

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

JEAN AZOR-EL, et al.

Plaintiffs,

VS.

1:20-cv-03650-KPF

CITY OF NEW YORK, et al.,

Defendants.

-----x

THE ORAL DEPOSITION of CHIEF BECKY SCOTT, produced,  
sworn and examined on behalf of the Plaintiffs,  
pursuant to Notice to Take Deposition, on Wednesday,  
April 28, 2021, beginning at 2:16 p.m. central time,  
via videoconference, before me,

TRICIA D. TATE  
CERTIFIED COURT REPORTER  
HERITAGE REPORTING

a Certified Court Reporter, in a certain cause now  
pending before the United States District Court,  
Southern District of New York, wherein the parties  
are as hereinbefore indicated.

A P P E A R A N C E S:

For the Plaintiffs:

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<p>Page 2</p> <p>1 APPEARANCES CONTINUED</p> <p>2 For the Defendant Department of Correction:</p> <p>3 New York City Department of Correction</p> <p>4 7520 Astoria Boulevard, Suite 305</p> <p>5 East Elmhurst, New York 11370</p> <p>6 By David Thayer, Esq.</p> <p>7 Chlorens Orsland, Esq.</p> <p>8 Antonin Gajtani, Esq.</p> <p>9 (Appearing via teleconference)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>8 ALSO PRESENT: Julia Gokhberg</p>	<p>Page 4</p> <p>1 PROCEEDINGS</p> <p>2 CHIEF BECKY SCOTT,</p> <p>3 was called as a witness and, having been sworn,</p> <p>4 testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. KEENAN:</p> <p>7 Q Good afternoon, Chief Scott. How are you today?</p> <p>8 A I'm doing well. Thank you.</p> <p>9 Q My name is E.E. Keenan and this is the first time</p> <p>10 we're meeting today via Zoom. Again, I am an</p> <p>11 attorney representing a group of people who are</p> <p>12 current or former detainees or inmates in the New</p> <p>13 York City Department of Correction in a lawsuit</p> <p>14 that they have filed against the New York City</p> <p>15 Department of Correction/City of New York, as</p> <p>16 well as some individuals concerning conditions of</p> <p>17 confinement during the COVID-19 pandemic. It's</p> <p>18 nice to meet you.</p> <p>19 A Nice to meet you as well.</p> <p>20 Q Thank you very much for making the time to appear</p> <p>21 today and testify on some issues concerning this</p> <p>22 case. Do you understand that you are here to</p> <p>23 give a deposition in this case?</p> <p>24 A Yes.</p> <p>25 Q Okay. And what we'll go through just some of the</p>
<p>Page 3</p> <p>1 EXAMINATION INDEX</p> <p>2 Examination by Mr. Keenan..... 4</p> <p>3 EXHIBIT INDEX</p> <p>4 EXHIBIT DESCRIPTION PAGE</p> <p>5 Exhibit 33 Notice of Deposition..... 8</p> <p>6 Exhibit 34 Directive Wearing Masks/Face</p> <p>7 Coverings..... 76</p> <p>8 Exhibit 35 Interim Guidance on Management of</p> <p>9 Coronavirus Disease 2019..... 88</p> <p>10 Exhibit 36 Directive Command Discipline..... 91</p> <p>11 Exhibit 37 Directive Disciplinary Process for</p> <p>12 Uniformed Personnel.....109</p> <p>13 Exhibit 38 AMKC Corrective Action.....109</p> <p>14 Exhibit 39 BKCTS Corrective Action.....118</p> <p>15 Exhibit 40 BXDC Corrective Action.....119</p> <p>16 Exhibit 41 EMTC Corrective Action.....120</p> <p>17 Exhibit 42 GRVC Corrective Action.....121</p> <p>18 Exhibit 43 HPW Corrective Action.....121</p> <p>19 Exhibit 44 MDC Corrective Action (not used).....123</p> <p>20 Exhibit 45 NIC Corrective Action.....123</p> <p>21 Exhibit 46 QDC Corrective Action.....124</p> <p>22 Exhibit 47 RMSC Corrective Action.....125</p> <p>23 Exhibit 48 RNDC Corrective Action.....126</p> <p>24 Exhibit 49 TD Corrective Action.....127</p> <p>25 Exhibit 50 VCBC Corrective Action.....128</p>	<p>Page 5</p> <p>1 ordinary routines of a deposition. I'm sure</p> <p>2 you've been through all of this before, but we'll</p> <p>3 just put it on the record.</p> <p>4 Today's deposition is occurring by</p> <p>5 Zoom, correct?</p> <p>6 A Yes.</p> <p>7 Q And so I think as we've all come to experience</p> <p>8 with the Zoom meetings, sometimes it will patch</p> <p>9 in and out. And we have a number of people on</p> <p>10 the Zoom today, so that can increase the</p> <p>11 complication factor. If you do not understand</p> <p>12 anything that I say or it patches out or anything</p> <p>13 like that, will you just let me know that?</p> <p>14 A Yes.</p> <p>15 Q Okay. And if there are any questions I ask today</p> <p>16 that you don't understand or that you -- that</p> <p>17 lack clarity or you need me to ask it in a</p> <p>18 different way, will you ask me to do that?</p> <p>19 A Yes.</p> <p>20 Q Okay. Can you go ahead and state your full name</p> <p>21 for the record, please.</p> <p>22 A Becky Scott.</p> <p>23 Q And I know you hold a title at the Department of</p> <p>24 Correction, can you tell us what your title is?</p> <p>25 A Bureau chief.</p>

<p style="text-align: right;">Page 6</p> <p>1 Q Is the correct way and your preferred manner of</p> <p>2 address Chief Scott? I want to make sure that I</p> <p>3 respect that.</p> <p>4 A Yes, sir, Chief Scott is fine.</p> <p>5 Q So I'll use Chief Scott unless you ask me to use</p> <p>6 another mode of address.</p> <p>7 So also our deposition is going to</p> <p>8 be -- and I need -- that's a reminder, I need to</p> <p>9 turn on the video recording so that is now on.</p> <p>10 This deposition is going to be video</p> <p>11 recorded. I'll turn off the video recording</p> <p>12 anytime we take a break. By the way, please feel</p> <p>13 free to let us know if you need a break at any</p> <p>14 time. All I'd ask is that if there's a pending</p> <p>15 question at the time, that if you wouldn't mind</p> <p>16 answering that question, then we can take a break</p> <p>17 anytime you want to.</p> <p>18 A Sure.</p> <p>19 Q And also, this deposition, in addition to being</p> <p>20 video recorded, is being transcribed and there's</p> <p>21 going to be a stenographic transcript available</p> <p>22 after the deposition.</p> <p>23 I also wanted to put on the record and</p> <p>24 just confirm that we have all parties' consent.</p> <p>25 We talked about this before the deposition or</p>	<p style="text-align: right;">Page 8</p> <p>1 you feel that your deposition should not proceed?</p> <p>2 A No.</p> <p>3 Q Okay. Chief Scott, the first thing I want to ask</p> <p>4 you about is the notice of deposition in this</p> <p>5 case. I think this is going to be marked as</p> <p>6 Exhibit 33.</p> <p>7 MR. KEENAN: And, David, we're going to</p> <p>8 just go sequential with the deposition exhibits</p> <p>9 we marked in Deputy Commissioner Feeney's</p> <p>10 deposition last year. I think we left off at</p> <p>11 Exhibit 32, so we'll pick up at Exhibit 33.</p> <p>12 (Deposition Exhibit 33 identified.)</p> <p>13 Q (By Mr. Keenan) So this is going to be marked</p> <p>14 as Exhibit 33 in this case. My colleague,</p> <p>15 Julia Gokhberg, is going to be displaying the</p> <p>16 documents during the deposition via screen</p> <p>17 share on Zoom.</p> <p>18 Chief Scott, are you able to see what</p> <p>19 we are going to mark as Exhibit 33?</p> <p>20 A Yes.</p> <p>21 Q And for the record, this is the Notice of</p> <p>22 Deposition pursuant to Rule 30(b)(6) and it</p> <p>23 contains a list of topics for the New York City</p> <p>24 Department of Correction to testify about,</p> <p>25 correct?</p>
<p style="text-align: right;">Page 7</p> <p>1 prior deposition, in this and in other</p> <p>2 depositions in this case, the court reporting</p> <p>3 service transcribing the deposition is Heritage</p> <p>4 Reporting Service which is based in the Kansas</p> <p>5 City, Missouri area, not New York based, they're</p> <p>6 not New York notaries or reporters. I want to</p> <p>7 make sure we have a stipulation and consent that</p> <p>8 that is fine with all parties?</p> <p>9 A Sure.</p> <p>10 MR. KEENAN: And David?</p> <p>11 MR. THAYER: Defendants consent, yes.</p> <p>12 MR. KEENAN: Okay, thanks.</p> <p>13 Q (By Mr. Keenan) Chief Scott, have you ever</p> <p>14 given a deposition before?</p> <p>15 A Yes.</p> <p>16 Q Okay. So I figured you might have, given --</p> <p>17 given your role. Are there any questions that</p> <p>18 you have for me or for Mr. Thayer before we</p> <p>19 proceed?</p> <p>20 A No.</p> <p>21 Q And do you have any questions or if there's</p> <p>22 anything we can do to make you more comfortable,</p> <p>23 just let us know.</p> <p>24 A Sure.</p> <p>25 Q And are you aware of any reason at this time why</p>	<p style="text-align: right;">Page 9</p> <p>1 A Yes.</p> <p>2 Q Chief Scott, have you reviewed this Notice of</p> <p>3 Deposition?</p> <p>4 A Not in great detail, no.</p> <p>5 Q Have you seen it before?</p> <p>6 A I think so, yes.</p> <p>7 Q Okay. I know that you're not here to testify on</p> <p>8 behalf of all topics pursuant to correspondence</p> <p>9 we've had with counsel for the City, but there</p> <p>10 are just a few topics that you're I think here to</p> <p>11 testify as to either in whole or in part.</p> <p>12 MR. KEENAN: Let's go to topic 12, if</p> <p>13 we could, please, Julia.</p> <p>14 Q (By Mr. Keenan) Chief Scott, topic 12 is any</p> <p>15 and all instances of noncompliance with DOC's</p> <p>16 mask wearing policies at Rikers and while</p> <p>17 it's -- it says at Rikers, we're going to be</p> <p>18 talking more broadly about all DOC facilities</p> <p>19 from 20 -- or from January 1st, 2020 to</p> <p>20 present.</p> <p>21 Are you here today to testify as to</p> <p>22 topic 12?</p> <p>23 A Yes.</p> <p>24 Q And are you prepared to testify as to topic 12?</p> <p>25 A Yes.</p>

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<p>1 Q And then also let's go to topic 13: Any and all 2 discipline, coaching or writeups for 3 noncompliance with DOC's mask wearing policies 4 given to Rikers employees from January 1st, 2020 5 to present, and that's going to be read as 6 applying to all DOC facilities. 7 Are you prepared to testify as to topic 8 13? 9 A Yes. 10 Q And then let's go to topic seven. Topic seven 11 talks about: Any and all instances of 12 noncompliance with DOC's sanitization and 13 cleaning protocols at Rikers, which, again, will 14 read to refer to all DOC facilities from 15 January 1st, 2020, to present. 16 Chief Scott, are you prepared to 17 testify as to part or all of topic seven? 18 A Yes. 19 Q Okay. And are you prepared to testify to all of 20 topic seven or only to a portion of it? 21 A I'm comfortable with all. 22 MR. KEENAN: Okay. David, are there 23 any other topics that the City and DOC are 24 relying on Chief Scott's testimony to satisfy? 25 MR. THAYER: Not at this time. And I'd</p>	<p>1 A Yes. 2 Q And Chief Scott, just to summarize, how long have 3 you been with the Department of Correction? 4 A Thirty years. 5 Q What is your current portfolio as the bureau 6 chief of operations? 7 A My role is as the facility operations bureau 8 chief. I cover every housing facility in the 9 Department of Correction on Rikers and off, and 10 I'm responsible for the overall operations of 11 each facility. 12 Q To whom do you report? 13 A The chief of the department. 14 Q Okay. And that's Cynthia Brann? 15 A No. That's Chief Jennings. 16 Q Okay, Chief Jennings. And then does Chief 17 Jennings report to Commissioner Brann? 18 A Yes. 19 Q And who reports to you? 20 A Every warden. 21 Q Every warden at every DOC facility in the city? 22 A Yes. 23 Q Okay. So that would include all units at Rikers 24 Island, correct? 25 A And bureau facilities as well.</p>
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<p>1 only add that with respect to topic number seven, 2 as we discussed in advance of us going on the 3 record, the City is producing Chief Scott with 4 respect to this to the extent that this could be 5 read as covering the topic of discipline more 6 generally. 7 We are not producing her to speak about 8 instances, for example, where there may be 9 allegations that a particular janitor's closet or 10 a particular facility has not enough cleaning 11 products or sanitization products, but to speak 12 about discipline more generally regardless of the 13 basis I suppose of such discipline. 14 MR. KEENAN: Okay. Thank you very 15 much. 16 And, Julia, I think we can now take 17 down document 33. 18 Q (By Mr. Keenan) Chief Scott, before we go into 19 the substance of what we're here to talk about 20 today, I just want to ask you a bit about who 21 you are, your professional background and your 22 role at DOC. 23 I notice you're on the DOC's website as 24 one of the folks in command. You hold the title 25 of bureau chief of operations; is that correct?</p>	<p>1 Q And can you -- can you sum up what those 2 facilities are? 3 A So in the bureaus currently that are operating 4 are VCBC, which is located in the Bronx. Then 5 the remaining facilities on Rikers, that would be 6 AMKC, that would include EMTC, GRVC, NIC, Rose M. 7 Singer, and RNDC. I think I covered them all. 8 Q Okay. Are there any -- so help us situate at 9 this point in time the facilities operated by 10 DOC. We have all the Rikers facilities that are 11 on physical Rikers Island. We have the Vernon C. 12 Bain center, VCBC, which is more colloquial local 13 known as the boat, correct? 14 A Yeah. 15 Q And it is, in fact, a ship, it's a barge 16 that's -- 17 A Yes. 18 Q -- moored off the Bronx and is very, very close 19 to Rikers Island. And then are there any other 20 DOC facilities that are in operation at this 21 time? 22 A I'm sorry, any other facilities off of Rikers? 23 Q At all, in the whole city. 24 A Well, we have hospital prison wards as well, but 25 they're not housing individuals currently. Those</p>

<p>Page 14</p> <p>1 are just, you know, hospitals.</p> <p>2 And we also have court commands where</p> <p>3 our staff are responsible for the court</p> <p>4 operations, so those other facilities. But I</p> <p>5 oversee housing facilities.</p> <p>6 Q Okay. So the only housing facilities that DOC</p> <p>7 operates at this time are VCBC, the boat?</p> <p>8 A Yes.</p> <p>9 Q And then the Rikers facilities?</p> <p>10 A Yes.</p> <p>11 Q Correct?</p> <p>12 A Yes.</p> <p>13 Q The Manhattan Detention Center, MDC, that used to</p> <p>14 be a housing facility, right?</p> <p>15 A Yes.</p> <p>16 Q When did MDC close?</p> <p>17 A I believe the last of those individuals were</p> <p>18 transferred in either -- I don't have the exact</p> <p>19 date, but it was either the ending of March or</p> <p>20 somewhere around there. I don't have the exact</p> <p>21 date.</p> <p>22 Q And MDC is now fully closed and there are no</p> <p>23 inmates residing there; is that correct?</p> <p>24 A Not in the -- not in the housing portion. The</p> <p>25 court operations are still open.</p>	<p>Page 16</p> <p>1 individuals under our custody in Horizon. I</p> <p>2 think we have a couple of officers still there.</p> <p>3 Q What is the Horizon facility?</p> <p>4 A That's where the City houses the -- it's secured</p> <p>5 detention facilities for adolescent.</p> <p>6 Q Where is Horizon located?</p> <p>7 A In the Bronx.</p> <p>8 Q Where roughly in the Bronx?</p> <p>9 A I don't have the exact address. It's near --</p> <p>10 it's not too far from VCBC.</p> <p>11 Q During the -- during the pandemic, so I'll</p> <p>12 roughly start the pandemic in March of 2020,</p> <p>13 COVID-19 pandemic, all right, up to now, have</p> <p>14 there been any facilities that were housing</p> <p>15 facilities that were operated by DOC but have</p> <p>16 since been closed? So they were open at some</p> <p>17 point during the pandemic, but they're now</p> <p>18 closed. We know of course MDC is one of them.</p> <p>19 Are there any others?</p> <p>20 A EMTC was closed for a period of time as well.</p> <p>21 That's the Eric M. Taylor Center.</p> <p>22 Q Why don't we go through what the difference --</p> <p>23 and I'll say that I know that you're here on</p> <p>24 particular topics, I think it's important to</p> <p>25 understand this so that -- so that we and</p>
<p>Page 15</p> <p>1 Q And so you mention these court operations</p> <p>2 facilities, can you summarize what those are?</p> <p>3 A So you have a court in Manhattan, the Bronx,</p> <p>4 Queens, Brooklyn and Stanton Island.</p> <p>5 Q Okay. And are these basically holding facilities</p> <p>6 for people who have in-person court appearances?</p> <p>7 A And some other type of business as well. But,</p> <p>8 yes, primarily court appearances.</p> <p>9 Q Like what -- what other besides --</p> <p>10 A So we have criminal court, supreme court and we</p> <p>11 have family court, and we will occasionally have</p> <p>12 attorney visits that are done there, as well as</p> <p>13 any other agency that has business in the -- in</p> <p>14 the building.</p> <p>15 Q Okay. Does anybody stay overnight in any of the</p> <p>16 court facilities?</p> <p>17 A No. No one lives in the court facilities, no.</p> <p>18 Q Okay. So we've got -- at this point in time, we</p> <p>19 have Rikers, we've got VCBC, the boat, and then</p> <p>20 we've got the court facilities. Any other</p> <p>21 facilities that DOC operates at this point in</p> <p>22 time?</p> <p>23 A Besides the hospital prison wards, no. We</p> <p>24 have -- I believe we still have very few staff</p> <p>25 members at the Horizon facility, but we have no</p>	<p>Page 17</p> <p>1 everybody dealing with this case understands what</p> <p>2 the lay of the land is, especially the folks who</p> <p>3 don't work in DOC, like myself, what the</p> <p>4 different units are and how they operate.</p> <p>5 So, and you mentioned the hospital</p> <p>6 prison wards, there's the Bellevue ward, correct?</p> <p>7 A Correct.</p> <p>8 Q And that's -- that's in Manhattan adjacent to</p> <p>9 Bellevue Hospital?</p> <p>10 A Yes.</p> <p>11 Q Okay. Are there any other hospital wards that</p> <p>12 DOC oversees?</p> <p>13 A Elmhurst Hospital prison ward in Queens.</p> <p>14 Q And those are the only two?</p> <p>15 A Yes.</p> <p>16 Q So let's talk about the different units that DOC</p> <p>17 operates at this point in time. Let's start with</p> <p>18 the boat, Vernon C. Bain Center, can you</p> <p>19 summarize for us what the mission of VCBC is.</p> <p>20 And basically -- basically what I'm asking is</p> <p>21 what type of facility is this. And I know it's</p> <p>22 kind of an open format, but here's -- here's kind</p> <p>23 of what I'm going for is I know, for instance,</p> <p>24 NIC is a -- is a medical facility where it's</p> <p>25 focused on medically vulnerable inmates. And</p>

<p style="text-align: right;">Page 18</p> <p>1 then there are other facilities, like I think 2 based on a deposition we had yesterday, I think 3 GRVC focuses on higher security detainees. 4 So what I'm going for is basically 5 what's the overall mission and purpose of the 6 given facility, is it just a general population, 7 anybody and everybody facility, is it focused on 8 a particular type of detainee or particular needs 9 or something like that. 10 So let's start with VCBC, can you 11 summarize kind of what the mission and focus of 12 the VCBC is? 13 A So VCBC is, as you described, a barge. It 14 currently houses several different classification 15 of individuals. It's a male adult facility. It 16 has all classifications of general population 17 individuals, and it also houses our protective 18 custody individuals, those that either by self 19 request or request of a court that we determined 20 should be housed under protective custody. You 21 have that population there as well. 22 They have a couple of cell housing 23 areas, but it's primarily dorm, dormitory type of 24 housing area. Typically, under normal 25 circumstances non-COVID.</p>	<p style="text-align: right;">Page 20</p> <p>1 themselves have requested for a variety of 2 reasons that they feel maybe the crimes that they 3 are charged with, maybe some of the involvement 4 that they've had in their control case; and it 5 also can be information and intel that we get 6 from other law enforcement agencies that we share 7 about this individual; it can also be someone 8 that was prior law enforcement person; someone 9 that had a previous career that now they're in 10 custody, that they need a different level of 11 protection. 12 It is not solitary confinement. It is 13 not restrictive housing. 14 Q Okay. And protective custody is not -- not 15 disciplinary in nature, correct? 16 A No. 17 Q Okay. 18 A Actually, it's quite the opposite. It's where we 19 decide we are going to put you in a situation 20 where you're not mingling with everyone else that 21 because of what those reasons are listed, that 22 you perhaps would be best -- or to be safer for 23 you to be separated in terms of general 24 population and how you are housed, not 25 necessarily anything to do with restrictive</p>
<p style="text-align: right;">Page 19</p> <p>1 It would be cases that are from the 2 county of the Bronx for court production reasons, 3 that's where their population would be housed for 4 just logistical purposes of producing you for 5 court and other hearings. 6 So right now, they are not a new 7 admission facility, but in the past, they have 8 been a new admission facility as well. 9 Q All right. And protective custody, is that -- I 10 know that protective custody basically ends up 11 needing solitary confinement for -- 12 A No. 13 Q It does not? 14 A No. 15 Q Okay. What does protective custody mean at the 16 DOC? 17 A Protective custody is a classification that the 18 department, as the national standards, that we 19 have a system in place for individuals that we 20 have determined would be best housed separate 21 from general population. 22 And several different reasons. One 23 could be at the recommendation of a court, a 24 judge; one could be based on the notoriety of 25 your case; one could be where the individual</p>	<p style="text-align: right;">Page 21</p> <p>1 housing or punitive reasons at all. 2 Q Okay. All right. Do people who are in 3 protective custody have the ability to interact 4 with other inmates and be out of their cells 5 during the day? 6 A Absolutely. Absolutely. 7 Q I know -- 8 A They receive -- they receive all of their 9 services and programming. They receive every 10 single thing the same as any individual would. 11 Q Okay. 12 A Nothing is restricted, nothing is limited. And 13 if, in fact -- it's a process that's closely 14 monitored. We have a unit designated where we 15 have staff who are assigned to review these 16 individuals extensively, to look at why they are 17 there, and whether they should remain there. 18 They have a 28-day review where every 19 28 days we have to go through your case to 20 determine, and that includes interviewing the 21 individual to see if they have any reason that 22 they can share, they want to share anything. 23 And they can also -- we have 24 involuntary and voluntary placement. So if 25 someone is there voluntarily and they decide they</p>

<p style="text-align: right;">Page 22</p> <p>1 don't want to remain there, they have the</p> <p>2 opportunity to present that information. It's</p> <p>3 documented, they are interviewed. And if the</p> <p>4 unit staff determines that this individual is</p> <p>5 appropriate to leave the area, they can.</p> <p>6 So it's a process that's documented,</p> <p>7 tracked, monitored and supervised.</p> <p>8 Q Okay. So I think that that gives us a good sense</p> <p>9 of what's going on at VCBC. Let's move to the</p> <p>10 Rikers facilities. Why don't we start with --</p> <p>11 and I'm going to be able to remember some of the</p> <p>12 acronyms and not so I'll need your help, Chief</p> <p>13 Scott.</p> <p>14 A We have a lot of acronyms.</p> <p>15 Q I know.</p> <p>16 A I know that very well.</p> <p>17 Q You know, we can probably like create a kids'</p> <p>18 book according to the alphabet, maybe even be a</p> <p>19 coloring book at Rikers.</p> <p>20 NIC, all right, tell us what's going on</p> <p>21 at NIC.</p> <p>22 A So I've had the pleasure of working there in</p> <p>23 different ranks throughout my career so I happen</p> <p>24 to, as with many facilities, know the operation</p> <p>25 on a personal level.</p>	<p style="text-align: right;">Page 24</p> <p>1 the infirmary so they are there 24 hours, that</p> <p>2 operation is 24 hours in those areas in the</p> <p>3 infirmary.</p> <p>4 There's four dorms in the infirmary,</p> <p>5 one is an ADA dorm, and the rest are just medical</p> <p>6 infirmary situations.</p> <p>7 And we also have an infirmary pace</p> <p>8 unit, which is one of our mental health housing</p> <p>9 units. So that's the infirmary side.</p> <p>10 On the -- in the main building, you</p> <p>11 have where on the second and third floor, we have</p> <p>12 individuals which we consider max custody,</p> <p>13 maximum custody guys, that have -- they are</p> <p>14 housed individually and they have individual</p> <p>15 cells, and that's on the second and third floor.</p> <p>16 The fourth, fifth and sixth floor are</p> <p>17 typically where we would have older individuals</p> <p>18 housed, those individuals that are -- where we</p> <p>19 try to cohort goals that are -- older individuals</p> <p>20 that have similar levels of care, whether it be</p> <p>21 medical determinations that they receive the same</p> <p>22 type of services, but that's not a hundred</p> <p>23 percent the case a hundred percent of the time.</p> <p>24 And what else can I tell you about NIC?</p> <p>25 I think it's one of our oldest facility on Rikers</p>
<p style="text-align: right;">Page 23</p> <p>1 So NIC is comprised mostly of cells.</p> <p>2 And in the main -- in the main area, there are</p> <p>3 two floors of cells and there's two and-a-half of</p> <p>4 dormitory that's in the main part of it that's</p> <p>5 not the infirmary.</p> <p>6 And then the infirmary is the annex,</p> <p>7 that's where the individuals with any disability</p> <p>8 or medical needs, that's a high level of care</p> <p>9 than they can receive in general population.</p> <p>10 So the infirmary, those individuals are</p> <p>11 admitted by our medical team. So the custody</p> <p>12 side, which is the operations, the security side,</p> <p>13 the uniform side, don't transfer individuals into</p> <p>14 the infirmary. That's done by the medical team.</p> <p>15 So it would be in the event that</p> <p>16 someone is evaluated by the medical provider,</p> <p>17 whether it's during the admission or why they're</p> <p>18 here, anytime during your stay with us, and they</p> <p>19 make the determination they need to treat you</p> <p>20 there. They will make that determine, they let</p> <p>21 us know, and we ensure that they are housed</p> <p>22 there.</p> <p>23 We, as a team, we track the count to</p> <p>24 see -- to make sure that we have space there.</p> <p>25 They have onsite clinics in every housing area in</p>	<p style="text-align: right;">Page 25</p> <p>1 Island actually.</p> <p>2 Q Is everybody inside NIC in some way there because</p> <p>3 they're more medically vulnerable than the</p> <p>4 general population, or are there some people on</p> <p>5 NIC who don't have any particular medical</p> <p>6 condition or characteristics such as age but they</p> <p>7 just happen to be there for --</p> <p>8 A The second and third floor individuals are not</p> <p>9 based on a medical need.</p> <p>10 Q Okay.</p> <p>11 A Did that --</p> <p>12 Q Go ahead. Go ahead, Chief Scott. I think you</p> <p>13 were going to tell me --</p> <p>14 A Those individuals on the second and third floor,</p> <p>15 they're not there based on a medical need. Those</p> <p>16 are maximum custody individuals that, for</p> <p>17 whatever particular reason, they will be housed</p> <p>18 where they are separate, they are in individual</p> <p>19 cells. Excuse me. That unit is managed by our</p> <p>20 bureau chief of security who particularly</p> <p>21 supervises that, those individuals that are</p> <p>22 transferred there and monitors who's transferred</p> <p>23 there, and his office maintains that information,</p> <p>24 and they oversee any transfers in and out of the</p> <p>25 second and third floor.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q All right. And what is maximum custody at 2 Rikers? 3 A So this is going to be like a corrections 101, 4 right? So -- 5 Q Yeah, and that's what I'm looking for. I 6 think -- 7 A No, that's fine. 8 Q -- that's very helpful to have that on. 9 A I'm going to switch into my custody management 10 act. 11 Q Great. 12 A So the classification system is designed as a 13 risk assessment tool, and what that is -- the 14 goal of this is to make sure that when any 15 individual comes into our custody, that we learn 16 as much as we can about them to identify what 17 your needs are. 18 And the needs are across the board, 19 mental health needs, medical needs, if you have a 20 learning disability. Anything about you that 21 would affect your stay with us or your treatment 22 and services. 23 THE WITNESS: Did I lose him? Where 24 did he go? 25 MR. KEENAN: I'm getting a charge cord</p>	<p style="text-align: right;">Page 28</p> <p>1 needs because we have to know that we're going to 2 house you in a safe and secure way for yourself 3 and others around you. 4 And when doing that, we put you in what 5 I just referred to as particular categories, so 6 classification. So a low classification guy 7 would be an individual perhaps not a high-level 8 offense, maybe not a long criminal history, no 9 real long history of violence within the 10 facility, perhaps no history of violence in the 11 facility, and you don't score high on any other 12 needs assessment, whether that's our suicide risk 13 need, our mental health evaluation, no flags on 14 that, so you're just an individual that came into 15 custody and there's no alarm bells ringing, so we 16 might consider you a low custody guy, which 17 would -- typically you may be in a dorm setting. 18 Then you may come across someone who 19 has a bit of a history, that has a rap sheet or 20 criminal history report that has a length of 21 different variety of crimes. Perhaps you've been 22 in custody of this agency or some other agency in 23 the past, perhaps you have some gang activity, 24 just a history of different things, and even been 25 here with us before.</p>
<p style="text-align: right;">Page 27</p> <p>1 for my computer. 2 THE WITNESS: Oh, I thought -- I 3 thought you dropped out of my 101 class already. 4 MR. KEENAN: No, I'm not playing hooky 5 on you. Don't worry. 6 THE WITNESS: Oh, I felt like I was one 7 of the teachers with the home schooling and you 8 were just turning off your camera. 9 Okay. All right. So -- 10 MR. KEENAN: I'm still listening here. 11 THE WITNESS: Got it, got it. Not a 12 problem. 13 So basically what the tool is designed 14 and we have documents and policies surrounding 15 much of what I'm describing. 16 So we haven't -- I don't know if you 17 brought that in so I don't want to go into a list 18 of what those documents are. But, basically, our 19 policy and guidelines gives us the tools so that 20 we could document everything about the person, 21 about their history, and that we can provide the 22 best care for that individual when they come into 23 custody. 24 And on that side, on the other side, 25 conversely, we also want to meet your security</p>	<p style="text-align: right;">Page 29</p> <p>1 And we have a window of time that we 2 keep this information. So if you were here 20 3 years ago, we're not necessarily going to weigh 4 that the same as somebody who was here last year. 5 So we do scale the histories, not a life of 6 activity. 7 So we take all this information and we 8 determine what classification you go into. A 9 high classification person is an individual who 10 your history here with this current incarceration 11 and within the last five years is extensive. So 12 you've been here, you've been involved in 13 incidents, serious incidents, you've been 14 assaulted, you've been in use-of-force fights, a 15 range of just different things that has been 16 adjudicated. 17 This is not, you know, Becky said he 18 did it, and I said you did it, and you did it. 19 There's a due process that's attached to all of 20 this and it's documented. We can't use anything 21 that we don't have reports for. 22 So if it was not documented, it was not 23 infracted or there's no history that we can show, 24 then we don't -- we can't use that information or 25 material in developing your classification.</p>



<p>Page 30</p> <p>1 And then you're issued a range of low, 2 medium, high. And I'm simplifying it just to 3 move along a little bit. 4 Q (By Mr. Keenan) Okay. 5 A And so a high classification person in a general 6 population setting would still receive all of 7 your programs and services that -- the mail, 8 recreation, lock-out time, none of that changes. 9 So it's just how we house you and who you attend 10 your services with. 11 So, typically, a high classification 12 guy may not be best suited for a dorm setting. 13 They may be better suited in a cell setting. 14 So this information is not restrictive 15 necessarily. This is just how we classify you 16 and what we know about you. It's not a 17 restrictive housing segue to restrictive housing 18 automatically, it doesn't just do that. 19 Q Okay. So if I say you were -- we've talked 20 during the course of this case with a number of 21 people who are in dormitory style settings, I 22 think most of them have been, but if you're in a 23 cell style setting, and I know it may depend upon 24 what type of a cell setting as well, a cell 25 setting, are these generally individual cells,</p>	<p>Page 32</p> <p>1 have that. And we don't have closed custody, we 2 don't have that. 3 And what we do have right now, I don't 4 know how long we will, but we have secure, which 5 is what we have for young adults, and that is a 6 restrictive housing area. 7 We have RHU, which is where we have a 8 restrictive housing unit for our individuals that 9 require a different level of mental health. 10 We have punitive seg. 11 And none of those areas that I'm 12 describing, none of them are solitaire 13 confinement at all. And every population has 14 lock-out periods. 15 Q You said they have what type of periods? 16 A Lock-out. So there is no 24-hour lockdown 17 situation. The only population that are locked 18 down are the court-ordered lock-downs so those 19 individuals are -- and there's not many in our 20 custody at all. I believe we have around -- I 21 don't even want to guess, but we have less than 22 ten. 23 But those individuals are housed 24 according to the court, the judge gives us 25 direction. And the judge will say if an</p>
<p>Page 31</p> <p>1 are they double bunk cells, or are there 2 different types? 3 A So New York City is unique. We don't double 4 bunk, as you call it. I don't know whether -- is 5 that a state expression? We don't really have 6 that term here in New York City. So we don't 7 have more than one individual assigned to a cell. 8 Q Okay. 9 A And there are occasions where those 10 classifications would mix. For example, in an 11 infirmary setting, if an individual could be a 12 high classification person but if that medical 13 need is so that the only care you could receive 14 is in a dorm, that person could very well be in a 15 dorm setting as a high classification person. 16 Q And then if -- for there -- I know that there's 17 also various units that are more high security or 18 close custody, I know at different facilities 19 different terms are used for this, some will call 20 it administrative segregation, some will call it 21 secure housing. What's the terminology used at 22 the DOC basically for people who, for various 23 reasons, are basically kept under more 24 restrictive housing conditions? 25 A So we don't have administrative seg, we don't</p>	<p>Page 33</p> <p>1 individual is not to interact with anyone else, 2 the judge will say if they are allowed to use the 3 phone and who they are allowed to call, so those 4 are very specific and unique circumstances and 5 it's not a population per se. 6 Q Are there some detainees or inmates at DOC who 7 are -- who are under -- I think the term we heard 8 at a deposition yesterday at 23 and one setup, 9 basically they're locked in their cell for 23 10 hours a day and let out for one hour a day. Is 11 there -- is there a system like that at DOC? 12 A Outside of a court-ordered lockdown, I don't know 13 that anybody is only out one hour a day. 14 Q Okay. 15 A I mean, like what -- what -- do you -- do you 16 have -- I don't know what you mean by that. 17 Q Yeah, we -- we heard from someone named Jonathan 18 Sanchez yesterday, he gave a deposition. He told 19 us he's at GRVC. He's in a place he called -- 20 the colloquial name is the box and -- 21 A So -- so he's referring to punitive seg. 22 Q Okay. Yeah. 23 A Right. So punitive seg is perhaps he only elects 24 to come out for one hour, but that's not 25 necessarily the case. Right?</p>

<p>Page 34</p> <p>1 So in punitive seg, you're allowed to 2 participate in recreation every day. You're 3 allowed to take a shower every day. If you have 4 a visit, a visitor, you will get -- you will go 5 out and have your visit, if you have any -- any 6 court or attorney visits, if you have to go out 7 to have medical services, those are things that 8 you would definitely receive as needed. There's 9 no such thing as one hour. It may be one hour 10 that that person elects to come outside their 11 cell.</p> <p>12 Q I guess I'm just trying to understand how it all 13 works. Say in punitive segregation, are you 14 allowed, say, at anytime, Hey, I want to go 15 exercise right now, or --</p> <p>16 A Yeah, when -- when they announce recreation. So 17 the housing area -- so a staff member will come 18 around and say, Okay, we're going to have 19 recreation. And it's a schedule so you can't -- 20 no one is allowed to just go to rec at any time. 21 We have a schedule.</p> <p>22 So if you're in GP, let's say, and at 23 1:00 o'clock in the afternoon you say, You know 24 what, I feel like playing basketball, it's not 25 quite how it works.</p>	<p>Page 36</p> <p>1 what GP is max custody. So you have --</p> <p>2 Q GP is general population?</p> <p>3 A General population. I apologize. Yes, general 4 population. So you have general population. You 5 have enhanced security housing, which is a 6 restrictive housing model which is where we do a 7 collaboration of programming and -- programming 8 and where you can actually go through different 9 levels to -- the goal of ESH is where you start 10 and then you program and you participate in 11 different services, and you can actually complete 12 the program and transition back into general 13 population.</p> <p>14 So it is a restrictive housing model, 15 but it's designed to get you to transition back 16 into general population, as with most restrictive 17 housing.</p> <p>18 So we have secure, we have ESH, we have 19 punitive seg, and we have RHU, and all of that's 20 in GRVC.</p> <p>21 Q How about AMKC, the Anna M. Kross Center, can you 22 summarize what AMKC is about?</p> <p>23 A AMKC is one of our first facilities on Rikers, I 24 think it's our oldest facility on Rikers. And 25 I'm happy to share that it's named after one of</p>
<p>Page 35</p> <p>1 So in order to service the entire 2 population, we have to have a schedule. So every 3 housing area will have a posted schedule up and 4 that schedule will tell you at this time we have 5 recreation.</p> <p>6 They have a visit schedule, so they 7 will know when they are able to have, even though 8 we're doing televisits, they'll know what time.</p> <p>9 So it's not something that we can just 10 do randomly. In order to have everyone afforded 11 the opportunity, we have to have a schedule.</p> <p>12 Q And we may circle back to this later, I don't 13 know if we need to, but, again, I'm just trying 14 to get a sense of how it all works.</p> <p>15 A You want to come and spend the day over here with 16 me?</p> <p>17 Q You know, that might be an instructive 18 experience. It would certainly be interesting.</p> <p>19 Let's talk about some other facilities.</p> <p>20 We talked about NIC. We mentioned GRVC. Can you 21 summarize what GRVC is?</p> <p>22 A GRVC, GRVC is a lot. So GRVC is cells.</p> <p>23 Q Okay.</p> <p>24 A And it's maximum custody individuals. It houses 25 a variety of restrictive housing. It has GP,</p>	<p>Page 37</p> <p>1 our first female commissioners, very progressive 2 woman in her day, Anna M. Kross.</p> <p>3 And that facility has right now a count 4 of upward of 1900 individuals. It's our largest 5 facility. It is the largest facility for our 6 mental observation population, and that's where 7 we house our seriously mentally ill individuals, 8 those that require extensive treatment.</p> <p>9 And we also have general population. 10 We have cells and dorms. We also have -- we have 11 mental observation, we have GP, and it's a very 12 busy place. It's -- yeah, I think that's about 13 it.</p> <p>14 Q Okay. What is EMTC?</p> <p>15 A So Eric M. Taylor Center is also named after a 16 prominent former chief of the department, Eric M. 17 Taylor. And it has what was historically our 18 City sentenced individuals, those that were 19 sentenced to City time, which is usually a year 20 or less. That was prior to our COVID experience.</p> <p>21 So now that facility is our new 22 admission facility. So in the past, we had -- 23 our new admission process was decentralized. We 24 had new admission process in various facilities. 25 We, as a result of COVID, centralized</p>

<p style="text-align: right;">Page 38</p> <p>1 our new admission process into one facility, for 2 a variety of reasons, but basically just to 3 contain the new admissions coming into custody so 4 that we could reduce and minimize exposure to the 5 current population. 6 So new admissions, all adult males are 7 processed through EMTC. The women are in Rose M. 8 Singer Center, but the -- did we cover Rosie's? 9 Q Not yet. We'll go there yet. 10 A Oh, okay. So -- so now it is not a City 11 sentenced facility, EMTC. Now it's our new 12 admission facility. 13 So our new admission facility runs -- 14 we do new admission processing 24 hours a day, 15 seven days a week. We have all of our medical 16 screening is done there, our mental health 17 screening is done there, and the quarantining 18 until you've cleared for general population or 19 whatever housing designation, everything is done 20 at EMTC right now. 21 Q And you mentioned another facility, the Rose M. 22 Singer Center, is it -- is it colloquial known as 23 Rosie's? 24 A Yeah, but I don't like to nickname it Rosie's. 25 Q Okay.</p>	<p style="text-align: right;">Page 40</p> <p>1 that facility historically was, prior to that, it 2 was the ARDC, which was an Adolescent Recession 3 Detention Center prior, that was the name, and 4 that has historically been our adolescent young 5 adult facility. 6 So currently we have there -- in the 7 past, it would be where we had adolescents 16 and 8 17 or 18 year olds, that's where they would be. 9 That's not the case anymore. 10 However, we do still have our young 11 adult population is in RNDC. 12 We also have adults, but they're housed 13 separately, so -- and I believe we still have our 14 state screening unit would be there. In the 15 past, that would be where individuals that were 16 going to be transferred to a state would be 17 processed. That was obviously pre-COVID. 18 So that facility right now is where we 19 have a great educational environment. We have 20 our school setting there where we actually have 21 classrooms, we have administrative areas, the 22 whole school system for those individuals that 23 participate in educational services. 24 We also have a big programming space 25 for the individuals to engage with our</p>
<p style="text-align: right;">Page 39</p> <p>1 A I'm just very -- 2 Q Yeah. 3 A So Rose M. Singer is our only facility for our 4 female, or those that identify as female, 5 facility. And right now I'm happy to say we have 6 I think one of our lowest censuses from when I've 7 been around. We have averaging around 250 8 individuals there, and that's on average. I 9 don't know what today's census is. 10 And it is all -- everything. We do not 11 currently have any punitive seg individuals or 12 restrictive housing that's open, but that 13 facility houses every category. So if we have 14 anyone that needs PC housing, any type of special 15 housing for women would be in that one facility. 16 Q Are all female inmates who are under DOC custody 17 held at Rose M. Singer Center or are any female 18 inmates held elsewhere? 19 A Other than the hospital, that's where they would 20 be. 21 Q Okay. And then there's also RNDC; is that right? 22 A Yeah. 23 Q What is RNDC? 24 A That's the Robert N. Davoren Center and that was 25 also named after a chief of the department. And</p>	<p style="text-align: right;">Page 41</p> <p>1 programming team because this is a very young 2 adult population and we want to give them and 3 provide their services. So we have a lot of good 4 things happening in RNDC for that population. 5 And when the school was open, prior to 6 2020, we would have actually DOE employed 7 teachers, we had an assistant principal, a 8 principal, we had a general population school 9 site, and we had also a mental observation school 10 site for those individuals that had mental health 11 issues. 12 Those school -- returning, they are 13 returning as we are in the city where we are 14 getting them back to in-person transitioning and 15 trying to get that restarted for the school year. 16 Q And how is a young adult defined at DOC? 17 A Nineteen to 21. 18 Q The Otis Bantum Correctional Center, OBCC, can 19 you sum up OBCC for us? 20 A Yes. Where I spent over -- a little bit over of 21 ten years of my life working as a correctional 22 assistant. OBCC is the Otis Bantum Correction 23 Center, that was named after a warden as well. 24 That facility has always been an adult 25 male facility. It has a combination of dorms and</p>

<p style="text-align: right;">Page 42</p> <p>1 cells. It was also in years, years ago, it was 2 home to our punitive seg area which we no longer 3 have there. And we've also had in the past our 4 ESH population, that's no longer there. 5 Currently, we just -- that facility has 6 adult males, low, medium and high classification, 7 general population only. 8 Q And then is there also a facility called the West 9 facility or Communicable Disease Unit? 10 A Right. And I want to just put an asterisk. So 11 when I mentioned Rose M. Singer was the only 12 place for women outside of hospital, in CDU, if 13 we have an individual woman or female that has 14 been determined to require a CDU, they would be 15 at the West facility as well. That's where any 16 individual that requires that level of care would 17 be housed. 18 So that is where we have an infirmary 19 type of setting as well. It has a medical team 20 onsite 24 hours a day. And we have -- in that 21 area, there's no congregate activity. So it's 22 not punitive, it's not restrictive. It's a 23 central disease unit -- so communicable disease 24 unit, I'm sorry, and that's where individuals 25 would be kept.</p>	<p style="text-align: right;">Page 44</p> <p>1 qualified to give you the entire list of what 2 type of conditions would transfer you there. 3 But for right now, predominantly we 4 have been using it for those individuals for 5 COVID purposes and -- but as determined by 6 medical. 7 Q Okay. But I imagine that you can't house 8 everybody with COVID there at CDU, there are just 9 too many, right? 10 A Well, what do you mean? Too many that tested 11 positive that is there? 12 Q Right. Yeah. I mean, are there enough beds at 13 CDU -- 14 A Yes. 15 Q -- to house somebody who has -- 16 A Yes. 17 Q So everybody who tests positive at Rikers is sent 18 to CDU? 19 A Yes. 20 Q Okay. 21 A So what happens with -- for the process is this 22 is the way it works: So everyone that comes into 23 custody and you go through new admission 24 processing, if it's determined during -- by a 25 medical provider that you need to be isolated --</p>
<p style="text-align: right;">Page 43</p> <p>1 And inside their living space, they are 2 able to have their own TV, their own phone, 3 shower, their own space, and that is monitored. 4 And we have our staff, obviously the 5 security, but we have a medical team onsite to 6 monitor their stay, and then we'll be advised 7 when they are able to go back into general 8 population. 9 Q And give me a sense of what -- what might result 10 in someone being put in the communicable disease 11 unit. 12 A So for HIPAA reasons, we may not get the actual 13 diagnosis let's say of the medical condition. 14 Obviously, with COVID, we will know 15 about that. And anything that could potentially 16 affected anyone, we'll know about that. But 17 pretty much it would be like any disease that is 18 airborne or easily transmitted, and that we 19 usually will get that notification from their 20 healthcare provider and they will let us know 21 this individual has been determined to whatever 22 that issue is. And unfortunately, really, really 23 smart, but I don't know all the medical 24 categories that would get you in to CDU, so I 25 don't want to start on that list. I'm not</p>	<p style="text-align: right;">Page 45</p> <p>1 because, typically, the group that are admitted 2 together stays together. So if you come in -- 3 let's say your date of arrest or your date that 4 you come into custody for us is the 16th, that 5 group of individuals that came into our custody 6 for the 16th would stay together in EMTC. 7 If medical says that this individual 8 requires isolation beyond that, medical will make 9 that determination and then we would transfer 10 that individual to CDU. 11 Q Okay. 12 A So the screening is stage -- there's stages to 13 the quarantine. It's not an immediate everyone, 14 we just put everyone together, no. There's a 15 very well-defined process and it is monitored by 16 dates and what your actual medical report 17 indicates, and they will make that determination 18 to us of who actually requires CDU. 19 Q Are there any other units, DOC housing units, 20 that we have not already discussed? Going 21 through who all we've discussed, we talked about 22 the Vernon C. Bane Center, we talked about AMKC, 23 EMTC, GRVC, NIC, OBCC, RNDC, RMSC, and the West 24 facility and Communicable Disease Unit. Is 25 there --</p>

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<p>1 A Yeah, I think you've got it all covered.</p> <p>2 Q Okay. all right. How many corrections officers</p> <p>3 are there in the Department of Correction? And I</p> <p>4 guess I'll include -- I'll include management</p> <p>5 folks as well, like -- I guess let me ask --</p> <p>6 start by asking this: How many total people are</p> <p>7 there in the Department of Correction, employees</p> <p>8 and staff?</p> <p>9 A Okay, I need you to, like, shrink that a little</p> <p>10 bit. So are we saying uniformed employees? Are</p> <p>11 we saying non-uniformed employees because our</p> <p>12 staffing includes -- we have maintenance teams,</p> <p>13 we have programming teams, we have record</p> <p>14 keepers, we have an IT division, we have a legal</p> <p>15 division. So I mean, help me out.</p> <p>16 Q Let me -- let me -- let me ask this: How many</p> <p>17 uniformed staff are there?</p> <p>18 A I would say right now our head count, I would --</p> <p>19 approximately between 6- to 7,000.</p> <p>20 Q At -- are those split into three tours or three</p> <p>21 shifts each day?</p> <p>22 A They have three major tours, but there's several</p> <p>23 sub-tours of each one.</p> <p>24 Q Okay.</p> <p>25 A So to make the point, if we talk about the major</p>	<p>1 staffed at a given point in time?</p> <p>2 A Yes.</p> <p>3 Q Okay. Give me a sense of like right now, if I --</p> <p>4 if I walked into -- right now it's a little past</p> <p>5 4:00 on a Wednesday afternoon, how many, roughly,</p> <p>6 correction officers would I expect would be</p> <p>7 there?</p> <p>8 A In the entire facility?</p> <p>9 Q Yeah.</p> <p>10 A So you would expect to see a correctional officer</p> <p>11 in every housing area that's opened; every</p> <p>12 service area that's opened. And "service area,"</p> <p>13 I mean clinics and other services that they are</p> <p>14 running at the time. The central control and all</p> <p>15 supporting areas.</p> <p>16 So you can -- I mean, it could vary. I</p> <p>17 don't have a number to tell you. I don't want to</p> <p>18 guess a number. I don't think that would be fair</p> <p>19 to do.</p> <p>20 But if it's 4:00 o'clock on a</p> <p>21 Wednesday, the jail should be fully functioning.</p> <p>22 Q Okay. What are the different ranks and kind of</p> <p>23 the chain of command, say, among uniformed staff?</p> <p>24 A So when you're hired, you start out -- I'll just</p> <p>25 speak for myself and everybody else that's</p>
Page 47	Page 49
<p>1 tours, that would be 7:00 to 3:00, 3:00 to 11:00</p> <p>2 and 11:00 to 7:00. Right? So those are the</p> <p>3 three major tours. But you have a range of</p> <p>4 sub-tours.</p> <p>5 So if you're a midnight person, you</p> <p>6 could be anything from 11:00 to 7:00, 12:00 to</p> <p>7 8:00, 1:00 in the morning to 9:00, 3:00 in the</p> <p>8 morning to 11:00, so there are a lot of sub-tours</p> <p>9 based on the post that you have.</p> <p>10 Q Okay. So I guess give me a sense of this, at any</p> <p>11 given time, say, at VCBC, the Vernon C. Bane</p> <p>12 Center, how many -- how many correction officers,</p> <p>13 uniformed personnel, would -- would be there on</p> <p>14 average at a given point in time?</p> <p>15 A That I think we would have to narrow it down --</p> <p>16 if it's important to do it -- narrow it down to</p> <p>17 the day of the week and the time of the day.</p> <p>18 So what you would have on a Sunday at</p> <p>19 8:00 o'clock at night as opposed to what you</p> <p>20 would have on a Monday at 2:00 o'clock in the</p> <p>21 afternoon, so I would not be able to give you a</p> <p>22 blanket number because it varies significantly.</p> <p>23 Q Does the department keep records on like what --</p> <p>24 A Absolutely.</p> <p>25 Q -- how -- how many people are supposed to be</p>	<p>1 uniformed. You come in as a correction officer,</p> <p>2 that's a competitive exam, that's a civil service</p> <p>3 title.</p> <p>4 The next title is captain, that's a</p> <p>5 competitive title, a civil service exam.</p> <p>6 The next is assistant deputy warden,</p> <p>7 that, again, is a civil service title. That's</p> <p>8 actually warden level 1.</p> <p>9 From there, you can be promoted to</p> <p>10 deputy warden. That's still in the civil</p> <p>11 service, but the title is warden level 2.</p> <p>12 After that, you're no longer in the</p> <p>13 union. If you become a warden, you're considered</p> <p>14 management, that's warden level 3.</p> <p>15 If you become an assistant chief,</p> <p>16 that's considered management, that's not a civil</p> <p>17 service title.</p> <p>18 If you become -- that's an assistant</p> <p>19 chief, and then bureau chief, which is myself, is</p> <p>20 management. There is no union.</p> <p>21 And then the chief of the department.</p> <p>22 Q And then how do the commissioners sit in relation</p> <p>23 to all those folks?</p> <p>24 A The commissioner is the highest position of the</p> <p>25 agency and that person is assigned as -- from the</p>

<p>Page 50</p> <p>1 mayor's office.</p> <p>2 Q And then the deputy commissioners, how do they</p> <p>3 fit into the chain of command?</p> <p>4 A They're assigned and appointed by the</p> <p>5 commissioner.</p> <p>6 Q Okay. So the deputy commissioners do not at</p> <p>7 least directly oversee uniformed staff?</p> <p>8 A They do. They have uniformed staff under their</p> <p>9 purview.</p> <p>10 Q Okay. And how many -- let's say by example at</p> <p>11 NIC, how many -- how many correction officers are</p> <p>12 there for each captain who is present on a given</p> <p>13 tour, on average?</p> <p>14 A So let's take NIC, that would depend. So the way</p> <p>15 that it works now, and it has changed and been</p> <p>16 different at different times, so if you take the</p> <p>17 main building, which is the -- where you have the</p> <p>18 second, third and those floors that I mentioned,</p> <p>19 you would have a captain assigned to different</p> <p>20 areas. You would have a central control room</p> <p>21 captain, every facility has that.</p> <p>22 You would have an intake captain</p> <p>23 depending on the tour. You would have a housing</p> <p>24 area captain for each area, so you would have a</p> <p>25 captain for four, five and six, and then the</p>	<p>Page 52</p> <p>1 let's just -- let's just take a snapshot because</p> <p>2 we don't want to talk about every captain, right?</p> <p>3 So I think for this conversation you're referring</p> <p>4 to a housing area captain, yes?</p> <p>5 Q Sure. Yeah.</p> <p>6 A Okay.</p> <p>7 Q I know there are many specialized jobs --</p> <p>8 A Right.</p> <p>9 Q -- at DOC where the chain of command is going to</p> <p>10 be a little different. I'm talking about just</p> <p>11 kind of the ordinary situation of, you know, from</p> <p>12 the viewpoint of an inmate who is housed in a --</p> <p>13 in a regular housing unit, you're going to</p> <p>14 encounter -- they're going to encounter</p> <p>15 correction officers, they may might occasionally</p> <p>16 encounter a captain.</p> <p>17 Who are -- who are the folks that, from</p> <p>18 the viewpoint of the average inmate, they are</p> <p>19 going to be encountering in terms of uniformed</p> <p>20 staff, and how do all those folks relate to each</p> <p>21 other?</p> <p>22 A Right. So in the housing area, obviously the</p> <p>23 first line of staff that are on the pulse are the</p> <p>24 correction officers. So you typically would have</p> <p>25 a -- I'm going to say an A officer. The A</p>
<p>Page 51</p> <p>1 second floor captains, and the third floor</p> <p>2 captains.</p> <p>3 Then you would have a program captain,</p> <p>4 you would have an HO captain, you would have a</p> <p>5 security captain, investigations captain, and</p> <p>6 each person has a different area of</p> <p>7 responsibility.</p> <p>8 Q I guess one of the things that we've encountered</p> <p>9 in this case is that, you know, people saying</p> <p>10 correction officers will be, for lack of a better</p> <p>11 term, out on the floor, you know, kind of in a</p> <p>12 day room or in a housing area, or whatever, and</p> <p>13 then captains will come by a few times during the</p> <p>14 course of the given tour, maybe two or three</p> <p>15 times and check on things.</p> <p>16 So I'm trying to get -- what I envision</p> <p>17 is correction officers are at their post during</p> <p>18 the tour, and then there's a captain who kind of</p> <p>19 circulates around different places to check on</p> <p>20 things. So how does -- how does a captain relate</p> <p>21 to what correction officers are doing and like</p> <p>22 how many correction officers is a captain</p> <p>23 overseeing, and do correction officers report to</p> <p>24 a captain or do they report to someone else?</p> <p>25 A So they will report -- if you're a housing -- so</p>	<p>Page 53</p> <p>1 officer is in a desk that is right in proximity</p> <p>2 of the housing area. And their job is -- they</p> <p>3 also have a B officer. The B officer will be</p> <p>4 inside the housing area.</p> <p>5 The B officer is responsible for a</p> <p>6 range of different functions. That immediate</p> <p>7 supervisor for those officers -- so we're just</p> <p>8 talking about two correction officers for right</p> <p>9 now those two correction officers for that</p> <p>10 housing area would report to the housing area</p> <p>11 captain.</p> <p>12 The housing area captain is required to</p> <p>13 tour the housing area for -- on three occasions</p> <p>14 at a minimum, but that doesn't negate any other</p> <p>15 times their presence is required.</p> <p>16 So you're required to tour on three</p> <p>17 occasions, but anytime -- a correction officer</p> <p>18 can request you to come at anytime, to come for</p> <p>19 whatever the reasons. So you could come there as</p> <p>20 many times as necessary.</p> <p>21 And their function, when the captain</p> <p>22 reports to the area, is to tour the area, to,</p> <p>23 like, to talk to the correction officer, what's</p> <p>24 going on, to read the log book. The log book</p> <p>25 contains all the information of what's happening</p>

<p style="text-align: right;">Page 54</p> <p>1 on that tour, talks about the count, the 2 conditions, any services that have been -- 3 anything that's going on, that should be in the 4 log book. 5 The captain is going to tour and talk 6 to the staff and the individuals that live there. 7 So the captain just doesn't interact with the 8 officer, they're interacting with everyone that's 9 there. 10 And then if there's any issues that the 11 officer cannot resolve and they need the 12 assistance of the captain, they will say anything 13 from, Can you check this, or Can you look into 14 that, or whatever the needs of the issues of the 15 day require, the captain is to abate those 16 issues. 17 Q So you gave me the example of a housing captain. 18 How many -- and if I'm asking the wrong question, 19 rephrase it for me, please. But what I've 20 envisioning as an outsider is that I know, for 21 instance, in NIC, there's like dorm one and dorm 22 three and other dorms, is there one housing 23 captain on a given tour for all of NIC and 24 they're responsible for making sure they get to 25 each dorm in NIC a few times a tour, or are there</p>	<p style="text-align: right;">Page 56</p> <p>1 housing areas so that would take a lot of 2 different captains for housing areas. 3 And it's a very large facility so it's 4 broken up by areas, and each captain may have 5 anywhere from four to six, depending on the tour, 6 housing areas, which they usually are grouped 7 together. So your areas -- your housing areas 8 would be located physically in a similar area. 9 They wouldn't have you going all over the 10 different facility. You would have yours in your 11 space than the other captains would have. So you 12 would have many, many captains on let's say the 13 7:00 to 3:00 tour, on the 3:00 to 11:00 tour you 14 would have a lot of captains as well. 15 On the midnight tour, it's a little bit 16 more consolidated because there's very little, if 17 any, activity on the midnight so the captain may 18 have additional housing areas to cover on the 19 midnight tour. 20 Q Okay. What are your responsibilities as bureau 21 chief of operations? 22 A So I'm responsible for all the operations. So 23 everything from sanitation, clinic production, 24 programs and services, security operations, 25 program staffing, the management team. You name</p>
<p style="text-align: right;">Page 55</p> <p>1 multiple housing captains on any given tour at 2 NIC, how does it work? 3 A So NIC, you're going to have more than one 4 housing area captain. So for the infirmary, in 5 NIC annex, which is what the infirmary -- I'll 6 use it interchangeably, but the annex and the 7 infirmary is the same thing. 8 So that area has four housing areas, 9 which isn't uncommon for a captain to have more 10 than one housing area they're responsible for. 11 So NIC, one captain would be the annex 12 captain; that captain would be responsible for 13 those dorms, one two, three and four. 14 They've got to remain in that area, 15 they tour that area and they interact with the 16 staff. 17 And then anyone else that is in the 18 housing area, which you have a strong medical 19 presence there, so the captain would interact 20 with them as well, whatever is necessary. So you 21 would have one captain that's assigned to cover 22 all four of those dorms. 23 Q And let's shift over to AMKC. How many housing 24 captains would there be on a given tour at AMKC? 25 A So AMKC is quite different. AMKC has over 75</p>	<p style="text-align: right;">Page 57</p> <p>1 it, if it happens in a jail, I'm responsible for 2 it. 3 Q And how do you fit into the disciplinary and 4 corrective action processes at DOC, what's your 5 role in all of that? 6 A So when there is a -- so my role is really 7 limited to the command discipline process. So 8 what that means is when a facility -- anyone in 9 the facility's supervisor generates a command 10 discipline, it goes through our process, it's 11 adjudicated, it's heard, and the final version 12 comes to my office for the final signature. 13 Q What are the different types of discipline at 14 DOC? 15 A So you have the whole range. It can go from a 16 verbal reprimand, which can just be us having a 17 conversation, going over some things that have 18 happened. 19 And then we can go from there to a 20 corrective interview, a corrective interview is 21 just where in writing we document as opposed to 22 just having a conversation about a low-level type 23 of issue. Perhaps if, you know, something not -- 24 like you don't have on the right socks or you 25 didn't have on the right -- some type piece of</p>

<p style="text-align: right;">Page 58</p> <p>1 equipment or something that may be what we would 2 call something that's not a high-level type of 3 disciplinary issue. 4 And then from corrective interview, you 5 can go to a command discipline which is still 6 informal in that it doesn't require an attorney 7 and it's not a part -- it won't be on your 8 permanent record. It will stay there for a 9 certain period of time and then it's dismissed 10 from your record. 11 And then we move from that to formal 12 discipline, which is our memorandum of complaint. 13 That is where it is now -- those are usually 14 reserved for very serious and egregious acts. 15 And that can be generated at the facility level 16 and it also can be generated from our ID, our 17 investigations division can also -- an MOC can be 18 generated from me. It can be generated from any 19 other chief. 20 And that -- a memorandum of complaint, 21 if it's adjudicated, and that is where you would 22 have an attorney and you would -- if it's taken 23 to trial, you would go to OATH and an 24 administrative trial judge would make the 25 decision, and that would be -- that decision</p>	<p style="text-align: right;">Page 60</p> <p>1 just want to add that to that conversation. 2 And a memorandum of complaint could go 3 up into and include termination as you described. 4 It could also -- you can also have a negotiated 5 plea agreement where you -- you're put on limited 6 probation or full probation. 7 So there's a range of different 8 penalties and it has everything to do with the 9 case. 10 Q Okay. And give me -- give me a sense of what -- 11 what are some things that you'll often see go 12 through the memorandum of complaint process, why 13 would -- why would you use that process as 14 opposed to command discipline or some lower 15 level? 16 A So we have certain offenses that a formal 17 discipline is required. So if let's say, for 18 example, an erroneous discharge, there is no 19 option, it is a memorandum of complaint. And the 20 penalty can be suspension, it can be -- you know, 21 depending on what actually happened, but that's 22 just one that is absolutely that is the only -- 23 you cannot get an informal discipline for an 24 erroneous discharge. 25 Sleeping on duty is a memorandum of</p>
<p style="text-align: right;">Page 59</p> <p>1 would be on your permanent record for the life of 2 your career. 3 Q And is -- is a memorandum of complaint kind of 4 the, more or less, the framework for any higher 5 level of discipline? 6 A I don't understand. 7 Q Here's what I'm trying to -- I'm trying to 8 understand. So in a civilian world, you'll often 9 see employers have different levels of 10 discipline. It will be like, you know, verbal 11 warning, written warning, suspension, final 12 warning, termination, and the levels of 13 discipline correspond to not just the way the 14 discipline process is initiated but also what the 15 penalty is. So what I want to understand is the 16 memorandum of complaint, is that -- what's the 17 outcome of a process that is -- that starts with 18 a memorandum of complaint, could that be anything 19 from just a negative mark on your file up to 20 termination and how -- how do you go about that 21 process? 22 A So let me just go back a little bit in giving you 23 the options of discipline. I did not include 24 suspension and termination. So, yes, those are 25 options as well. I did not include those. So I</p>	<p style="text-align: right;">Page 61</p> <p>1 complaint, and that could be anything from 2 suspension to termination. 3 Q Okay. Have you been involved in the process of 4 discipline or supervision whether correction 5 officers and staff are wearing masks during 6 COVID-19? 7 A Yes. 8 Q Okay. Can you summarize what the department's -- 9 what steps the department has taken or what the 10 department is doing to monitor staff and 11 correction officer compliance with mask mandates 12 during COVID? 13 A So we have taken this very, very seriously, let 14 me just start with that, as in our community. 15 Right? And we recognize where -- what the value 16 is and how -- what -- how -- the safety. And 17 what -- the first step in doing that was 18 education, just providing clear language 19 surrounding the why, to educate and gain 20 voluntary compliance and understanding of why. 21 And in addition to that, providing -- 22 just making sure that everybody has enough of it 23 and making sure that everybody has readily 24 available 24-hour, wherever you're working, you 25 can have a mask, it's at your disposal.</p>



<p style="text-align: right;">Page 62</p> <p>1 You can bring -- and you can wear your 2 own mask. You don't have to wait and see, Oh, I 3 want this, I want that. You can bring your own 4 mask. 5 So in those occasions, as we have seen 6 in the community, you have some individuals 7 that -- you have wavering compliance. Right? 8 You will see some -- you have occasions to see 9 where the mask may be under their nose instead of 10 covering their entire face. And in those 11 occasions, supervisors are reminded to ensure 12 that staff are compliant with the full policy, 13 not just having it around but actually wearing it 14 as required. 15 We have signage and posters up 16 surrounding this and telling them how to wear it 17 and how to ensure that the population, those 18 incarcerated persons are as well. 19 In terms of staff, we have, as I 20 described in the discipline process, we have had 21 verbal, you know, con -- reprimands, we've had 22 where it's just counseling, and where we have 23 warnings, we've had corrective interviews. 24 So it has gone -- I don't know a formal 25 discipline, I cannot speak to that. I don't know</p>	<p style="text-align: right;">Page 64</p> <p>1 been closed for some time, and my office is 2 located sort of like on the second floor. I'm 3 across the street from -- right across like AMKC, 4 you can walk across the street from where I am. 5 Q Are you in housing areas every day? 6 A No. 7 Q Okay. 8 A After -- after -- after 30 years? That's what 9 you want? But I'll go, I go and I go often. I 10 was in housing areas yesterday -- 11 Q Okay. 12 A -- in GRVC. 13 Q How often are you in housing areas? 14 A I don't go every day and I don't have any 15 indicated schedule of touring. I do it randomly, 16 which is really what, in many role, it should be. 17 And I go out and I tour just to -- and sometimes 18 in response to something, but more often just to 19 go out and see what's happening in the 20 facilities. 21 Q All right. Do you personally impose discipline 22 or initiate discipline in your jobs? 23 A I'll direct staff to do that. 24 Q Okay. Have you ever imposed discipline or 25 initiated discipline relating to wearing of</p>
<p style="text-align: right;">Page 63</p> <p>1 of a case of formal discipline, meaning a 2 memorandum of complaint, but I do know that under 3 my supervision, everyone is required and their 4 noncompliance is not an option, and so every 5 supervisor is responsible to make sure all staff 6 under their purview are as well. 7 And as far as the population goes, 8 we've had the same challenge in terms of wavering 9 compliance. But what we have leverage is that 10 when you want to participate in a service, in 11 order to participate in a service and go on about 12 throughout the facility, that that's a 13 requirement. 14 So for the population, we have not had 15 any source of enforcement in terms of forcing 16 someone to put it on them. We give warnings, we 17 give recommendations, we encourage, and we remind 18 them of it, and we see the same results that you 19 see in the community. 20 Q Chief Scott, are you personally onsite at Rikers 21 or -- 22 A I'm on Rikers Island -- I am on Rikers Island 23 right now in a facility that was known as GMDC, 24 which, by the way, you didn't mention, but it's a 25 decommissioned facility, it is closed. It has</p>	<p style="text-align: right;">Page 65</p> <p>1 masks? 2 A So my instructions -- well, this is what in my 3 role that I do. I talk to my management teams on 4 a daily basis and that is something that is 5 communicated on a daily basis, and is to report 6 it to me that if a person is going to receive 7 counseling, if their course -- if the person is 8 going to receive any type of written warning, 9 that is what the facility management team is 10 responsible for ensuring happens. 11 Q But you have not initiated any disciplinary 12 processes or yourself disciplined anyone for 13 not -- 14 A Personally? 15 Q Yes. 16 A No. 17 Q Okay. And I just want to confirm, I think you 18 testified earlier you are not aware of any 19 instance in which the DOC has instituted formal 20 discipline against anyone for not complying with 21 the mask mandate, correct? 22 A And I wouldn't necessarily -- I'm sorry? 23 Q I didn't say anything. 24 A Oh. I wouldn't necessarily know if that has 25 happened. It wouldn't necessarily be reported to</p>

<p style="text-align: right;">Page 66</p> <p>1 me, so I don't -- I don't know of an occasion for 2 it to happen. 3 Q Who would know it, how would we find out that 4 information? 5 A So when someone receives an MOC, the person in 6 the facility generates that and then it would be 7 forwarded through to the chief of admin's office. 8 I wouldn't be in the chain, the workflow if that 9 happens. 10 Q You have access to all the records of DOC 11 discipline regarding not wearing PPE or masks, 12 correct? 13 A No. 14 Q Okay. I guess what I -- and this sometimes comes 15 up in these little 30(b)(6) depositions. What I 16 need to find out is: Are you the right person 17 who is going to be able to tell us about what 18 discipline has or hasn't been done at DOC 19 regarding PPE, or is someone else the right 20 person to talk to about this? 21 A So, okay, let me just be clear on the question. 22 Are you asking me that any time a person receives 23 a corrective interview, that I would know? 24 Q No. I'm saying -- I'm -- you're -- so you're 25 here, and I know we're going back to what we've</p>	<p style="text-align: right;">Page 68</p> <p>1 regards to what you're asking. 2 It's not a one-stop show of where -- 3 what office would be centralized in terms of 4 collecting all discipline for masks. And let me 5 make the point. 6 If a facility generates a CD let's say 7 for -- 8 Q Command discipline? 9 A Right, command discipline, and the officer is 10 found to have said, You know what, you're right, 11 I did that, the command discipline is processed. 12 My job as the bureau chief of facility operations 13 is when that command discipline is in a system, 14 if the charges and the penalty are correct and 15 the officer has agreed, my job as the signatory 16 to make sure the process is correct and then I 17 sign it, and then it returns and all the other 18 process happens. 19 There's no requirement from my office 20 to record how many I receive not just for masks 21 but for any other penalty. So I don't have 22 record-keeping on how many command disciplines 23 were generated for masks or how many command 24 disciplines were generated for any other thing. 25 The operations of my office is not designed nor</p>
<p style="text-align: right;">Page 67</p> <p>1 talked about at the beginning of the deposition, 2 and I know that you understand this, but I'm just 3 putting it on the record, you understand you're 4 here not as an individual, although some -- 5 you're also -- you are an individual and you're 6 giving some testimony based on your personal 7 knowledge, but the primary reason you are here is 8 as, in a sense, the personification of the 9 Department of Correction to testify about some 10 topics that we are entitled to testimony on; do 11 you understand? 12 A Right. 13 Q Okay. So what -- what we need is someone who can 14 speak for the DOC as to what all discipline the 15 DOC has done regarding masks and PPE during 16 COVID-19. And there's probably no one person at 17 DOC personally as a human being knows all that 18 stuff so usually what it means is DOC designates 19 somebody to review all the records, have 20 knowledge of all the records based on reviewing 21 them, and then be able to talk about them. 22 So my question is: Is that you or is 23 it somebody else? 24 A So let me -- let me just talk about the way our 25 agency -- the way that this agency works with</p>	<p style="text-align: right;">Page 69</p> <p>1 intended to work for that purpose. 2 However, if, in fact, there was a 3 question of how many command disciplines were 4 generated by the department, if you wanted to get 5 a number let's say for the last year, that task 6 would be between the chief of admin's office 7 where these records are stored, and potentially 8 if there was some technology requirement to pull 9 that data from some system, then perhaps a 10 collaboration of the two. 11 But in terms of the agency, my role and 12 responsibility is not data keeping on discipline 13 for masks. 14 Q To go back to the memorandum of complaint, no one 15 can be suspended without a memorandum of 16 complaint, right? 17 A Correct. 18 Q And no one can be terminated without a memorandum 19 of complaint, right? 20 A I'm not going to necessarily say that. 21 Q All right. Then specify that for me, because I 22 would think termination is probably the most 23 severe discipline, so give me -- 24 A You would -- that would be a part of the process, 25 to your point, yes.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q All right. Okay. So you're -- you're not going 2 to get fired unless there is a memorandum of 3 complaint process -- 4 A Yes. 5 Q -- is that correct? Okay. And you're not going 6 to have anything go down in your permanent file 7 as a correction officer unless there's a 8 memorandum of complaint? 9 A Correct. 10 Q So I'm going to refer to all of those things, 11 permanent discipline in your file, suspension, 12 termination as -- I'll refer to them for 13 shorthand as higher level discipline. Okay? Is 14 that fair? 15 A Yes. 16 Q All right. So are you aware of or have you seen 17 any records of anyone receiving higher level 18 discipline for not complying with mask mandates 19 including, you know, PPE? 20 A No. 21 Q Okay. Can a -- can a DOC employee be given 22 higher level discipline for not wearing masks or 23 PPE? 24 A No. 25 Q Okay. And what's the policy that says that, if</p>	<p style="text-align: right;">Page 72</p> <p>1 A So when there's an MOC, that goes to our ID, 2 investigations division, and they will be the 3 final authority on what they are going to proceed 4 to take to OATH and what charges they are not. 5 Q Okay. 6 A That is where that decision is made. 7 Q All right. So maybe I should back up a moment. 8 Memorandum of -- a memorandum of complaint, are 9 there -- are there certain types offenses that do 10 not qualify for a memorandum of complaint 11 process? In other words, DOC doesn't consider 12 them serious enough to be brought through the 13 memorandum of complaint process? 14 A I don't -- I don't feel comfortable giving a 15 blanket answer without any specific details, 16 because I can't think -- I can't readily recall 17 every single policy and rule and reg individually 18 to say which ones will and which ones won't, 19 because the scenario and the circumstances 20 collectively is what the decision is based off. 21 So I don't feel comfortable in giving an answer. 22 Q Okay. What I'm -- maybe -- maybe there's a 23 document we can see later on that will give us a 24 better sense of this. But let me ask -- let me 25 ask this: I think you said earlier, but I just</p>
<p style="text-align: right;">Page 71</p> <p>1 there is one? 2 A That says they can't get higher level discipline? 3 Q Right. 4 A Well, the higher level discipline is for 5 significant serious events that we have laid out 6 in our policy and we -- currently, the mask 7 policy is not in that criteria. 8 Q Okay. Who gets to determine what infractions or 9 violations of policy qualify for higher level 10 discipline and which don't? 11 A So if you receive an MOC, that's a formal process 12 so that would be taken to OATH. 13 Q I'm asking about something different. So what 14 I'm gathering is that the DOC has set forth 15 policies under which certain types of offenses or 16 infractions by correction officers can qualify 17 for higher level discipline? 18 A Yes. 19 Q Whereas, other types offenses and infractions do 20 not qualify for higher level offenses; am I 21 summing that up correctly? 22 A Yes. 23 Q Who or I guess what process determines what 24 offenses qualify for higher level discipline and 25 which don't?</p>	<p style="text-align: right;">Page 73</p> <p>1 want to confirm, you are not aware and you have 2 not seen any records indicating that anybody has 3 been brought through a memorandum of complaint 4 process due to not wearing a mask properly, 5 correct? 6 A Correct. 7 MR. KEENAN: Let's go ahead and look at 8 what has been previously marked as Exhibit 8 in 9 this case. Julia, if you don't mind bringing 10 that up. 11 Q (By Mr. Keenan) And, Chief Scott, do you 12 recognize Exhibit 8? 13 A Yes. 14 Q Can you identify what Exhibit 8 is for us, 15 please? 16 A That's the policy that was generated regarding 17 masks. 18 Q And the policy is dated September 24, 2020, 19 correct? 20 A Yes. 21 Q All right. Has there been a new version of this 22 policy or revised version of this policy 23 implemented since September 24th, 2020, or is 24 this still the wearing masks and face coverings 25 policy that's in effect?</p>

<p style="text-align: right;">Page 74</p> <p>1 A I think we have a new version that was dated 2 March 4th, '21. 3 Q Okay. Let's go ahead and look at Exhibit 15. 4 This is a -- do you recognize Exhibit 15, Chief 5 Scott? 6 A Yes. 7 Q Can you tell us what it is? 8 A A teletype which was generated by the 9 commissioner and the chief of the department to 10 all commanding officers at facilities. 11 MR. KEENAN: Okay. And then let's pull 12 up Exhibit 19, if we could, Julia. 13 Q (By Mr. Keenan) Chief Scott, do you recognize 14 Exhibit 19? 15 A Yes. That's another teletype from the 16 commissioner and the chief of the department to 17 all commanding officers in facilities regarding 18 masks. 19 Q And then let's take a look at -- I'm sorry, go 20 ahead. 21 A No, I don't have anything. 22 Q Let's go ahead and take a look at Exhibit 10, if 23 we could, please. 24 A Okay. 25 Q Do you recognize Exhibit 10, Chief Scott?</p>	<p style="text-align: right;">Page 76</p> <p>1 about 5:00. 2 (Brief recess.) 3 MR. KEENAN: All right. We are back on 4 the record after a short break and just dealt 5 with some document matters while we were on the 6 break. 7 We recently or I guess just got a 8 policy that, Chief Scott, you just referred to 9 before we took the break. 10 Julia, have you had an opportunity to 11 load that policy into the system or should we do 12 that at a later time? 13 MS. GOKHBERG: It's ready to go. 14 MR. KEENAN: Okay, great. Let's pull 15 that up and we'll mark it as 33. 16 MS. GOKHBERG: It will be Exhibit 34. 17 MR. KEENAN: It will be Exhibit 34? 18 Okay, I apologize. 19 (Deposition Exhibit 34 identified.) 20 Q (By Mr. Keenan) Okay. Chief Scott, do you 21 recognize what's been marked as Exhibit 34? 22 A Yes. 23 Q Can you identify what it is? 24 A It is our directive regarding the wearing of 25 masks and face coverings.</p>
<p style="text-align: right;">Page 75</p> <p>1 A Yes. 2 Q And what is Exhibit 10? 3 A A teletype from the chief of the department 4 regarding surgical masks to incarcerated persons. 5 MR. KEENAN: Julia, do you know if we 6 have that, a revised version of the masks policy? 7 I'll mark it if there is such a thing. 8 MS. GOKHBERG: I will check. I'm not 9 certain. 10 MR. KEENAN: And maybe just to move 11 this along, David, do you know if there is a 12 revised version of the mask policy and if it's 13 been produced? 14 MR. THAYER: There's not been, to my 15 knowledge, a March 4th update that's been 16 produced, but I'm behind the scenes looking to 17 see if we can get our hands on that. 18 MR. KEENAN: Okay. All right. 19 MR. THAYER: Do you think this might be 20 a good opportunity to take a quick -- 21 MR. KEENAN: Sure. 22 MR. THAYER: -- a quick break? 23 MR. KEENAN: Sure. Absolutely. Why 24 don't we take a -- why don't we take a ten-minute 25 break here, all right, and why don't reconvene at</p>	<p style="text-align: right;">Page 77</p> <p>1 Q Can you -- and I see we're getting some direction 2 on this first page here, it says "new material," 3 bold and underlined. But other than going by 4 that direction, can you give us a sense of what 5 was different between this policy and the 6 previous policy we looked at that had been issued 7 I think in September of 2020? 8 A The highlighted difference is the wearing of two 9 masks. 10 Q Okay. That is under the "strongly recommended" 11 framework, right? 12 A Yes. 13 Q Is something that is strongly recommended just 14 that, it's a recommendation and it's not a rule 15 that can subject someone to discipline? 16 A So it's both, actually, a directive is a policy 17 and the language of strong recommended. So to 18 give it context with regards to this, our goal is 19 to gain compliance. Our goal is to get everyone 20 in compliance at all times. 21 It was about safety, education and just 22 giving the best practices as they became 23 available to us. So the language is consistent 24 with what was happening and what is happening in 25 the community.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q I appreciate that. My question is a little 2 narrower. So going through this policy, I see 3 under subsection 2, policy, subsection A: It is 4 the policy of the department that -- sub one -- 5 all staff members able to medically tolerate a 6 face covering/mask must wear a face covering/mask 7 while performing duties that require interacting 8 with incarcerated individuals, members of the 9 public and/or other departmental staff members 10 when it is not possible for the individual to 11 maintain a distance of six feet or more from 12 another individual. 13 Did I read that correctly? 14 A Yes. 15 Q And that sentence contains the word "must," 16 correct? 17 A Yes. 18 Q Does that mean it's mandatory, you have to do it? 19 A Yes. 20 Q And if you don't do it, you are subject to 21 discipline, correct? 22 A Yes. 23 Q Then we go to another paragraph that says: It is 24 strongly -- sub two, that says: It is strongly 25 recommended that.</p>	<p style="text-align: right;">Page 80</p> <p>1 that way, I don't know. 2 Q Okay. Well, let's look at the differences and 3 what the recommendations and requirements are 4 under the two paragraphs. The first one that 5 uses the word "must" says that, basically, you 6 have to wear a face covering or mask when you are 7 within closer than six feet of another person. 8 That's basically what it says, right? 9 A Right. 10 Q And then below that in the strongly recommended 11 category, it says: Wear a mask anytime you're 12 indoors even if you're six or more feet away, 13 right? 14 A Yes. 15 Q So I guess if it's mandatory department policy 16 that you -- and could subject you to discipline, 17 if you don't wear a mask at anytime while 18 indoors, then what's the point of paragraph 1 19 that allows you to opt out of wearing a mask if 20 you're more than six feet away from people? It 21 seems superfluous, right? 22 A I wouldn't agree with that. 23 Q You would not agree. Tell me how to resolve that 24 tension. 25 A I don't know how you would resolve that.</p>
<p style="text-align: right;">Page 79</p> <p>1 Did I read that correctly? 2 A Yes. 3 Q And "strongly recommended" is a different 4 phrasing than "must," correct? 5 A Yes. 6 Q So if a correction officer chooses not to follow 7 the strong recommendation, can that officer be 8 disciplined? 9 A Yes. 10 Q Okay. What is the difference -- what is the 11 difference then between subparagraph 1 and 12 subparagraph 2, why separate -- why separate 13 them? 14 A It's the difference in wording. 15 Q But why? I mean, here's -- here's what I'm 16 trying to -- 17 A So -- so if you're asking the why, I think what 18 the goal of our policy was to remain consistent 19 with what the language and standards that were in 20 existence at the time. 21 I don't know the exact wording and 22 whether this policy was -- was the source of the 23 language, I don't have that answer as to why the 24 words "strongly recommend" and also the word 25 "must" are here. If you're asking me why that's</p>	<p style="text-align: right;">Page 81</p> <p>1 Q So I guess let me ask you squarely then. Is it 2 the policy of the Department of Correction, up to 3 the point of imposing discipline, that correction 4 officers and staff must wear masks at all times 5 while indoors? 6 A That is our policy. 7 Q That is your policy or is not? 8 A It is. 9 Q It is. And this is a -- the only change here is 10 in the bold and underline, so this subparagraph 11 Roman numeral II, sub A, sub 2, sub Arabic 1, 12 let's go up to -- there are two Roman numeral IIs 13 here. It's the first Roman numeral II on page 1 14 of Exhibit 34. Roman numeral II, Policy, sub A, 15 two, i, little Roman i, that was part of the 16 September policy as well, September 2, right? 17 A Yes. 18 Q So is it your testimony that it has been the 19 mandatory policy of the Department of Correction 20 since September 2020 that all of DOC's staff and 21 officers must wear a mask or face covering when 22 interacting with other employees and members of 23 the public in an indoor setting at all times? 24 A Yes. 25 Q And then there's another -- there's another</p>

<p style="text-align: right;">Page 82</p> <p>1 addition here that says: Wearing two face 2 coverings can provide you and others with added 3 protection by increasing the number of layers of 4 material and making for a snugger fit. When 5 wearing two face coverings, consider the 6 following: Use a cloth face covering and one 7 disposable mask. The disposable mask should be 8 worn underneath the cloth face covering; do not 9 use two disposable masks; do not use a face 10 covering over or under a KN95 mask. A KN95 11 should be worn alone; do not use a face covering 12 with an exhalation valve as it allows unfiltered 13 exhaled air to escape.</p> <p>14 Did I read that all correctly?</p> <p>15 A Yes.</p> <p>16 Q Is it -- is this a strong recommendation or is 17 this a mandatory policy now and if you don't 18 follow it, you're going to be subject to 19 discipline?</p> <p>20 A Is it a mandated policy --</p> <p>21 Q Yeah.</p> <p>22 A -- to wear a mask?</p> <p>23 Q No. Is it a mandated policy to wear two, a cloth 24 face covering and a disposable mask?</p> <p>25 A So it -- it says -- it's under number two, "It is</p>	<p style="text-align: right;">Page 84</p> <p>1 A Well, it -- it says in the policy, it's the 2 policy that we wear masks.</p> <p>3 Q Yes. That's -- that would be -- let me ask you 4 this: Chief Scott, do you draw a distinction 5 between the must language under subparagraph 6 arabic 1 and the strongly recommended language 7 under subparagraph arabic numeral 2?</p> <p>8 A So what I'm going to say, and I don't know that 9 I'm going to stray much from this point, and this 10 is my pretty much final stance on this and this 11 policy: It is our policy that staff wear masks, 12 that's our policy.</p> <p>13 Q Wear one mask or wear two?</p> <p>14 A It is our policy to wear a mask consistent to 15 what is our guidelines that we receive as a city 16 agency, we wear a mask.</p> <p>17 If an individual wants to wear two, we 18 are providing what the recommendation is. We are 19 putting in there the language that you can see 20 where it talks about if you're wearing this type 21 of mask, don't wear this type of mask, that's the 22 guidance that we were provided. In terms of the 23 interpretation of the word "must" over "strongly 24 recommend" over "suggest" over "mandatory," we 25 can be here much past 6:00 and 7:00 and 8:00</p>
<p style="text-align: right;">Page 83</p> <p>1 strongly recommended that," and that's where the 2 two masks come in. So I think that's clear.</p> <p>3 Q So here's my question: Is the requirement -- is 4 there a requirement, mandatory requirement, that 5 all correction officers and staff wear a cloth 6 face covering and a disposable mask; in other 7 words, they have two layers of protection, is 8 that a mandatory requirement?</p> <p>9 A My interpretation of this policy is that it's 10 directing staff to wear a mask, one; two, then it 11 is recommending, based on the language, that you 12 wear two.</p> <p>13 So I think I see what you're saying, 14 yes, it is our policy to a wear a mask and it's 15 recommended to wear two.</p> <p>16 Q Okay. So you would acknowledge then, Chief 17 Scott, that there is a distinction between a 18 requirement, which is -- and a recommendation, 19 there is a distinction, right?</p> <p>20 A Yes.</p> <p>21 Q Okay. And along with that, the wearing a mask 22 when indoors at all times, even if you're more 23 than six feet away from people, that's in the 24 recommendation category, not the requirement 25 category, right?</p>	<p style="text-align: right;">Page 85</p> <p>1 o'clock tonight.</p> <p>2 My answer is New York City Department 3 of Correction, all staff are required to wear 4 masks. Anytime anyone is found not to comply, 5 they may face discipline.</p> <p>6 Q May not necessarily will, right?</p> <p>7 A Sir, may face discipline.</p> <p>8 Q Right. And may -- may is a -- it's a 9 possibility, not it's definitely going to happen, 10 right?</p> <p>11 A If you're not compliant with policy of wearing a 12 mask, you may face discipline.</p> <p>13 Q What does it -- does that include -- is that just 14 if you're not wearing a mask when you're within 15 6 feet of people or is that not wearing a mask at 16 anytime when you're within 6 feet of people?</p> <p>17 A Our policy is all staff wear a mask; and if not, 18 you may face discipline.</p> <p>19 Q And may face discipline necessarily includes may 20 not face discipline, right?</p> <p>21 A You may face discipline.</p> <p>22 Q Okay. Let's take a look at -- let me ask you 23 this, Chief Scott: Where -- you mentioned 24 guidance you get and trying to pattern your 25 policies after guidance, what guidance are you</p>

<p>1 referring to?</p> <p>2 A So I will defer that to a team as an agency, we</p> <p>3 have a team dedicated to our policy that's</p> <p>4 generated in a different unit, that unit is</p> <p>5 headed up with our legal team.</p> <p>6 We have our quality assurance team, our</p> <p>7 legal team, our health affairs team. There are</p> <p>8 several individuals involved and receiving the</p> <p>9 guidance and interpreting the guidance into our</p> <p>10 policy. So those are other folks that are the</p> <p>11 experts in that area.</p> <p>12 Q Chief Scott, have you had a chance to review or</p> <p>13 apply the CDC's interim guidance management of</p> <p>14 COVID-19 in correctional and detention</p> <p>15 facilities?</p> <p>16 A I'm sorry, what are you referring to?</p> <p>17 Q Are you aware of the CDC's guidance on COVID-19</p> <p>18 in correctional facilities?</p> <p>19 A Are you referring to an actual report, or like</p> <p>20 what exactly are you referring to?</p> <p>21 Q Are you aware that the United States Centers for</p> <p>22 Disease Control and Prevention, the CDC, have</p> <p>23 issued guidance for how to manage COVID-19 --</p> <p>24 A Yes.</p> <p>25 Q -- as --</p>	<p>Page 86</p> <p>1 MR. KEENAN: Let's look at what's going</p> <p>2 to be page 4 of the most recent CDC guidance or</p> <p>3 at least guidance dance from February 2021.</p> <p>4 It's -- now, I'll note for the record that this</p> <p>5 is -- what exhibit is this going to be, Julia?</p> <p>6 MS. GOKHBERG: This will be Exhibit 35.</p> <p>7 MR. KEENAN: Thirty-five, this will be</p> <p>8 35.</p> <p>9 (Deposition Exhibit 35 identified.)</p> <p>10 Q (By Mr. Keenan) This is the February 2021 CDC</p> <p>11 guidance in correctional facilities. Do you</p> <p>12 see it says here, "Individuals working under</p> <p>13 conditions that require PPE should not use a</p> <p>14 cloth mask when a surgical mask or N95</p> <p>15 respirator is indicated."</p> <p>16 A Sorry, I didn't receive this document prior to</p> <p>17 this so this is -- I'm not familiar with it at</p> <p>18 all.</p> <p>19 Q Okay.</p> <p>20 A No one -- no one shared it with me and I wasn't</p> <p>21 prepared to discuss it. So if that's something</p> <p>22 you would want to discuss on a continued</p> <p>23 conversation when I've had an opportunity to read</p> <p>24 and brief the document, then I will be more than</p> <p>25 willing to do so. But right now, this is the</p> <p>Page 88</p>
<p>Page 87</p> <p>1 A Yes.</p> <p>2 Q Okay.</p> <p>3 A Yes.</p> <p>4 Q Have you reviewed that guidance?</p> <p>5 A Not well enough to speak on it during this time.</p> <p>6 MR. KEENAN: Okay. Julia, could we go</p> <p>7 ahead and just show the most recent guidance?</p> <p>8 And I'm sure it will come up in Deputy</p> <p>9 Commissioner Feeney's deposition more</p> <p>10 extensively, but I just want to review one or two</p> <p>11 brief things.</p> <p>12 Q (By Mr. Keenan) Let me ask you this, Chief</p> <p>13 Scott: Just for disciplinary purposes and</p> <p>14 policy enforcement policies, does the</p> <p>15 department draw any distinction between using a</p> <p>16 cloth mask and using a surgical mask?</p> <p>17 A No.</p> <p>18 Q Do you -- do you have any position on whether one</p> <p>19 is more effective than the other?</p> <p>20 A I don't to answer that.</p> <p>21 Q But the department does not enforce any</p> <p>22 distinction between a cloth --</p> <p>23 A No, no.</p> <p>24 Q -- and -- right?</p> <p>25 A No.</p>	<p>Page 89</p> <p>1 first that I'm seeing it and I don't know that</p> <p>2 I'm prepared to answer anything about it.</p> <p>3 Q All I'm asking you at this point is do you see</p> <p>4 the words "individuals working" --</p> <p>5 A No, no, no, I understand the question.</p> <p>6 Q Yeah.</p> <p>7 A So I'm not unclear on your question. I'm saying</p> <p>8 I would like an opportunity to read the document</p> <p>9 in its full context before responding to an</p> <p>10 excerpt of the document without having a prior</p> <p>11 opportunity to read it thoroughly.</p> <p>12 Q I appreciate -- I appreciate you saying that.</p> <p>13 I'm -- there may be that opportunity, but I'm</p> <p>14 just trying to go through some basics here as we</p> <p>15 move along.</p> <p>16 MR. THAYER: This does seem to be more</p> <p>17 for Deputy Commissioner Feeney. I mean --</p> <p>18 MR. KEENAN: I'm -- I'm sure -- I'm</p> <p>19 sure it will come up in her deposition.</p> <p>20 MR. THAYER: I mean, the question of</p> <p>21 whether or not an officer or a captain has</p> <p>22 been -- has been disciplined for failure to wear</p> <p>23 a mask, according to the department's policies</p> <p>24 and directives, seems to be a different question</p> <p>25 than whether or not the policy is, as it seems to</p>

<p style="text-align: right;">Page 90</p> <p>1 be what you're suggesting here, should be for 2 surgical rather than cloth masks. And I'm not 3 sure that Chief Scott is prepared to talk about 4 that distinction.</p> <p>5 MR. KEENAN: I mean, I'm just asking 6 her whether that distinction exists for 7 disciplinary purposes, and I'm using a document 8 to cross reference that. I'm not asking Chief 9 Scott to opine from a medical standpoint or a, 10 you know, epidemiological standpoint. I think 11 I'm almost done with this document. I think we'd 12 probably spend more time arguing over this 13 document than just asking the one question I have 14 based on it.</p> <p>15 MR. THAYER: Okay. But I just want to 16 say on the record then, if that is -- if that is 17 what we're driving towards, then I would object 18 on asked and answered grounds, because she's 19 already stated that the department does not make 20 a distinction with respect to cloth versus 21 surgical. So I mean, to the --</p> <p>22 MR. KEENAN: Appreciate that. 23 Julia, let's go to the -- to the 24 hygiene section of this document, Exhibit 35, 25 where it says -- where it says, Ensure staff</p>	<p style="text-align: right;">Page 92</p> <p>1 be a deputy one.</p> <p>2 Q And the -- this policy sets forth a list of 3 situations where formal disciplinary charges, in 4 other words a memorandum of complaint, must be 5 commenced, that's on page 2, right?</p> <p>6 A Yes.</p> <p>7 Q And then also a command -- or a memorandum 8 complaint must be commenced if someone is on 9 probation or has been found guilty at three or 10 more command discipline proceedings or two or 11 more formal disciplinary proceedings within the 12 12 months prior to the current violation, 13 correct?</p> <p>14 A Correct.</p> <p>15 Q All right. So in that instance, what's the 16 distinction between -- is a formal disciplinary 17 proceeding a proceeding pursuant to a memorandum 18 of complaint?</p> <p>19 A Yes.</p> <p>20 Q And then a command discipline would be -- it 21 could be any command discipline, right?</p> <p>22 A Yes.</p> <p>23 Q What determines whether something is on a 24 violation severity Schedule A, B, C or D? This 25 is going to be on page 6 of this document.</p>
<p style="text-align: right;">Page 91</p> <p>1 know. I wish I had a page number to point you 2 to.</p> <p>3 Okay, yeah, there we are.</p> <p>4 Q (By Mr. Keenan) This bullet points says, 5 Ensure staff know. Do you see that bullet 6 point, Chief Scott, that says, "Ensure staff 7 know that cloth masks should not be used as a 8 substitute for surgical masks..."?</p> <p>9 A Yes, I see it.</p> <p>10 MR. KEENAN: Okay. All right. That's 11 all I've got on this document.</p> <p>12 Let's pull up what will be Exhibit 36, 13 it's Directive 4257R-A. 14 (Deposition Exhibit 36 identified.)</p> <p>15 Q (By Mr. Keenan) Chief Scott, can you tell us 16 what document 36 is?</p> <p>17 A This is our directive regarding the command 18 discipline process.</p> <p>19 Q How long does command discipline stay in a 20 correction officer's file?</p> <p>21 A One year.</p> <p>22 Q Who serves as the hearing officer in a command 23 discipline?</p> <p>24 A The hearings officer is the -- it is in the title 25 of ADW, no less than the rank of ADW, or it could</p>	<p style="text-align: right;">Page 93</p> <p>1 A So, right, if you go a little bit -- scroll up to 2 like I think page 4, where this starts. So it 3 talks about A -- penalties for violations 4 specified in Schedules A through D shall be 5 uniformly imposed as the follows, so we look at 6 there's different categories of offenses and 7 rules and regs. So it's not just the directives 8 and the operations order.</p> <p>9 There's also a guideline that we have 10 in terms of if something is a Schedule A offense, 11 Schedule B offense, Schedule C and Schedule D, 12 and the difference in those violations are the 13 associated penalties.</p> <p>14 If you're asking me which violations 15 fit into what schedule, that's a very long, very 16 specific list, and I don't have it in front of 17 me.</p> <p>18 Q Is there such a list?</p> <p>19 A Of categories?</p> <p>20 Q Yeah.</p> <p>21 THE WITNESS: Are you still there? You 22 turned your light off? Oh, there you go. I 23 couldn't see you. You got me nervous. Thought 24 you were like doing some interrogation technique. 25 Oh, okay, there you go. I like to be</p>



<p style="text-align: right;">Page 94</p> <p>1 able to see people. Yeah, but it's quite scary 2 and it was intimidating. 3 MR. KEENAN: Was it working? 4 THE WITNESS: No. 5 MR. KEENAN: Is this working better? 6 THE WITNESS: I've sat in housing area 7 with 50 men on the midnight so you in the dark 8 just isn't quite as frightening. 9 But back to business. So is there a 10 list -- if you're asking me if there's a document 11 guide that I don't have that, but I have in -- 12 when we do the CD, if you look at the actual 13 form, when you write out the charges, it asks you 14 in that form if -- what this is as categorized, 15 as a Schedule A, B, C or D. 16 Q (By Mr. Keenan) So my -- my question, I think 17 it's a little more basic. Is there a document 18 that specifies, you know, this type offense is 19 a Schedule A, these types offenses are 20 considered Schedule B, C, these D, et cetera. 21 Is there such a document, does that document 22 exist? 23 A I don't know. 24 Q Okay. So, then, how are we supposed to determine 25 if someone is subject to -- I mean, like what</p>	<p style="text-align: right;">Page 96</p> <p>1 of what happened, it has to be proportionate to 2 what that violation is. 3 So to your point, we have a policy, 4 believe it or not, surrounding how to write in a 5 log book and it says that it should be in blue or 6 black ink. So if I wanted to say you did not 7 make the log book entry that way, that would not 8 be a Schedule D violation with four days with no 9 prior offenses. 10 So as a hearing officer, that is what 11 you are required to do, to make sure that the 12 offense. It's similar to when you, I'm sure as 13 an attorney, you know you cannot take an offense 14 and say, This is a felony, you have to say that 15 there are certain conditions for something to be 16 considered a felony. And if you don't have these 17 certain things, then you can't charge someone 18 with that. You have to meet the requirement for 19 that charge, and that's similar to what is in the 20 command discipline process. 21 So the actual offense of what happened 22 has to be consistent with the charge. 23 Q And -- 24 A If you're asking me where this is written out on 25 one page to say what fits where, I don't know if</p>
<p style="text-align: right;">Page 95</p> <p>1 if -- I don't know, what if some correction 2 officer does something that's like really minor 3 and doesn't pose a threat to anybody, like 4 they -- I don't know, maybe you're supposed to 5 write in the log book with a pen and they use a 6 pencil or something and -- I don't know, 7 something really minuscule, and the captain says, 8 I'm putting you up on a Schedule C, and they're 9 like, What? I mean, where would we look -- 10 A That -- that part of the process would come out 11 during the actual hearing. The hearing officer 12 has to make sure that the charge is appropriate 13 for the offense, and if it's not -- if you're 14 asking me for black and white document that 15 spells out every offense and the associated 16 schedules of that violation, I don't know of a 17 document that I can recall that does that. 18 But I know having -- have been a 19 hearing officer, that that is part of the 20 process. 21 And on the command discipline form 22 where you have the actual number or directive, 23 then you write out what that specific language is 24 from that to speak to the offense, and you have 25 to associate whatever that -- and the description</p>	<p style="text-align: right;">Page 97</p> <p>1 that exists that way. 2 Q I think we get some guidance later on in the 3 document. And I'm -- I'm gathering that Schedule 4 A is the least severe, whereas -- or, rather, 5 Schedule A is the least severe, whereas Schedule 6 D is the most severe; is that right? 7 A Yes. 8 Q Okay. So, and starting on page 7, I think we get 9 some schedule of violations. Schedule A is, for 10 example, improper uniform and then like Schedule 11 B, lack of punctuality, absence without 12 authorization for no more than an hour -- or no 13 more than one tour, sorry, one tour, and then all 14 the way up to Schedule D, it could be absence 15 without authorization for more than one tour of 16 duty but less than five. Those are -- these are 17 different things that would fall under different 18 schedules, right? 19 A Yes. 20 Q Okay. So here's my question: For purposes of 21 the mask wearing mandate for a correctional 22 officer and staff, what schedule would that fall 23 under for a command discipline? 24 A So it would have -- I would say that it would 25 much -- it would depend on -- so let's start with</p>

<p style="text-align: right;">Page 98</p> <p>1 what the actual -- the crime it is, it's a part 2 of your uniform, it's part of what you're 3 supposed to have, that's covered as a Schedule A. 4 But if -- I would have to look at the 5 incident in its totality. Were you -- I mean, 6 what was the person -- what was the person doing, 7 and that could change where this fits and the 8 variety of different charges that you could add, 9 not just singularly saying just having the mask. 10 Does that make sense? 11 So let me just give it some context, 12 right? If a person was just standing in a 13 corridor and it was empty and there was no one 14 around and they had their mask on improperly 15 perhaps, maybe it wasn't covering their entire 16 face, so, yes, that's a Schedule A, or it could a 17 verbal reprimand or corrective interview. 18 If perhaps if you are someone who I've 19 already spoke to several times and I've given you 20 several direct instructions to wear the mask and 21 on several occasions you've not followed those 22 instructions, perhaps those charges would be the 23 mask directive, yes, which is a Schedule A, but I 24 may also add refusing a direct order, or there's 25 other charges that could fall under another</p>	<p style="text-align: right;">Page 100</p> <p>1 not because there's a redaction -- 2 THE WITNESS: Exactly. No, that's 3 exactly what it is. So this is not redacted. 4 This is the cause. And when you escalate the 5 charge and it's not in a Schedule A, when you 6 escalate it to -- if it's a level B or C or 7 Schedule D of reprimand is not an option. 8 So it's just saying that -- it's just 9 making it clear here that it's not an option. 10 Q (By Mr. Keenan) Okay. And as you go over 11 under the violation severity, Schedule A and 12 then you go over to the next box that says 13 "reprimand" and over to the next box it gives 14 one, two, three and then there's Schedule B, 15 it's blacked out, and then it says then two, 16 three, four, what do the one, two, three and 17 then the two, three, four refer to, in all 18 those boxes? 19 A So a Schedule A penalty is you can -- it's a 20 reprimand, one day, two days or three days. So 21 if you have a Schedule A offense and you have 22 no -- zero command disciplines or zero form 23 disciplines in the last 12 months, then you can 24 give them a reprimand. 25 If you have one command discipline in</p>
<p style="text-align: right;">Page 99</p> <p>1 schedule that if you add, it would not just be a 2 Schedule A. 3 Q Okay. Let's go up a few pages to where we had 4 some boxes of different schedules. So we have 5 violation severity, this is on page 6. 6 A Uh-huh. 7 Q Violation severity, Schedule A it says reprimand? 8 A Uh-huh. 9 Q And in Schedules B, C and D, they're blacked out. 10 Do you know why that is? 11 A That's the -- a Schedule A, as you stated, is the 12 most minor schedule violation in the penalty and 13 reprimand is one of the options. However, B, C 14 and D, the discipline is escalating and reprimand 15 is not considered for those violations. 16 Q Well, but -- what I'm asking about is the blacked 17 out boxes. Like, why are those boxes blacked 18 out? Is there something -- is there something -- 19 and maybe this is a question for you, David and 20 Chuck, is that a redaction or is that in the 21 original, like what is that? 22 MR. THAYER: It's certainly -- I didn't 23 redact it. It's my understanding that it's 24 blacked out because it's suggesting that a 25 reprimand is not available for those schedules,</p>	<p style="text-align: right;">Page 101</p> <p>1 the previous 12 months, then you can get one day 2 penalty. And then -- and then it goes from 3 there. 4 So let's look at -- and the max, the 5 maximum amount of days that a person can be 6 penalized in the command discipline process is 7 five. It cannot exceed five. 8 If you look at Schedule D, if you have 9 a history of a command discipline, two or more 10 within the prior 12 months or formal discipline, 11 which is an MOC, it will add a day to whatever 12 the max is. 13 So the max on Schedule D is four days. 14 If you have a previous history in the last 12 15 months, you add a day, which is five. 16 If you have a history, which is three 17 or more CDs or two or more MOCs, then it goes 18 past five days and it's no longer eligible for 19 command discipline. The penalty cannot exceed 20 five days in a command discipline. 21 Q So in other words, the way that you apply the 22 penalty is you first off, you look at the 23 disciplinary history someone has and if they have 24 two or more formal disciplines or three or more 25 command disciplines within the past 12 months,</p>

<p style="text-align: right;">Page 102</p> <p>1 right?</p> <p>2 A Yes. Yes.</p> <p>3 Q And if they have three or more command</p> <p>4 disciplines or two or more formal disciplines, we</p> <p>5 don't deal with the table below that, we do a</p> <p>6 memorandum of complaint and go through the formal</p> <p>7 process, right?</p> <p>8 A Right, if it's a Schedule D.</p> <p>9 Q Well, what if it's a --</p> <p>10 A If you see a Schedule D on the bottom, the last</p> <p>11 one where you see the asterisk --</p> <p>12 Q Right.</p> <p>13 A -- so if you have three or more CDs and two or</p> <p>14 more MOCs for a Schedule D violation, a command</p> <p>15 discipline is inapplicable, formal charges must</p> <p>16 be commenced, so that's where the asterisk comes</p> <p>17 in for the Schedule D.</p> <p>18 Q Okay. But if you have three or more command</p> <p>19 disciplines or two or more formal disciplines in</p> <p>20 the past 12 months, you could commit, I don't</p> <p>21 know, five or ten Schedule C offenses and still</p> <p>22 not be subject to a memorandum of complaint,</p> <p>23 right?</p> <p>24 A No, it depends -- no, that's not -- that's not a</p> <p>25 blanket answer because it depends on what -- so</p>	<p style="text-align: right;">Page 104</p> <p>1 MR. KEENAN: For this, right?</p> <p>2 THE WITNESS: Okay.</p> <p>3 MR. THAYER: If it's -- if it's not an</p> <p>4 unqualified we'll be done within the next hour or</p> <p>5 so, it sounds like we're probably going to have</p> <p>6 to come back regardless and maybe this is a good</p> <p>7 opportunity to break. I don't know if you have</p> <p>8 more on this line of questioning or if this is,</p> <p>9 you know, a good inflexion point.</p> <p>10 MR. KEENAN: Why -- why don't we go</p> <p>11 until -- I know you've got a hard stop at 6:00.</p> <p>12 Why don't we go until 6:00 and then find out how</p> <p>13 we pick up from there.</p> <p>14 MR. THAYER: It's all right with me if</p> <p>15 it's all right with Chief Scott.</p> <p>16 THE WITNESS: Absolutely.</p> <p>17 MR. KEENAN: Okay. All right.</p> <p>18 Q (By Mr. Keenan) Formal charges, that's the</p> <p>19 memorandum of complaint process, right?</p> <p>20 A Yes.</p> <p>21 Q I know that on page 3 here of this document, it</p> <p>22 asks about whether a member agrees to accept</p> <p>23 command discipline. Can a -- can a member of the</p> <p>24 force decline command discipline?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 103</p> <p>1 we don't have to go through all this process. It</p> <p>2 depends on what you're being disciplined for.</p> <p>3 Q Okay.</p> <p>4 THE WITNESS: Just a time check, are we</p> <p>5 expected to go past 6:00?</p> <p>6 MR. KEENAN: I mean, I definitely have</p> <p>7 more questions that -- I definitely have more</p> <p>8 than 15 minutes of questions here. I think the</p> <p>9 question is, you know, do we -- do we find</p> <p>10 another time to come back and kind of continue</p> <p>11 through this stuff?</p> <p>12 MR. ORSLAND: What's your preference,</p> <p>13 Chief? David has to leave. I could stay on.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. ORSLAND: It's your show at this</p> <p>16 point.</p> <p>17 THE WITNESS: Okay, do you have any</p> <p>18 idea how long past 6:00? I mean, I like spending</p> <p>19 time with you, but I don't want to have a second</p> <p>20 meeting. Hey, if we have to, then we have to.</p> <p>21 MR. KEENAN: We may have to. You know,</p> <p>22 looking at my outline, I mean, I know that -- I</p> <p>23 mean, you know, you did invite me to come hang</p> <p>24 out at Rikers for a day.</p> <p>25 THE WITNESS: Listen --</p>	<p style="text-align: right;">Page 105</p> <p>1 Q Okay. And what happens if you decline command</p> <p>2 discipline?</p> <p>3 A It's referred for formal charges.</p> <p>4 Q Okay. So in other words, there's a pretty strong</p> <p>5 incentive to accept?</p> <p>6 A Yes.</p> <p>7 Q Okay. Let's go to page 9 of this document. And</p> <p>8 by the way, this -- each page has an effective</p> <p>9 date of December 22nd, 2005. This policy has not</p> <p>10 been revised since 2005, correct?</p> <p>11 A No. We've made some -- anything that's been</p> <p>12 added or changed has been done via teletype.</p> <p>13 Q Okay. So we're going to look at page 9,</p> <p>14 procedure. So does this -- this Roman numeral</p> <p>15 VI, does this set forth the procedure of command</p> <p>16 discipline?</p> <p>17 A Yes.</p> <p>18 Q And then command discipline, so let's go to page</p> <p>19 15, command disciplines are logged internally; is</p> <p>20 that correct?</p> <p>21 A Yes.</p> <p>22 Q All right. And is there a schedule for purging</p> <p>23 them or deleting them after a year?</p> <p>24 A Yeah.</p> <p>25 Q Okay.</p>

<p style="text-align: right;">Page 106</p> <p>1 A Yes.</p> <p>2 Q How is that process done?</p> <p>3 A So we have a performance record where each person</p> <p>4 has -- it's -- it's your whole work history and</p> <p>5 that document is updated and this information is</p> <p>6 removed from that record.</p> <p>7 Q Does every -- does every facility have a command</p> <p>8 discipline log?</p> <p>9 A Yes.</p> <p>10 Q And where are those logs kept?</p> <p>11 A In the administration office.</p> <p>12 Q Are they in paper form, electronic form or both?</p> <p>13 A Paper form. There's a log book which they</p> <p>14 generate a number from, it is documented in the</p> <p>15 log book.</p> <p>16 Q Do you have access to all those logs books, you</p> <p>17 individually as Chief Scott?</p> <p>18 A I would -- I would request a copy from the</p> <p>19 facility. They are kept in the facility.</p> <p>20 Q Okay. And does the command discipline log</p> <p>21 describe the violation at issue?</p> <p>22 A Yes.</p> <p>23 Q Let's go to page -- page 18 and 19 of this</p> <p>24 policy. What is -- this is form number 454,</p> <p>25 correct?</p>	<p style="text-align: right;">Page 108</p> <p>1 the warden of the facility would indicate their</p> <p>2 findings and their signature, and then it would</p> <p>3 come to me.</p> <p>4 And this is done in our -- it's called</p> <p>5 case management system. So we -- this is done</p> <p>6 electronically.</p> <p>7 The hearing is done in person. The log</p> <p>8 book where the number is is the hard cover log</p> <p>9 book, but the CDs, the command disciplines, are</p> <p>10 tracked and documented in our case management</p> <p>11 system.</p> <p>12 Q So any command discipline that occurs, ultimately</p> <p>13 there is supposed to be an electronic record made</p> <p>14 correct?</p> <p>15 A Yes, going back I think until we started case</p> <p>16 management a few years ago, I don't have the</p> <p>17 date.</p> <p>18 Q Let's go to page 20 which describes a command</p> <p>19 discipline monthly report. What is that?</p> <p>20 A So every month the facility is supposed to</p> <p>21 indicate every single CD, command discipline,</p> <p>22 that was generated for that month. And it will</p> <p>23 also highlight any hearings that weren't done</p> <p>24 or -- and it also keeps track of the person that</p> <p>25 was actually -- the CD was generated for, the</p>
<p style="text-align: right;">Page 107</p> <p>1 A Yes.</p> <p>2 Q And can you summarize what form 454 is?</p> <p>3 A This is where the actual command discipline</p> <p>4 process is documented. So it captures all the</p> <p>5 information and details surrounding the</p> <p>6 violation, and it also tracks the adjudication of</p> <p>7 it, including the date the member was notified</p> <p>8 that they have the command discipline; it talks</p> <p>9 about the date that it's going to have the actual</p> <p>10 hearing; the date this actual command discipline</p> <p>11 was filed.</p> <p>12 And this is where you have the</p> <p>13 information on the actual charge. And then the</p> <p>14 hearing officer would determine whether or not</p> <p>15 the charge -- and it's important to note that</p> <p>16 this process goes through several different</p> <p>17 people, so you have the person who's a supervisor</p> <p>18 that generates the CD, so it could be any rank,</p> <p>19 that is the author of the document in terms of</p> <p>20 writing it.</p> <p>21 The hearing officer is a separate</p> <p>22 person that would hear it, and that would include</p> <p>23 the person and the union representation, if the</p> <p>24 person elects to have one.</p> <p>25 The hearing would take place and then</p>	<p style="text-align: right;">Page 109</p> <p>1 command discipline was generated for.</p> <p>2 So as the document shows, you have</p> <p>3 their name, their gender, ethnicity, the date of</p> <p>4 the violation, and the hearing, and the penalty,</p> <p>5 and the disposition.</p> <p>6 MR. KEENAN: Next I want to bring up, I</p> <p>7 think this will be document 37. Is that correct,</p> <p>8 Julia? It will be directive 7502R-A.</p> <p>9 MS. GOKHBERG: Yeah, that will be</p> <p>10 Exhibit 37.</p> <p>11 (Deposition Exhibit 37 identified.)</p> <p>12 Q (By Mr. Keenan) All right. Chief Scott, do</p> <p>13 you recognize Exhibit 37?</p> <p>14 A Let me see the date. Yes, that's the most</p> <p>15 recent, yes, yes.</p> <p>16 Q And this is the process that describes formal</p> <p>17 discipline, right?</p> <p>18 A Yes.</p> <p>19 MR. KEENAN: Okay. Next I want to get</p> <p>20 into some PPE related discipline regarding</p> <p>21 COVID-19. Can we bring up as Exhibit 38? And</p> <p>22 we're just going to briefly mark these and</p> <p>23 identify them.</p> <p>24 (Deposition Exhibit 38 identified.)</p> <p>25 Q (By Mr. Keenan) Is Exhibit 38 the AMKC PPE</p>

<p style="text-align: right;">Page 110</p> <p>1 spreadsheet? Do you recognize what has been</p> <p>2 marked as Exhibit 38, which is a -- it's a</p> <p>3 native format Excel spreadsheet for AMKC PPE</p> <p>4 corrective action by month?</p> <p>5 A I don't recall seeing this.</p> <p>6 Q You don't believe you've ever personally seen</p> <p>7 this?</p> <p>8 A No.</p> <p>9 Q All right. Does -- the department keeps this --</p> <p>10 this document and similar documents, correct?</p> <p>11 A I've never seen it. I'm not sure. I don't know</p> <p>12 what this is.</p> <p>13 Q I mean, the computer logs --</p> <p>14 MR. KEENAN: And maybe it's a better</p> <p>15 question for you, David, and Chuck, were these</p> <p>16 specially created for this case, compiled for</p> <p>17 this case, or does somebody have custody of this</p> <p>18 document? I -- I figured Chief Scott did, but --</p> <p>19 MR. THAYER: Chief Scott, these were</p> <p>20 sent to you. The documents, as I understand it,</p> <p>21 are pulled from the case management system</p> <p>22 reflecting the command disciplines with respect</p> <p>23 to each of the facilities. I can get</p> <p>24 confirmation from that from our DOC folks on the</p> <p>25 line, though.</p>	<p style="text-align: right;">Page 112</p> <p>1 name, the MOS first name.</p> <p>2 Q What would the MOS number of offense mean?</p> <p>3 A So based just on what I'm seeing and the context</p> <p>4 of this conversation and the report, it looks as</p> <p>5 though the MOS number offense would mean that</p> <p>6 this person, this is their first offense or</p> <p>7 second offense or third offense.</p> <p>8 Q And then what does the corrective action taken,</p> <p>9 what's -- what's a counseling versus a corrective</p> <p>10 action?</p> <p>11 A So counseling is a conversation or a -- the 5,003</p> <p>12 is a document where you -- it's related to use of</p> <p>13 force. So 5,003 is in the observation of a use</p> <p>14 of force and you want to talk about something</p> <p>15 that was observed during use of force, that's the</p> <p>16 document that you would use to memorialize</p> <p>17 whatever that conversation was. That's 5,003</p> <p>18 counseling.</p> <p>19 Corrective interview is an actual</p> <p>20 document where you would -- it doesn't have to be</p> <p>21 related to a use of force. It could be any</p> <p>22 opportunity where you saw something that needed</p> <p>23 to be addressed and this is where you would issue</p> <p>24 a corrective interview.</p> <p>25 Q Okay. And then some are a command discipline.</p>
<p style="text-align: right;">Page 111</p> <p>1 MR. ORSLAND: This is Chuck. My</p> <p>2 understanding is this was assembled specifically</p> <p>3 for this purpose, data taken from somewhere else.</p> <p>4 MR. KEENAN: Okay. All right.</p> <p>5 Q (By Mr. Keenan) So Chief Scott, you have --</p> <p>6 you have custody and oversee the case</p> <p>7 management system that would contain</p> <p>8 information on what command disciplines were</p> <p>9 issued when and for what reason, correct?</p> <p>10 A So I'm not the owner and operator of this system,</p> <p>11 but if I needed information organized in a</p> <p>12 certain way, I would ask for the team to generate</p> <p>13 a report to try to compile some data. But I</p> <p>14 don't own and operate the system, no.</p> <p>15 Q But the department does, right?</p> <p>16 A Yes, yes.</p> <p>17 Q All right.</p> <p>18 A Yes.</p> <p>19 Q So here you'll see a sample, why don't we just</p> <p>20 flip through it real quick, in October, for</p> <p>21 instance, there were like 34 disciplines</p> <p>22 regarding masks. Do you know what an MOS number</p> <p>23 is?</p> <p>24 A An MOS number, what do you mean? MOS is -- okay,</p> <p>25 so MOS is member of service, so it's the MOS last</p>	<p style="text-align: right;">Page 113</p> <p>1 Is command discipline above corrective interview</p> <p>2 or counseling?</p> <p>3 A Yes.</p> <p>4 Q Okay. Is counseling kind of the lowest level and</p> <p>5 then corrective interview and then command</p> <p>6 discipline?</p> <p>7 A Yes.</p> <p>8 Q Okay. In that order?</p> <p>9 A Yes.</p> <p>10 Q Okay. And then you'll see as we click through</p> <p>11 these --</p> <p>12 MR. KEENAN: And, David, I know you</p> <p>13 have to go. Chuck, are you okay with staying for</p> <p>14 just a few minutes? I just want to make sure we</p> <p>15 mark --</p> <p>16 MR. ORSLAND: Absolutely.</p> <p>17 MR. KEENAN: -- the documents? Okay.</p> <p>18 MR. ORSLAND: Absolutely.</p> <p>19 MR. KEENAN: Thank you.</p> <p>20 Q (By Mr. Keenan) You'll see as we click through</p> <p>21 November up through May, even though we're not</p> <p>22 at May yet, you'll just see information about</p> <p>23 different violations and stuff like that,</p> <p>24 right?</p> <p>25 A Yes.</p>

<p style="text-align: right;">Page 114</p> <p>1 Q By the way, on this spreadsheet, on February of 2 2021 for AMKC, [REDACTED] gets a command 3 discipline for his sixth offense of violating the 4 mask policy. At a certain point, does the 5 department conclude that maybe the command 6 discipline process is not working with somebody 7 like [REDACTED]? 8 A I'm sorry, what's the question? It's not 9 working? Are you asking me is it working? 10 Q Yeah. 11 A Well, that's in February so let's look at March. 12 Q Okay, yeah. 13 A You'll see if it's working. Has he -- has he 14 come on -- has he gotten anything since he got 15 the CD? 16 Q He's not, but I think that only answers part of 17 our question which gets to another area of 18 inquiry, which is what -- what do you do -- I 19 mean, maybe he's not wearing them and he's just 20 not getting caught, right? We don't -- this 21 spreadsheet doesn't -- doesn't reflect that, 22 right? 23 A So we can't -- the way -- how do you -- so if 24 somebody is getting as many as six occasions of 25 addressing this issue and then you issue them a</p>	<p style="text-align: right;">Page 116</p> <p>1 would look at -- and a person or supervisor will 2 look at the circumstances, it's very specific. 3 So if someone is standing alone in a 4 corridor, which is the example that I gave, you 5 might counsel that person and say, you know, 6 You're required to wear a mask every single day, 7 and that may be sufficient for that person. 8 So if that other person is in an 9 environment that's a little different, you may 10 say, okay, this person needs a corrective 11 interview. There are different circumstances. 12 If you've spoken to the person several 13 times, like the example you have in your report, 14 where it seems this person Toliver was addressed 15 on several occasions and at some point the 16 facility escalated the discipline to command 17 discipline, then the question was how do you know 18 if that's working, and then I asked, Well, is it 19 that he hasn't been disciplined since the command 20 discipline, as an answer, or is it that your 21 point is perhaps he hasn't been caught. 22 I don't know that either one of us 23 could prove that point, if he hasn't been caught 24 or because he's learned his lesson. I just -- I 25 don't have a dedicated team of people, but every</p>
<p style="text-align: right;">Page 115</p> <p>1 CD, what is your measurement of its working or 2 not, is it that he's not being disciplined 3 anymore because he's compliant, or are you asking 4 is he not on this report because he's not been 5 caught? How do you -- how -- so I'm confused by 6 the question. 7 Q Let me ask you this: How do you monitor 8 compliance with the mask mandate? 9 A So if someone is not compliant, they may be 10 disciplined. I think we -- I think I said that. 11 Q Okay. How do you go about determining if people 12 are compliant, do you look at videos, do you not 13 look at videos, do you have a captain walking 14 around? 15 A So every -- every supervisor is responsible for 16 enforcing our policy, our policy says that staff 17 are required to wear it. If someone sees someone 18 not in compliance with our policy, they have to 19 address it. How they address it I think we've 20 covered with the list of different options in 21 terms of discipline. 22 Q Do they have discretion on how to address it, 23 like they can choose, I want to document it, or I 24 don't want to document it? 25 A Well, I think I talked about that when I said I</p>	<p style="text-align: right;">Page 117</p> <p>1 supervisor is responsible for enforcing our 2 policy. 3 MR. THAYER: On that, I'm just going to 4 jump in. 5 THE WITNESS: Okay. 6 MR. THAYER: I'm going to just state on 7 the record, to be -- to be very explicit about 8 it, that I'm just walking out for my colleague, 9 Chlarens Orsland. 10 And I think on -- as my final thing, I 11 just want to note that to the extent we're going 12 to continue discussing particular people and to 13 the extent this is going to be sort of in the 14 record, this we would deem confidential if it 15 relates to the discipline of personnel. 16 MR. KEENAN: Okay. 17 MR. THAYER: I'm just wanting to make 18 sure that was clear enough there. 19 MR. KEENAN: David, are you going to go 20 to Chuck's office and formally tag out? 21 THE WITNESS: No. David is going to 22 come to my office and he's going to tag me out. 23 MR. KEENAN: You don't -- you didn't 24 see the new version of rule 30, you have to tag 25 out on the record?</p>

<p style="text-align: right;">Page 118</p> <p>1 MR. THAYER: Something tells me that</p> <p>2 if -- that version of the rule was not created</p> <p>3 recently, you know, with COVID going around.</p> <p>4 MR. KEENAN: All right. Good to see</p> <p>5 you, David. Have a nice evening.</p> <p>6 MR. THAYER: Thank you. Bye-bye.</p> <p>7 Q (By Mr. Keenan) So [REDACTED] got a -- we</p> <p>8 saw he got a command discipline starting with</p> <p>9 his third or fourth offense, right?</p> <p>10 A That's what it says, yes.</p> <p>11 Q And then he -- then he kept racking up more</p> <p>12 offenses, right, up to his sixth? We see in</p> <p>13 January, he gets a command discipline for his</p> <p>14 fifth offense, and in February, he gets a command</p> <p>15 discipline for his sixth offense. Do you see</p> <p>16 that?</p> <p>17 A Yes.</p> <p>18 MR. KEENAN: Let's go ahead and mark</p> <p>19 what will be 38 (sic) the BKCTS spreadsheet.</p> <p>20 (Deposition Exhibit 39 identified.)</p> <p>21 Q (By Mr. Keenan) Same idea, what is -- what is</p> <p>22 BKCTS?</p> <p>23 A That's the Brooklyn courts.</p> <p>24 Q Okay. Is that an active and operating facility?</p> <p>25 A Yes. That's a court facility, yes.</p>	<p style="text-align: right;">Page 120</p> <p>1 Q (By Mr. Keenan) You see in some of these the</p> <p>2 language "negative report." Do you know what</p> <p>3 that refers to?</p> <p>4 A That there was no information, there was nothing</p> <p>5 reported for that time period.</p> <p>6 Q Okay. I think this is document 41. This is the</p> <p>7 spreadsheet for EMTC, correct?</p> <p>8 A Yes.</p> <p>9 Q Or PPE corrective actions?</p> <p>10 A Yes.</p> <p>11 Q What is a verbal reprimand?</p> <p>12 A Where you speak to the person.</p> <p>13 Q Okay.</p> <p>14 A Like a warning.</p> <p>15 Q Is that a lower level than a counseling?</p> <p>16 A It's not -- counseling is usually documented.</p> <p>17 Q And verbal -- verbal reprimand is not documented</p> <p>18 except maybe in the spreadsheet, right?</p> <p>19 A Yes. Correct.</p> <p>20 Q So in that sense, it's a lower level, right?</p> <p>21 A Yes.</p> <p>22 MR. KEENAN: Let's next go to what will</p> <p>23 be document 42, the PPE corrective action</p> <p>24 spreadsheet for GRVC.</p> <p>25 (Deposition Exhibit 42 identified.)</p>
<p style="text-align: right;">Page 119</p> <p>1 Q It's not considered a resident?</p> <p>2 A No.</p> <p>3 Q Is this the Brooklyn courts facility PPE</p> <p>4 corrective action spreadsheet?</p> <p>5 A It looks as though that's what it is.</p> <p>6 Q Okay. And it's got tabs by month, right?</p> <p>7 A Yes.</p> <p>8 Q Okay. Can we go back to October -- or sorry,</p> <p>9 never mind. Scratch that.</p> <p>10 MR. KEENAN: Let's go to what will be</p> <p>11 the next document, which is the BXDC. This will</p> <p>12 be Exhibit 39, is it?</p> <p>13 MS. GOKHBERG: This last one was 39 so</p> <p>14 this next one will be 40.</p> <p>15 MR. KEENAN: Forty, okay.</p> <p>16 (Deposition Exhibit 40 identified.)</p> <p>17 Q (By Mr. Keenan) Exhibit 40 is the BXDC</p> <p>18 spreadsheet. What is the BXDC, Chief Scott?</p> <p>19 A That's the Bronx courts.</p> <p>20 Q All right. Let's next go to Exhibit -- and this</p> <p>21 is the spreadsheet for the Bronx courts, right?</p> <p>22 A Yes.</p> <p>23 MR. KEENAN: Let's next go to what will</p> <p>24 be document 41, the spreadsheet for EMTC.</p> <p>25 (Deposition Exhibit 41 identified.)</p>	<p style="text-align: right;">Page 121</p> <p>1 Q (By Mr. Keenan) And this is the spreadsheet</p> <p>2 showing PPE corrective action for GRVC?</p> <p>3 A Yes.</p> <p>4 Q Do you know why for a first offense some officers</p> <p>5 might receive a corrective interview while others</p> <p>6 would get a command discipline right off the bat?</p> <p>7 A This is the discretionary to the supervisor.</p> <p>8 MR. KEENAN: Let's next go to what I</p> <p>9 think will be, correct me if I'm wrong, Julia,</p> <p>10 will be document 43.</p> <p>11 MS. GOKHBERG: Yeah, 43.</p> <p>12 (Deposition Exhibit 43 identified.)</p> <p>13 Q (By Mr. Keenan) Forty-three of the HPW PPE</p> <p>14 corrective action. And, Chief Scott, are all</p> <p>15 of these PPE corrective actions just corrective</p> <p>16 actions regarding masks, correct?</p> <p>17 A Correct. Yes.</p> <p>18 Q Are there any other PPE requirements for</p> <p>19 correction officers or staff other than masks?</p> <p>20 A We offer gloves if they are handling an</p> <p>21 individual, cuffing, or something of that nature,</p> <p>22 handcuffing, we have gloves. And we provide hand</p> <p>23 sanitizer and they are allowed to have that on</p> <p>24 their post to use, but they also have bathrooms</p> <p>25 as well so wash your hands as often.</p>

<p>Page 122</p> <p>1 But as far as something that you're</p> <p>2 supposed to wear continuously while working is</p> <p>3 the masks.</p> <p>4 Q Okay. Are officers required to wear gloves?</p> <p>5 A Throughout their day, it depends on what their</p> <p>6 duties are.</p> <p>7 Q Do you know if any officer -- I just want to</p> <p>8 close the loop while we're talking about PPE</p> <p>9 discipline. Do you know if any officers or staff</p> <p>10 have been disciplined for not using PPE other</p> <p>11 than masks, in other words --</p> <p>12 A No, I don't know.</p> <p>13 Q -- they -- you do not know, okay. You're not</p> <p>14 aware of any instances where they have been --</p> <p>15 A Correct.</p> <p>16 Q -- disciplined for PPE other than masks, correct?</p> <p>17 A Correct.</p> <p>18 Q So what is HPW?</p> <p>19 A Hospital prison ward.</p> <p>20 Q Is that at Bellevue or at Elmhurst or both?</p> <p>21 A Both the hospital prison wards.</p> <p>22 Q Okay. So this spreadsheet would be combined for</p> <p>23 Bellevue and Elmhurst, right?</p> <p>24 A Yes.</p> <p>25 Q And this document 43 is -- is the spreadsheet for</p>	<p>Page 124</p> <p>1 September -- or don't track corrective action</p> <p>2 prior to September of 2020, correct?</p> <p>3 A It appears so, yes.</p> <p>4 Q Was there any -- why is that?</p> <p>5 A So I'm not -- this report was generated for this.</p> <p>6 I don't know that this tracking system was in</p> <p>7 place this way, so I'm not sure why this date or</p> <p>8 this range of dates are here.</p> <p>9 Q Do you know if there was any corrective action</p> <p>10 taken against any correction officer or staff</p> <p>11 prior to September 2020 for failure to wear a</p> <p>12 mask or wear it properly?</p> <p>13 A I don't know.</p> <p>14 Q Are you aware of any?</p> <p>15 A I don't recall.</p> <p>16 Q Okay. Do you know --</p> <p>17 MR. KEENAN: Let's go to what will be</p> <p>18 the next spreadsheet, it will be -- I think it</p> <p>19 will be marked as -- will it be 46, Julia?</p> <p>20 MS. GOKHBERG: Correct, 46.</p> <p>21 (Deposition Exhibit 46 identified.)</p> <p>22 Q (By Mr. Keenan) And Chief Scott, what is a</p> <p>23 retraining?</p> <p>24 A So retraining is a term that we use when we --</p> <p>25 it's determined that perhaps the person needs to</p>
<p>Page 123</p> <p>1 the hospital ward, right?</p> <p>2 A Correct.</p> <p>3 (Deposition Exhibit 44 identified.)</p> <p>4 MR. KEENAN: Let's next go to what</p> <p>5 we'll call document 44. And I'll say in advance</p> <p>6 we've had some issues opening this one, but we'll</p> <p>7 just mark it for the record. This is a</p> <p>8 spreadsheet produced by the city or purports to</p> <p>9 be for PPE corrective action at MDC.</p> <p>10 Julia, why -- why don't we try and open</p> <p>11 44, but if you can't get it open, we'll save it</p> <p>12 for the end.</p> <p>13 MS. GOKHBERG: So I just tried opening</p> <p>14 it and I still can't, so...</p> <p>15 MR. KEENAN: Okay. Then we'll just</p> <p>16 skip that in sequence and we'll try and work it</p> <p>17 out with the city.</p> <p>18 Let's go to 45 which will be the PPE</p> <p>19 corrective action for NIC.</p> <p>20 (Deposition Exhibit 45 identified.)</p> <p>21 Q (By Mr. Keenan) Okay. Is this document 45 the</p> <p>22 corrective action for NIC?</p> <p>23 A Yes.</p> <p>24 Q By the way, I've noticed these spreadsheets don't</p> <p>25 reflect any corrective action prior to</p>	<p>Page 125</p> <p>1 be reminded or the policy needs to be reviewed</p> <p>2 with them to remind them of what they're required</p> <p>3 to do with a specific issue.</p> <p>4 So for PPE, perhaps the supervisor</p> <p>5 thought that retraining, going over what they're</p> <p>6 required to do is appropriate.</p> <p>7 Q And where does retraining fall in kind of the</p> <p>8 hierarchy of severity?</p> <p>9 A I would put it with counseling.</p> <p>10 MR. KEENAN: So I think the QDC</p> <p>11 spreadsheet is -- which would be after this one,</p> <p>12 after NIC, is 46. Is that right, Julia?</p> <p>13 MS. GOKHBERG: Correct. Yes.</p> <p>14 MR. KEENAN: Let's pull that up.</p> <p>15 Q (By Mr. Keenan) Okay. Is Exhibit 46 a</p> <p>16 spreadsheet for PPE corrective action for QDC?</p> <p>17 A Yes.</p> <p>18 Q Is QDC that Queens courts facility?</p> <p>19 A Yes.</p> <p>20 (Deposition Exhibit 47 identified.)</p> <p>21 Q (By Mr. Keenan) Next let's go to what will be</p> <p>22 Exhibit 47, spreadsheet of PPE corrective</p> <p>23 action for RMSC. And is this the spreadsheet</p> <p>24 for RMSC?</p> <p>25 A Yes.</p>



<p style="text-align: right;">Page 126</p> <p>1 Q And remind us what RMSC is.</p> <p>2 A That's Rose M. Singer Center.</p> <p>3 Q Okay. That's the facility that houses female</p> <p>4 inmates, correct?</p> <p>5 A Yes.</p> <p>6 Q About how many officers are present at the RMSC</p> <p>7 on a given tour, on average, say during a daytime</p> <p>8 tour?</p> <p>9 A I don't have an exact number.</p> <p>10 Q Give me an approximate number, please.</p> <p>11 A I -- I don't have that in front of me. I'm</p> <p>12 sorry.</p> <p>13 Q Where will we get that?</p> <p>14 A I have a report that I can get and have that, but</p> <p>15 I don't have it in front of me. I wasn't aware</p> <p>16 that I would need that information.</p> <p>17 Q I just figure if you might have some idea, but we</p> <p>18 can work with the city to get that. Let's next</p> <p>19 mark document 48, which will be -- before we</p> <p>20 leave 47, 47 is the PPE corrective action report</p> <p>21 for Rose M. Singer Center, right?</p> <p>22 A Yes.</p> <p>23 (Deposition Exhibit 48 identified.)</p> <p>24 Q (By Mr. Keenan) Okay. Let's go to 48, which</p> <p>25 is the corrective action report for RNDC. Is</p>	<p style="text-align: right;">Page 128</p> <p>1 reported for the transportation division from</p> <p>2 September through now. Do you believe that's</p> <p>3 because there hasn't been a single violation or</p> <p>4 because there have been violations but they</p> <p>5 haven't been caught or do you have a conclusion</p> <p>6 as to that?</p> <p>7 A No.</p> <p>8 Q And how many officers are assigned, roughly, to</p> <p>9 the transportation division?</p> <p>10 A A couple hundred.</p> <p>11 Q Okay. Do you know what measures are taken to</p> <p>12 monitor compliance by officers inside the</p> <p>13 transportation division?</p> <p>14 A All officers are supervised by captains.</p> <p>15 Q But while an officer is driving a bus or a van,</p> <p>16 there's not necessarily someone there to watch</p> <p>17 what they're doing, right?</p> <p>18 A No.</p> <p>19 MR. KEENAN: And then let's see the</p> <p>20 what I think -- will this be document 50, Julia?</p> <p>21 MS. GOKHBERG: Yes, 50.</p> <p>22 (Deposition Exhibit 50 identified.)</p> <p>23 Q (By Mr. Keenan) This is the report for the</p> <p>24 Vernon C. Bane Center, the boat. There -- am I</p> <p>25 right in saying that -- and I know DOC's</p>
<p style="text-align: right;">Page 127</p> <p>1 this document 48 the PPE corrective action for</p> <p>2 RNDC?</p> <p>3 A Yes.</p> <p>4 (Deposition Exhibit 49 identified.)</p> <p>5 Q (By Mr. Keenan) Let's next go to document 49,</p> <p>6 which is the spreadsheet for TD. What is TD,</p> <p>7 Chief Scott?</p> <p>8 A Transportation division.</p> <p>9 Q And tell us what that refers to.</p> <p>10 A The transportation division is the unit that is</p> <p>11 responsible for transporting individuals to all</p> <p>12 court appearances, hospitals, clinics, and</p> <p>13 inter-facility transfers.</p> <p>14 Q And is -- I know probably most New Yorkers know</p> <p>15 what the transit or transportation division is by</p> <p>16 seeing the buses.</p> <p>17 A Buses and vans, yes.</p> <p>18 Q Vans. So -- and, again, I apologize, is it</p> <p>19 transit division or transportation?</p> <p>20 A Transportation.</p> <p>21 Q Transportation, okay. Because buses and vans are</p> <p>22 especially closed environment items, wearing PPE</p> <p>23 in them is especially important, right?</p> <p>24 A Right.</p> <p>25 Q We notice that there's not a single violation</p>	<p style="text-align: right;">Page 129</p> <p>1 documents could tell us more precisely, but are</p> <p>2 there about 800 people confined at the boat?</p> <p>3 A I don't have today's count in front of me, but</p> <p>4 it's in the ballpark.</p> <p>5 Q Okay. All right. This is document 50, it's the</p> <p>6 corrective action report for PPE for the Vernon</p> <p>7 C. Bane Center, correct?</p> <p>8 A Yes.</p> <p>9 Q All right. So let's page through September to</p> <p>10 now. September through February, not a single</p> <p>11 instance of any type of discipline of an officer</p> <p>12 or staff member for mask noncompliance for the</p> <p>13 Vernon C. Bane Center, correct?</p> <p>14 A Correct.</p> <p>15 Q Do you -- do you believe that officers at the</p> <p>16 Vernon C. Bane Center have been that compliant</p> <p>17 since September?</p> <p>18 A I -- I don't have any information to say. But</p> <p>19 based on this, nothing has been reported. Based</p> <p>20 on this report, nothing has been documented.</p> <p>21 Q Do you have any concerns looking at these</p> <p>22 spreadsheets that there are significantly more</p> <p>23 instances of noncompliance than are being</p> <p>24 disciplined?</p> <p>25 A I don't have anything to base that on so I would</p>

<p style="text-align: right;">Page 130</p> <p>1 have to say no.</p> <p>2 Q Does the department look at video footage inside</p> <p>3 the correctional facilities to spot check or</p> <p>4 monitor whether officers are wearing masks?</p> <p>5 A No.</p> <p>6 Q That would --</p> <p>7 A My office doesn't do that. So the department,</p> <p>8 specifically for that exclusive reason, not to my</p> <p>9 knowledge.</p> <p>10 Q That would be feasible to do, wouldn't it?</p> <p>11 A So we're talking about thousands of cameras,</p> <p>12 so --</p> <p>13 Q Just choose one, you know, like random.</p> <p>14 A Right.</p> <p>15 Q You could do it, right?</p> <p>16 A To do -- to have resources dedicated to watching</p> <p>17 something exclusively, I'm not sure the resources</p> <p>18 that would be involved to do that.</p> <p>19 Q Well, and obviously doing anything -- I mean, buy</p> <p>20 a box of masks takes resources, right? I mean,</p> <p>21 it's -- anything is going to take resources. But</p> <p>22 my question is: Can it feasibly be done?</p> <p>23 Like if you wanted -- let me ask you</p> <p>24 this: If you wanted to see what's going on</p> <p>25 inside the day room at dorm three at NIC and you</p>	<p style="text-align: right;">Page 132</p> <p>1 A Yes.</p> <p>2 Q Okay. In real-time, right?</p> <p>3 A Yes.</p> <p>4 MR. KEENAN: All right. I think this</p> <p>5 may be a logical stopping point. Let me just</p> <p>6 check real quick.</p> <p>7 Okay, yeah, I think this is a logical</p> <p>8 place to stop. I think we, in the past half hour</p> <p>9 or so, we made more progress than I thought we</p> <p>10 would.</p> <p>11 Chief Scott, Chuck, I think we may need</p> <p>12 a bit more time. I don't think it will be a lot</p> <p>13 of time and I think we can be pretty flexible on</p> <p>14 it. So we might just want to figure out, and I</p> <p>15 don't know that we need to right now, when we do</p> <p>16 that, but I think that's where we're at. So we</p> <p>17 can discuss that.</p> <p>18 And, Chuck, I know we also wanted to</p> <p>19 discuss scheduling of the other depositions. So</p> <p>20 at this point, I think we're ready to adjourn the</p> <p>21 record for today, unless there's anything else</p> <p>22 for right now.</p> <p>23 MR. ORSLAND: No, no. We're going to</p> <p>24 let you go, we'll be in touch.</p> <p>25 MR. KEENAN: I'm going to pause the</p>
<p style="text-align: right;">Page 131</p> <p>1 decide, you know, I want to see what the camera</p> <p>2 footage looks like inside day room in dorm three</p> <p>3 at NIC right now, could you call up IT or someone</p> <p>4 else and say, Hey, pipe me into --</p> <p>5 A Yes.</p> <p>6 Q -- that camera?</p> <p>7 A Yes.</p> <p>8 Q You could do that?</p> <p>9 A Yes.</p> <p>10 Q Have you done something like that?</p> <p>11 A Yes.</p> <p>12 Q Okay. What -- walk me through the process for</p> <p>13 doing that.</p> <p>14 A I log on and I look at it.</p> <p>15 Q Okay. So you have the technological capability</p> <p>16 from your workstation to log in and say, I want</p> <p>17 to look at camera in --</p> <p>18 A Yes.</p> <p>19 Q Any camera in the facility, right?</p> <p>20 A Yes.</p> <p>21 Q Okay. And all you have to do is click on which</p> <p>22 camera and you see some options and a menu that</p> <p>23 says where that camera is at, which facility it's</p> <p>24 at, what part of the facility, all you have to do</p> <p>25 is click and you can see what's going on?</p>	<p style="text-align: right;">Page 133</p> <p>1 recording, okay, and we'll be off the record.</p> <p>2 (Deposition adjourned at 5:29 p.m.</p> <p>3 central standard time.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>1 I, BECKY SCOTT, have read the foregoing 2 deposition, and hereby affix my signature that same 3 is true and correct except as noted above. 4 5 BECKY SCOTT 6 7 STATE OF _____: 8 COUNTY OF _____: 9 10 Before me, _____ 11 on this day personally BECKY SCOTT, known to me 12 (or proved to me on the oath of _____ or through (description of 13 identity card or other document) to be the person 14 whose name is subscribed to the foregoing 15 instrument and acknowledged to me that they 16 executed the same for the purposes and 17 consideration therein expressed. 18 Given under my hand and seal of office 19 this _____ day of _____, 2021. 20 Notary Public in and for 21 the State of _____: 22 23 My Commission expires: 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p>	<p>Page 134</p>
<p>1 CERTIFICATE 2 STATE OF MISSOURI ) 3 ) SS. 4 COUNTY OF JACKSON ) 5 6 I, TRICIA D. TATE, a Certified Court 7 Reporter, do certify that pursuant to Notice to 8 Take Deposition, via videoconference, 9 10 BECKY SCOTT 11 12 came before me, was by me duly sworn to testify 13 the whole truth of her knowledge of the matters 14 in controversy aforesaid, was examined and her 15 examination then written in shorthand by me and 16 afterwards typed, the reading and the signing 17 of the deposition being expressly requested by 18 witness, and said deposition is herewith 19 returned. 20 I further certify that I am not 21 counsel, attorney, or relative of either party, 22 or clerk or stenographer of either party, or 23 otherwise interested in the event of this suit. 24 25 IN TESTIMONY WHEREOF, I have hereunto set my 26 hand and seal this 30th day of May, 2021. 27 28 /s/Tricia D. Tate 29 Missouri C.S.R. 1240 30 Kansas C.C.R. 1609 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p>	<p>Page 135</p>