rosa found the
 11 information to be consistent with what had been
 12 documented during witness statements and interviews."
 13 Did you reach the same conclusion?
 14 A I'm sorry. Can you show me where you're looking at?
 15 Q Yes. I'm sorry. This is DCI 817 to 818. It's on
 16 page 818. It's page 24 of the report at the very
 17 top.
 18 A Yes.
 19 Q It says, "Upon reviewing the recordings, Special
 20 Agent De La Rosa found the information to be
 21 consistent with what had been documented during
 22 witness statements and interviews." Do you see that?
 23 A Yes, I do.
 24 Q Do you know what the basis for that statement was?
 25 A That would be conversation with Special Agent De La

1 Rosa.
 2 Q You spoke with De La Rosa -- Agent De La Rosa and
 3 that's what he said to you?
 4 A Yes.
 5 Q What did he say?
 6 A There was no reason for -- well, I don't -- I don't
 7 recall what he said.
 8 Q Okay. And what you reported was that De La Rosa
 9 found the information to be consistent?
 10 A That's correct.
 11 Q What information did he find to be consistent with
 12 what?
 13 A The 911 calls and the radio communication pertinent
 14 to the investigation involving the officer-involved
 15 shooting.
 16 Q You didn't independently reach the same conclusion,
 17 did you?
 18 A No.
 19 Q You didn't reach a conclusion on that point; right?
 20 A No.
 21 Q Okay. So you don't -- when you prepared this report,
 22 it wasn't your conclusion that the information
 23 contained in the Dane County dispatch recordings was
 24 necessarily consistent or inconsistent with what had
 25 been documented during witness statements and

1 interviews; correct?

2 A I didn't reach any conclusion.

3 Q Okay. When you say here that De La Rosa reached that

4 conclusion, you say he reached that conclusion and

5 the documents were -- the information was, quote,

6 consistent with what had been documented during

7 witness statements and interviews.

8 Do you know which witness statements and

9 interviews he's referring to?

10 A No, I do not. We've had conversations throughout the

11 entire investigation.

12 Q All right. And it's your understanding that the

13 amount of information communicated here about the

14 Dane County dispatch recordings and the autopsy

15 findings and the crime lab forensic results is

16 consistent with the guidelines in the template?

17 A That's my understanding.

18 Q Okay. And you agree that what's included here is

19 substantially less than what's included in terms of

20 witness interviews; is that right?

21 A Less as far as content?

22 Q The content.

23 A Yes. It's not the actual report. It's a summary.

24 Q Okay. Well, that's also true of the witness

25 statements; correct?

1 A That's correct.

2 Q Okay. The section below that is entitled "family

3 contact." Do you see that on page 24?

4 A Yes.

5 Q Is that a -- sort of a required or, say, template

6 section of the report?

7 A It -- it was.

8 Q Okay. And here -- so you're required to provide

9 information about communication with the family?

10 A Correct.

11 Q All right. And you provide a lot of information

12 about communication with the family here; correct?

13 A That's correct.

14 Q Does the template say provide a lot of information

15 about communication with the family?

16 A There's no amount set on how much.

17 Q There's no amount? It doesn't give any guidance --

18 A There's no document --

19 Q Why do you feel it was important to include this much

20 information about your communication with the family?

21 A There was multiple contacts with the family. This

22 was not all the contacts with the family.

23 Q So because there was a lot of contacts with the

24 family, there were -- there was a lot of summary of

25 that contact?

1 A I chose to do that so that it did show that there was

2 a fair amount of contact with the family. Any type

3 of contact, when we make contact, we advise the

4 family of the information, why DCI was involved, to

5 keep them at -- you know, informed about the

6 investigation. That was the only reason.

7 Q That's the purpose?

8 A There was a purpose for me of -- there was more

9 contact that I did not document.

10 Q So the primary focus for you for including

11 information about family contact in the case summary

12 report is to show that DCI is reaching out to the

13 family and keeping them informed, that kind of thing?

14 A No. With the provisions of the new statute, it -- I

15 wanted to show that we were keeping in with the new

16 requirements of the statute.

17 Q And that is, that you're keeping the family informed

18 in providing them with certain information; is that

19 right?

20 A That I'm providing them with certain information on

21 how to file a complaint or request an inquest if they

22 don't agree with the conclusion.

23 Q Understood. Any other reasons that you provided a

24 lot of information about family contact in this

25 section other than this sort of reason related to the

1 statute that you've just told me about?

2 A DCI's practice is to try to reach out to the family

3 of the decedent as soon as possible.

4 Q Understood. But I'm asking a different question.

5 I'm asking about the reason for including a lot of

6 information about that family contact in the case

7 summary report.

8 A Well, that was just my style. There's no rhyme or

9 reason on this. I followed the template and it was

10 just how I write.

11 Q Okay. Let me ask you a different question. I mean,

12 when we -- I think we talked a little bit about what

13 information goes to the district attorney and what

14 information might go to the public.

15 Who's the primary audience for these case

16 summary reports? Is it the district attorney or is

17 it the public or someone else?

18 MR. GENDREAU: Object to the form.

19 You can answer.

20 A Can you clarify, please?

21 Q When you're writing this report, what are you

22 thinking about? At least, when lawyers write, we're

23 often thinking about our audience. When you're

24 writing these reports, who are you thinking is your

25 audience?

1 A I'm writing the report to stay within the provisions
 2 of the statute. I'm -- I know that the report will
 3 be going to the district attorney, and if there's no
 4 charge, it will be released to the public.
 5 When I'm writing it, I'm just writing down
 6 the facts. I'm not -- I don't have that in my mind
 7 that, well, if there's no charges, then it will be
 8 released. I just -- I just write it based on the
 9 guidelines.
 10 Q Okay. And so for the purposes of the family contact
 11 section, what you're thinking about in terms of the
 12 guidance is the guidance that you make sure you're
 13 communicating that we've met the statutory
 14 requirement about informing the family and keeping
 15 them up to date; correct?
 16 A That's correct.
 17 Q Okay. And let me ask you -- I think this is probably
 18 stating the obvious, but for purposes of writing the
 19 summary, when you're taking some but not all of the
 20 information in the earlier interviews and putting it
 21 in the summary report, I'm assuming the more relevant
 22 something is, the more likely you are to include it
 23 here, and the less relevant something is, the less
 24 likely you are to include it here?
 25 A That would be correct.

1 Q So if you have a witness who's a really crucial
 2 witness, you'll say a lot of about that, you know, a
 3 longer section discussing that interview; for someone
 4 who is a periphery witness, they should have a
 5 shorter section?
 6 MR. HALL: Objection. Form.
 7 Go ahead.
 8 A That's not the processes I go through in my head.
 9 Whatever the author of the report wrote, the factual
 10 basis, they may have written a 25-page report --
 11 Q Right.
 12 A -- and I may have just pulled out, you know, a few
 13 paragraphs.
 14 Q But if it's -- go ahead. I'm sorry.
 15 If it's someone who's a periphery witness
 16 who's not particularly important, even if the agent
 17 wrote a 25-page report, would I be correct to assume
 18 you're going to include very little about that
 19 interview in your summary report because you're not
 20 trying to waste everyone's time with 20 pages about
 21 an irrelevant witness?
 22 A If it's not relevant, it may not have even made the
 23 summary report.
 24 Q And if it's not relevant and it made the -- sorry.
 25 Say that again. I just missed that.

1 A I said if it's not a relevant witness, it may not
 2 have even --
 3 Q Even made the report?
 4 A -- made the summary report, but it did make the
 5 reports that are all presented to the district
 6 attorney.
 7 Q Understood. And this is what I'm trying to
 8 understand, how you're making the selection about
 9 what to get into the summary report.
 10 So you've got witnesses who are kind of
 11 periphery witnesses. In some cases you may not even
 12 include them in your summary report; correct?
 13 A That's correct.
 14 Q And other witnesses they may have -- they may be
 15 periphery, but they may have some very small amount
 16 of stuff that's relevant, and for those witnesses,
 17 you're probably going to include -- if you're going
 18 to include it in the report at all, it's going to be
 19 a lot less, regardless of how long the interview
 20 report is; correct?
 21 A That's possible.
 22 Q And for witnesses who are more important, for example
 23 in this case Matt Kenny, you're probably going to
 24 include more about their interview; correct?
 25 A The relevant information of his interview. Yes.

1 Q Okay. He's one of the more important witnesses in
 2 this case?
 3 A Yes.
 4 Q Now, let me ask you about the family contact section
 5 a little bit more.
 6 On page 25, DCI 819, this -- I think it's
 7 the first full -- second full paragraph. It talks
 8 about Tony Robinson's mom Andrea Irwin. She said
 9 Robinson was a gentle giant and only wanted to
 10 belong. And she says although Robinson had been
 11 involved in an armed robbery, he did not want to
 12 participate in the first place, and so on.
 13 Why did you include information about a
 14 prior armed robbery in this report?
 15 A It was my understanding -- this is a tragedy all
 16 around, for the officer's family, for this family. I
 17 was not trying to paint a picture of anyone in one
 18 way or the other. That was the words of Robinson's
 19 mother.
 20 Q But in this report, you're not just writing down
 21 whatever's been said, you're choosing information to
 22 include in the summary report; correct?
 23 A I did choose. I --
 24 Q Why did you choose to include that information?
 25 A -- did not --

1 MR. HALL: Objection. Form.
 2 Argumentative. She wasn't done answering.
 3 MR. GENDREAU: Let her answer the
 4 questions.
 5 A I didn't want to show a bias one way or the other
 6 because DCI's role is to be non-biased. Sometimes
 7 the information is favorable to the decedent,
 8 sometimes it's not.
 9 But these were words that were said by
 10 Ms. Robinson, and I didn't want to go ahead and edit
 11 her words in that fashion to take away from what she
 12 felt and she said at that time.
 13 Q So is this section of your report not a summary but
 14 actually an effort to actually communicate everything
 15 that was says by Ms. Irwin?
 16 A No. I wasn't present during those interviews.
 17 Q Okay. So this is still a summary, like the rest of
 18 the report; correct?
 19 A It is.
 20 Q So in what way is it relevant whether or not
 21 Mr. Robinson had been previously charged with an
 22 armed robbery?
 23 A Again, I wanted to show full picture. There were
 24 things that were maybe said of other individuals that
 25 was not favorable, but I don't pick and choose. It

1 was -- you know, I present the facts how they were
 2 said to me. And that was Ms. Robinson's words.
 3 Q Do you agree that that information is irrelevant to
 4 the investigation of the shooting?
 5 MR. GENDREAU: Objection. Asking for an
 6 opinion question.
 7 But you can answer.
 8 A At this point, I -- I put it in my report. The
 9 district attorney makes that determination if it was
 10 relevant or not.
 11 Q No. But you make some determinations about what's
 12 relevant and not relevant. You already testified
 13 that you're taking the information in the interviews
 14 and putting it into these summaries. And so you
 15 choose to put some information in, and other
 16 information you leave out. And you -- is that right?
 17 A That's fair.
 18 Q All right. And one of the things you said is part of
 19 the calculus about what to take out of the interview
 20 and put into the summary is whether or not it's
 21 relevant; correct?
 22 A That's correct.
 23 Q Okay. So in what way is this relevant such that you
 24 chose to include it in this report?
 25 A It was relevant --

1 Q Or just tell me it's not relevant.
 2 MR. GENDREAU: I'm going to object. Asked
 3 and answered.
 4 MS. LAUTEN: Asked and answered.
 5 MR. GENDREAU: You can answer again.
 6 A It was Ms. Robinson's words --
 7 Q Understood.
 8 A -- and that's why it was relevant.
 9 Q Go ahead.
 10 A It was relevant, and that's why I put it in.
 11 Q Okay. Other than the fact that it was her words, is
 12 it relevant in any way to the determination about
 13 whether or not Officer Kenny's actions were justified
 14 here?
 15 MR. GENDREAU: I'm going to object. Asked
 16 and answered. And I think at this point it's been
 17 asked three or four times.
 18 MR. SWAMINATHAN: I'd like an answer to
 19 this one.
 20 MR. GENDREAU: You don't have to answer.
 21 MR. HALL: Objection to form. It's
 22 argumentative.
 23 MS. LAUTEN: You've answered it a million
 24 times.
 25 MR. GENDREAU: I'm going to instruct her

1 not to answer that question because --
 2 MR. SWAMINATHAN: Well, she hasn't
 3 answered that question. That's --
 4 MR. GENDREAU: I believe that she has.
 5 MR. SWAMINATHAN: What she's said is she
 6 included it because it was said. But what I'm
 7 asking is a different question.
 8 BY MR. SWAMINATHAN:
 9 Q Is it relevant to the determination about whether
 10 Officer Kenny's actions were justified or not?
 11 MR. GENDREAU: I'm going to object and
 12 instruct her not to answer because it's been asked
 13 and answered multiple times.
 14 BY MR. SWAMINATHAN:
 15 Q Are you going to follow your attorney's advice and
 16 not answer that question?
 17 A Based on the advice of my attorney, yes, I am going
 18 to follow it.
 19 MR. SWAMINATHAN: That's a different
 20 question that's been asked previously. I'm going to
 21 note that for the record. We're going to have to
 22 revisit that one.
 23 MR. GENDREAU: If you think it's worth
 24 your time and energy, that's fine.
 25 BY MR. SWAMINATHAN:

1 Q Let me ask you this. Is everything included in
 2 this -- strike that.
 3 Have you reviewed this entire summary
 4 report?
 5 A Yes.
 6 Q Okay. And you reviewed it in preparation for today's
 7 deposition; correct?
 8 A I did.
 9 Q Okay. When you reviewed this deposition, did you
 10 come -- strike that.
 11 Was there any information in this report
 12 that you view as being not relevant to the ultimate
 13 determination about whether or not -- whether Officer
 14 Kenny had acted properly or whether his -- that the
 15 shooting was justified?
 16 MR. HALL: Objection. Form. Calls for an
 17 opinion.
 18 MR. GENDREAU: Yeah. I agree with that.
 19 BY MR. SWAMINATHAN:
 20 Q Do you understand the question? If you don't, I'll
 21 rephrase it.
 22 A Can you rephrase, please.
 23 Q Yeah. Let me ask you this. In looking at the --
 24 going through this report, is there -- if information
 25 is included in here, does that mean that all of the

1 information in here is relevant? Or is some
 2 information just provided as background or context,
 3 those kinds of things?
 4 MR. GENDREAU: I'm going to object to the
 5 extent it's asking an opinion question.
 6 You can answer.
 7 A The district attorney determines what's relevant,
 8 what's not, for his charging decision, not I. I
 9 determine what was put in this summary report, but
 10 not the ultimate decision of what the district
 11 attorney decided.
 12 Q Did you include anything in this summary report that
 13 you felt was not necessarily relevant to making the
 14 determination, but it was just context or background?
 15 MR. HALL: Objection to form. Asked and
 16 answered. It's literally the same question you just
 17 asked. If you don't like the answer, you don't get
 18 to ask the question a second time.
 19 BY MR. SWAMINATHAN:
 20 Q Go ahead.
 21 MR. HALL: That is literally the same
 22 question.
 23 BY MR. SWAMINATHAN:
 24 Q Go ahead.
 25 MR. GENDREAU: Join.

1 You can answer again.
 2 A Again, as I stated, I put the information that I felt
 3 would go in this summary report, but it's not the
 4 information that the district attorney used to make
 5 his determination.
 6 Q All right. Let's turn to page 3 of this report, DCI
 7 796.
 8 MR. HALL: Page 2 or page 3?
 9 Q Page 2, DCI 796. Go to the bottom of the page. It
 10 says here -- this is the last paragraph, "Besides the
 11 aforementioned wounds, additional detail on each
 12 entry wound, its respective trajectory path, and
 13 either its associated exit wound or recovered fired
 14 bullet location was documented by Dr. Tranchida."
 15 And I just want to ask you, do you -- did
 16 you review the records about the trajectory of the
 17 bullets and so on?
 18 A I don't recall.
 19 Q Okay. Do you recall what the trajectory path of the
 20 bullets were?
 21 A I don't recall.
 22 Q Okay. Was that information that you had at the time
 23 that you were writing this report, or you just --
 24 you're not sure? Sorry.
 25 Was that information that you had at the

1 time but you don't remember now, or information you
 2 might not have noted at all during the course of the
 3 investigation?
 4 A I would not have noted it per the template. I
 5 wouldn't have noted such detailed information in that
 6 section.
 7 Q Okay. So you would -- the template would not have
 8 you -- strike that.
 9 The template would not have you go to that
 10 level of detail on the subject of trajectory paths
 11 and so on?
 12 A That's correct.
 13 Q Understood. Did you form any conclusions about
 14 whether the trajectory path was consistent with
 15 Officer Kenny's testimony during the course of your
 16 involvement in this investigation?
 17 A No.
 18 Q Okay. Going -- on page 3 in the second full
 19 paragraph, it says, "All documented interviews were
 20 reviewed by DOJ/DCI agents." That's the second
 21 sentence. Do you see that?
 22 A Can you tell me what page you're on again?
 23 Q Yeah. Page 3, 797. And the second full paragraph
 24 begins, "DOJ/DCI obtained all reports generated by
 25 Madison Police Department"; do you see that?

1 A Yes, I do.

2 Q And I want to go to the last sentence there. It says

3 -- last clause is, "Follow-up was completed to obtain

4 additional facts and/or corroborate information

5 provided by Madison Police Department personnel."

6 What do you mean by "corroborate" in that

7 sentence?

8 A If information was told to the Madison Police

9 Department personnel, then DCI agents would go to

10 either get more detail on that information or to

11 clarify any questions we may have after reading

12 reports.

13 Q Okay. I want to go to the bottom of that page, the

14 last paragraph, paragraph that begins "Madison police

15 officers had been dispatched to the 1100-block of

16 Williamson Street." Do you see that?

17 A Yes. I do.

18 Q It says, "Additional information indicated that

19 Robinson had hit one of his friends," in the middle

20 of the paragraph; do you see that?

21 A Yes, I do.

22 Q And then it says that -- and then it says that "no

23 weapons had been seen." Do you know where that

24 information comes from?

25 A It comes from the reports, but I don't recall which

1 A I don't recall where I got that information from.

2 Q Okay. Do you recall whether or not what the

3 statement was about somebody -- about him trying to

4 strangle another person?

5 A I -- I don't recall that.

6 Q You recall -- well, you recall 1125 Williamson Street

7 is the Robinson residence, correct, or the residence

8 that he was staying in and ultimately shot in;

9 correct?

10 A The building. Yes.

11 Q Okay. And that's a residence?

12 A Yes. Apartment building. One and two.

13 Q Okay. The statement that he had reportedly tried to

14 strangle another person, you recalled that was in the

15 dispatch reports; correct?

16 A I don't recall where I got that information from.

17 Q You recall that that was -- that the dispatch report

18 says he had tried to strangle another person,

19 referring to a patron? He tried to strangle another

20 patron; do you remember that?

21 MR. GENDREAU: Object to form. I think

22 she just said she doesn't recall.

23 MR. HALL: Join.

24 BY MR. SWAMINATHAN:

25 Q You have no recollection of that?

1 ones.

2 Q Do you know which reports?

3 A I don't recall.

4 Q Okay. All right. Just want to make sure.

5 It says there that "Robinson may have been

6 taking shrooms or some other drug" -- well, strike

7 that.

8 The last sentence says, "This information

9 was later updated with dispatch indicating the

10 suspect had left the gas station and gone inside 1125

11 Williamson Street and had reportedly tried to

12 strangle another person." Do you see that?

13 A I do.

14 Q What is the basis for the statement that he had

15 reportedly tried to strangle another person?

16 A That was information that was provided subsequent to

17 the request for police service. So before -- it lays

18 out the context of why DCI is going to investigate

19 this officer-involved death investigation. It's just

20 a portion of what occurred.

21 Q Right. And -- but it says here, "The suspect had

22 left the gas station and gone inside 1125 Williamson

23 Street and had reportedly tried to strangle another

24 person." What I'm asking is where did you get that

25 information from to include in this report?

1 A I don't recall.

2 Q So you don't know either way whether the statement

3 about him trying to strangle another person was a

4 reference to someone in the house or whether it was a

5 patron in the restaurant?

6 A I don't recall.

7 Q You don't know either way?

8 A I don't.

9 Q Okay. Did you know at any time?

10 A Yes. I did know at some time.

11 Q Okay. And what -- and is there anything that could

12 refresh your recollection about what the

13 circumstances were?

14 A Dispatch notes or a report. I -- at this point, I

15 don't recall --

16 Q Okay.

17 A -- what I used.

18 Q As you read this sentence communicated here, what

19 does it communicate? "He had gone inside 1125

20 Williamson Street and had reportedly tried to

21 strangle another person."

22 As I read this, are you communicating that

23 he had tried to strangle a person at 1125 Williamson

24 Street?

25 A I can't -- I'm sorry, is that a -- I don't know what

1 the question --

2 Q Doesn't this communicate that he had tried to

3 strangle another person inside 1125 Williamson

4 Street?

5 MR. HALL: Objection to form.

6 Go ahead.

7 A The statement looks -- appears to be information from

8 the dispatcher indicating the suspect had left the

9 gas station and gone inside that residence. It's --

10 somebody reported he tried to strangle another

11 person.

12 Q At 1125 Williamson Street?

13 MR. HALL: Objection form.

14 MR. GENDREAU: Join.

15 A Again, I don't know when that strangulation or -- he

16 tried to strangle somebody. It just said he had gone

17 inside 1125 Williamson Street. I --

18 Q Okay. At the time that --

19 A I can't assume --

20 Q At the time you wrote this report, having looked at

21 this section as you've written it now, at the time

22 you wrote this report, would it be fair to say that

23 your understanding is he had gone into 1125

24 Williamson Street and at that location had tried to

25 strangle another person?

1 MR. HALL: Objection. Form and

2 foundation.

3 MR. GENDREAU: Object to form.

4 A I don't recall.

5 Q Okay. Turn to page 5, if you would, please. Here's

6 a reference to witness KB. It's a person who lived

7 the floor below the Limon brothers. Do you recall

8 that?

9 A I do recall.

10 Q Okay. Did you conduct any interviews or -- with

11 witness KB, Kathleen Bufton?

12 A No, I did not.

13 Q Okay. Did you have any discussions about Kathlene

14 Bufton other than what you reviewed in the written

15 reports that were done by other agents and officers?

16 A Yes, I did.

17 Q Tell me.

18 A With Special Agent James Holmes.

19 Q Okay. What was your communication with Mr. Holmes

20 about?

21 A He essentially -- I'm sorry.

22 Q Go ahead. I'm sorry. Go ahead. Go ahead.

23 A Were you done with your --

24 Q Yeah, I'm done. Go ahead.

25 A He essentially summarized what his interview

1 revealed.

2 Q Summarized it in what form?

3 A Verbally to me.

4 Q Okay. Why did that take place separate and apart

5 from the usual written reports in which you get that

6 information?

7 A He thought it was critical information prior to the

8 time he would have a chance to actually sit down and

9 author a report based on his interview.

10 Q Okay. Did -- so did he communicate that to you for

11 the purposes of writing your summary report?

12 A No.

13 Q Okay. So he felt it was critical information for you

14 to have at what time?

15 A Early on, Special Agent in Charge James Engels just

16 kept note of any critical witnesses or someone that

17 needed to be followed up with because of information

18 that was being provided to law enforcement, and that

19 was one of the individuals that he had said was

20 possibly a critical witness.

21 Q Okay. Anything -- what do you recall about -- well,

22 let me ask you this. The section here that you wrote

23 on KB, was this based on your conversation with

24 Special Agent Holmes, or was it based on his

25 subsequent written report of that -- about that

1 interview?

2 A On his report that he authored.

3 Q Okay. Let's turn to the second page, DCI Bates stamp

4 800. All right.

5 And so in this paragraph at the top of page

6 6, DCI 800, you're describing what Officer -- Special

7 Agent Holmes had communicated; correct?

8 A That's correct. Based on his interview report.

9 Q Okay. And I want to start with that first full

10 paragraph that begins, "KB could hear what sounded

11 like fighting in the upstairs apartment"; do you see

12 that?

13 A I do.

14 Q Okay. And so this says -- and I just want to make

15 sure I understood what you have written here -- here

16 you're talking about what happened after Tony

17 Robinson apparently came back to the apartment after

18 being out in the street; correct? If you can read

19 the whole paragraph first.

20 A Okay.

21 Q Okay. So that paragraph -- that sentence begins, "KB

22 could hear what sounded like fighting in the upstairs

23 apartment after the subject had returned." That's a

24 reference to after Tony Robinson had been out in the

25 street and came back into the apartment; is that

1 right?

2 A I don't know if KB indicated it was Tony Robinson.

3 She said "subject."

4 Q Understood. Understood.

5 So KB's not sure whether or not it was

6 Robinson coming back, but at this point, what you're

7 describing of her comments is comments that are made

8 about the individual leaving the house and now coming

9 back in; correct?

10 A Based on the report, yes.

11 Q Yes. And we know that to be Tony Robinson,

12 obviously?

13 A After the investigation was complete, yes. At this

14 point, I do know.

15 Q At this point you do?

16 A Right.

17 Q Right. So what you're recounting here of what KB was

18 hearing was she's hearing him -- what sounds like

19 fighting in the upstairs apartment after he comes

20 back from being in the street; correct?

21 A A subject returning back.

22 Q Okay. And what I'm trying to do is just make sure I

23 understand what you have written in this section.

24 A And this is taken from the interview report, so these

25 may not be my exact words.

1 Q So you might have pasted that directly from

2 Officer -- Agent Holmes' report?

3 A I may have taken this sentence directly from

4 Officer --

5 Q Or paraphrased it?

6 A Right.

7 Q And so what you're communicating here is basically

8 what Holmes wrote down about what was communicated by

9 Ms. Bufton?

10 A That's correct.

11 Q Okay. And so what you're communicating here first

12 is -- I'm just trying to interpret what you have

13 written. What you're communicating here first is

14 Ms. Bufton heard what sounded like fighting upstairs

15 after Tony Robinson comes back to the apartment after

16 being out in the street?

17 A Well, I'm taking it for -- from Agent Holmes' report,

18 so I can't really tell you what he's trying to

19 communicate. It would be wrong for me to assume what

20 he's trying to communicate. I can't speak to it.

21 Q Right. We're just trying to interpret it. Right.

22 So I'm trying to make sure I've got --

23 So you're reading it, as well; right? And

24 if you wrote something that didn't make any sense,

25 you would have changed it and corrected it and

1 whatever else or asked him what he was trying to

2 communicate?

3 A He would have made those corrections. I did not. So

4 this was taken from his report. I did not conduct

5 the interview.

6 Q Right. And what you're reporting here is what you

7 understood, what his clear communication was in his

8 document?

9 A That would be fair.

10 Q Okay. The next sentence says, "KB believed that the

11 sounds of the door for apartment No. 2 being pushed

12 open and the unknown subject moving upstairs and the

13 sounds of the unknown subject possibly fighting with

14 another person upstairs." Do you see that?

15 A I do.

16 Q Okay. So here you're describing basically what KB

17 says she hears upstairs in the apartment, and you're

18 just -- I understand you're just sort of paraphrasing

19 or recounting what Agent Holmes wrote down, but this

20 sentence -- I just want to understand.

21 This sentence communicates that there

22 are -- Bufton is saying that she hears fighting

23 sounds upstairs once Tony Robinson comes back; is

24 that right?

25 A Based on the interview with Agent Holmes, that's what

1 I read.

2 Q Okay. And the next sentence says -- or the next

3 clause says that "This fighting and these sounds

4 occurred at least five minutes before Ms. Bufton

5 heard the gunshots"; is that right?

6 A That's correct.

7 Q Okay. So what this is communicating is this fighting

8 that we've just been hearing about, she doesn't hear

9 it for about five minutes before the gun shots?

10 MR. HALL: Objection. Form.

11 Go ahead.

12 Q Is that the proper interpretation of what's written

13 here?

14 MR. HALL: Objection. Form.

15 A I guess I would have to take the whole sentence

16 that's written there.

17 Q Yep. And in the -- go ahead. Yeah.

18 A So I --

19 Q Go ahead.

20 A I really don't know what she said to Agent Holmes and

21 how he interpreted it, but those were the words. He

22 wrote the whole sentence, so --

23 Q Right. So I just want you to -- this is --

24 ultimately you took what he wrote and you put it into

25 your report; and in some instances you copy and

1 paste, some instances you paraphrase or change the
 2 wording around, but you're communicating the same
 3 thing?
 4 A It's the same thing. Style is --
 5 Q And ultimately -- so you ultimately wrote this
 6 sentence. And I just want you to interpret that
 7 sentence for me; that's all.
 8 So read that sentence and tell me what it
 9 means as it -- as you meant -- what you meant for it
 10 to be communicated when you put that sentence in this
 11 report.
 12 MR. HALL: Objection. Form.
 13 Go ahead.
 14 A It was part of his report, so --
 15 Q Okay. And what are you --
 16 (Simultaneous crosstalk.)
 17 MS. LAUTEN: Let her finish.
 18 MR. SWAMINATHAN: I just don't want to
 19 waste time going --
 20 BY MR. SWAMINATHAN:
 21 Q Go ahead.
 22 A I wasn't trying to interpret his report based on the
 23 interview. I just wrote what he wrote.
 24 Q Okay.
 25 A So I can't really interpret that.

1 Q All right.
 2 A Because I don't know how Agent Holmes interprets
 3 things. I --
 4 Q Right. But I'm asking you about what you wrote in
 5 this report now.
 6 A Correct.
 7 Q And all I'm asking is -- this is your sentence now.
 8 Maybe it came from Holmes, maybe it didn't. But this
 9 is your sentence now, and I just want you to explain
 10 what's communicated in that sentence.
 11 MR. HALL: Objection. Form. Asked and
 12 answered. Argumentative.
 13 MR. GENDREAU: And I'm also going to
 14 object that that misstates the testimony. I believe
 15 she's testified that that is not her sentence;
 16 that's Agent Holmes' sentence.
 17 BY MR. SWAMINATHAN:
 18 Q Go ahead.
 19 A That would be correct. I -- what you see there is
 20 information taken from an interview that was
 21 conducted with Agent Holmes. I can't interpret that
 22 statement unless you're asking me -- you're asking me
 23 to interpret another agent's statement.
 24 Q I'm asking you to interpret this, as you authored
 25 this report.

1 A I did.
 2 MR. HALL: Objection to form.
 3 Argumentative.
 4 A You're right. That's correct. I did author the
 5 report.
 6 Q So I'm asking you to tell me what you're
 7 communicating in this sentence in your report. If
 8 this was in quotes from Holmes, we'd be taking about
 9 a different scenario.
 10 All I'm asking is, in this sentence -- you
 11 wrote this -- I want to make sure I'm clear on
 12 what's --
 13 MR. GENDREAU: Objection. It
 14 misstatements the testimony. She just testified
 15 that it was a statement from Agent Holmes, not from
 16 her. She can't interpret what Agent Holmes said.
 17 And this is another one of these instances
 18 where you're asking the same question five times,
 19 she's giving you answers, and you're not accepting
 20 those answers.
 21 So I'm going to instruct you not to answer
 22 the question a fifth time.
 23 BY MR. SWAMINATHAN:
 24 Q Are you able to say anything about what this sentence
 25 means in your report, other than to say, "It's

1 something Officer Holmes wrote. I have no idea what
 2 it means"? Are you able to say anything about what
 3 this means?
 4 MR. HALL: Objection to form.
 5 A Based on the advice of my counsel, I am not going to
 6 continue to answer the same thing.
 7 Q Okay. I'm going to ask you a different question.
 8 Do you have no understanding of what this
 9 sentence means?
 10 MR. GENDREAU: Objection. Argumentative.
 11 Asked and answered.
 12 Don't answer this question.
 13 BY MR. SWAMINATHAN:
 14 Q Okay. Let's keep going.
 15 The next section in this report begins,
 16 "Robinson's earlier activity on March 6th, 2015." Do
 17 you see that?
 18 A Yes.
 19 Q Would you agree all of the information communicated
 20 from that point down regarding these other witnesses
 21 about Robinson's earlier activity on March 6th, none
 22 of this was information that Officer Kenny knew at
 23 the time he arrived on the scene and shot Tony
 24 Robinson?
 25 MR. GENDREAU: Objection --

1 MR. HALL: Objection. Foundation.
 2 MR. GENDREAU: Join.
 3 A Just to be clear, we're talking from DCI page 6 to
 4 DCI page 13?
 5 Q Let's make sure. That's right. That's right.
 6 Through the beginning -- the very top of page 14.
 7 A That would be correct.
 8 Q Okay. Did you include anywhere in this report that
 9 Tony Robinson was unarmed?
 10 A I'm looking through the report to answer that
 11 question.
 12 Q Sure.
 13 A That's in -- on page 2.
 14 Q Go ahead.
 15 A And I'm -- "additional information." It's the last
 16 paragraph.
 17 Q Page 2?
 18 A After requests for police service.
 19 Q Where? Page 3?
 20 A Page 3. I'm sorry. Yeah.
 21 Q Where on page 3? Point me to the --
 22 A Where it says "requests for police service".
 23 Q Yes.
 24 A Second full paragraph, midway. Additional
 25 information, "Indicated that Robinson had hit one of

1 his friends, that no weapons had been seen, and that
 2 Robinson may have taken shrooms or some other drug or
 3 intoxicant."
 4 Q This is a reference to the dispatch call; correct?
 5 A That is correct.
 6 Q Okay. So this is information about what was
 7 communicated to dis -- through dispatch at the point
 8 that there was a request for police service.
 9 But I'm asking -- I mean, we agree with
 10 that; right?
 11 A That's correct.
 12 Q Okay. So -- yeah. Let me know is there anywhere
 13 where you say, in completion of all this, in fact,
 14 Tony Robinson was unarmed?
 15 MR. HALL: In those exact words?
 16 MR. SWAMINATHAN: Or the equivalent.
 17 MR. HALL: I'll object to form.
 18 BY MR. SWAMINATHAN:
 19 Q Did you communicate in this report that Tony Robinson
 20 was unarmed?
 21 MR. HALL: I'll object to form.
 22 A I don't recall if that's in it this report.
 23 Q Go ahead --
 24 A I don't recall if that statement or words to that
 25 effect are in this report at this point.

1 Q You had a chance to go through the report in
 2 preparation for today's deposition. Did you recall
 3 seeing it in the report when you did that review?
 4 A I don't recall.
 5 Q Okay. And when you just -- you had a chance to go
 6 through the report in some detail now. Go ahead and
 7 finish. Tell me if you see it anywhere in your
 8 report.
 9 MR. GENDREAU: I'm going to object. The
 10 document, to the extent it used the word "unarmed"
 11 or uses the word "armed" or anything like that, it's
 12 in the report, and the document speaks for itself.
 13 MR. HALL: This is a wild goose chase.
 14 I'll join the objection.
 15 MR. GENDREAU: I don't know what
 16 usefulness it is to have the witness review a
 17 27-page report to look for the word "unarmed."
 18 BY MR. SWAMINATHAN:
 19 Q We're not looking for the word "unarmed." I'm asking
 20 if you communicated in this report that, when was it
 21 was all said and done, Tony Robinson was unarmed.
 22 You can keep going.
 23 MR. HALL: I'll still object to form.
 24 A There is a reference to it on page 26.
 25 Q Where on page 26?

1 A Under the section for family contact, the second
 2 paragraph.
 3 Q Here it says, "His death made no sense to AI,
 4 especially because he was unarmed." So this is your
 5 discussion of her -- AI's statements to you; correct?
 6 A Not to me. No.
 7 Q Sorry. Her statements to one of the agents; correct?
 8 A That's correct.
 9 Q Okay. Do you see anywhere in this report that the
 10 ultimate fact is that Tony Robinson was unarmed?
 11 MR. GENDREAU: Objection --
 12 MR. HALL: Objection as to form.
 13 MR. GENDREAU: -- asked and answered.
 14 A I don't recall.
 15 Q Well, you've had a chance to review it. Is there
 16 anywhere where you communicate that, other than where
 17 you're referencing the dispatch records and where
 18 you're describing what Ms. Irwin said to a special
 19 agent?
 20 MR. HALL: Objection to form. Asked and
 21 answered. Argumentative.
 22 Go ahead.
 23 A I don't recall. I don't know.
 24 Q Having had a chance to review the report, do you --
 25 you just had it chance to review it. Do you see it

1 anywhere, just having had a chance to review it in
 2 its entirety?
 3 MR. HALL: Object to form. Asked and
 4 answered. Argumentative.
 5 A I would need some more time to review it then.
 6 Q So based on your review so far, you have not -- you
 7 don't see it in the report; correct?
 8 MR. HALL: Object to form.
 9 Mischaracterizes her prior testimony.
 10 A I -- I don't recall.
 11 Q Let's turn to the last page of the document, please.
 12 It's page 27 DCI 821. It says, "DCI is continuing to
 13 document additional activity as its investigation is
 14 completed, and copies of those additional reports
 15 will be provided to the District Attorney's Office as
 16 soon as they are written."
 17 Were there any such documents or additional
 18 activity?
 19 A Yes.
 20 Q Can you tell me what that was?
 21 A Wisconsin State Crime Lab, those reports came in
 22 after the majority of the reports were given to the
 23 district attorney.
 24 Q Anything else?
 25 A Not that I recall.

1 Q Were there are any other interviews that were
 2 conducted that you're aware of after this report --
 3 A After --
 4 Q -- was prepared?
 5 A -- this report was prepared? No.
 6 Q The DCI policy about waiting 72 hours to interview
 7 officers, we talked about that earlier; correct?
 8 When -- when did that become the policy?
 9 A At least 72 hours.
 10 Q Is -- thank you.
 11 A A guideline.
 12 Q That policy, that -- strike that.
 13 I think we talked earlier about it being a
 14 practice. Let's use that term. The practice of
 15 waiting at least 72 hours, when did that become the
 16 practice?
 17 A I don't know exactly when.
 18 Q Had it been a practice as long as you've been at DCI?
 19 A It has.
 20 Q Okay.
 21 MR. SWAMINATHAN: Nothing further.
 22 MR. HALL: I have no questions.
 23 MS. KAISER: I have none.
 24 MR. GENDREAU: All right. You're done.
 25 (Proceedings concluded at 4:11 p.m.)

1
 2 STATE OF WISCONSIN)
 3) SS:
 4 MILWAUKEE COUNTY)
 5 I, KAILA M. MACEK, Registered Merit Reporter
 6 and Notary Public in and for the State of Wisconsin, do
 7 hereby certify that the preceding deposition of
 8 LOURDES FERNANDEZ was recorded by me and reduced to
 9 writing under my personal direction.
 10 I further certify that said deposition was
 11 taken at RISSER JUSTICE CENTER, 17 West Main Street,
 12 Madison, Wisconsin, on the 11th day of April, 2016,
 13 commencing at 9:04 a.m. and concluding at 4:11 p.m.
 14 I further certify that I am not a relative or
 15 employee or attorney or counsel of any of the parties, or
 16 a relative or employee of such attorney or counsel, or
 17 financially interested directly or indirectly in this
 18 action.
 19 In witness whereof I have hereunto set my hand
 20 and affixed my seal of office at Milwaukee, Wisconsin,
 21 this 19th day of April, 2016.
 22 _____
 23 KAILA M. MACEK, RMR
 24 Notary Public in and for the State of Wisconsin
 25 My Commission expires 2/11/2019

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