

FULLERTON CITY COUNCIL CHAMBER
MATTHEW R. SILVER, HEARING OFFICER

IN RE THE MATTER OF:)
AMC INVESTMENTS, INC.)
_____)

VOLUME IX
REPORTER'S TRANSCRIPT OF PROCEEDINGS

Date and Time: Monday, April 24, 2017
A.M. and P.M. Session

Location: Fullerton City Hall
303 W. Commonwealth Avenue
Fullerton, California

Reported By: Jay M. Bullard
CSR No. 3455

Job No. 9001

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

APPEARANCES:

FOR THE CITY OF
FULLERTON:

JONES & MAYER
BY: GREGORY P. PALMER, ESQ.
KEITH F. COLLINS, ESQ.
3777 Harbor Blvd.
Fullerton, Ca 92835
(714)446-1400
gpp@jones-mayer.com

FOR THE GRAND INN:

STUART MILLER, ESQ.
24411 Ridge Route, Suite 200
Laguna Hills, Ca 92653
(949)580-3737
smiller@stuartmillerlaw.com

BARRY A. ROSS, ESQ.
2 Venture, Suite 450
Irvine, Ca 92618
(949)727-0977
barry@rossrealestatelaw.com

FOR JOSEPH FELZ:

ROBERT J. HICKEY
ATTORNEY AT LAW
315 Centennial Way
Tustin, Ca 92780
(714)525-4457
topdefense.com

ALSO PRESENT:

ANDREW GOODRICH

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Joseph Felz	1673	1724	1727	
James Renick, Sr.	1731	1744	1753	
Danny Hughes	1756	1826	1832	
Barry Brooks	1837			
(By Mr. Collins:)		1876		
(By Mr. Palmer:)		1881		
			1886	
Andrew Goodrich		1889	1894	
(Under E.C. 776)				

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

E X H I B I T S

	FOR	IN
GRAND INN'S EXHIBITS	IDENTIFICATION	EVIDENCE
286 - Remarks by President Trump	1765	1765
287 - California Locations by Crime Rate	1774	1774
288 - Crime Rates by City in Orange County	1774	1774

1 Fullerton, California - Monday, April 24, 2017

2 Morning Session

3
4 HEARING OFFICER SILVER: Here we go. I believe when
5 we left off, the city had closed its case-in-chief and we
6 were moving on to Grand Inn. Is that correct?

7 MR. MILLER: Right. Yes.

8 HEARING OFFICER SILVER: Mr. Miller.

9 MR. MILLER: Yes. Thank you. Brief opening
10 statement. The city's case has been linear. They raise an
11 event. They show you a document, a report about it, a police
12 officer testifies about it, and they move on to the next one,
13 so it's kind of a cumulative case. Take any of those
14 particular incidents away, and the case is really the same as
15 it was before.

16 Our case is structured differently. It's going
17 to be more like a Rubik's Cube in that it has all these
18 pieces. And if you've ever seen somebody put one of those
19 things together, five twists before it's done, it looks like
20 you can't recognize that this is almost a perfect cube with
21 all the right colors on the right places.

22 So I'm going to present our evidence. It may
23 not be clear until the closing where everything fits
24 together, but it will be clear, and the evidence is going to
25 show you two things. One, the Grand Inn is not a public
26 nuisance, and, two, the city's case is an illusion.

1672

1 HEARING OFFICER SILVER: Okay. Your first witness.

2 MR. MILLER: Joe Felz.

3 HEARING OFFICER SILVER: All right. Mr. Felz, could
4 you stand up, raise your right hand.

5 ^Joseph Felz,
6 called as a witness by the Grand Inn, having been duly sworn,
7 was examined and testified as follows:

8 HEARING OFFICER SILVER: Thank you. Please have a
9 seat and please say and spell your first and last name for
10 the record.

11 THE WITNESS: Joseph Felz, F-e-l-z.

12 HEARING OFFICER SILVER: Thank you. Mr. Miller.

13 ^DIRECT EXAMINATION

14 BY MR. MILLER:

15 Q Good morning, Mr. Felz. My name is Stuart
16 Miller.

17 You used to be the city manager of the City of
18 Fullerton, correct?

19 A Correct.

20 Q What were the dates of that -- that you held
21 that position?

22 A December 30, I believe, 2010 through December
23 30, 2016.

24 Q So exactly six years?

25 A There was some weeks and a couple of months of
26 acting prior to the December 30, 2010 when the prior city

1 manager was on extended vacation.

2 Q So you were acting city manager before being
3 city manager?

4 A That's correct.

5 Q When did you first become an employee or
6 officer of the City of Fullerton?

7 A On a permanent basis, it was 1985.

8 Q So you worked for the city for it sounds like
9 something akin to 31 years?

10 A That's correct.

11 Q Would you recount for me, please, the various
12 positions you've held and when you've held them.

13 A I was in the Community Services Department for
14 a number of years, you know, following 1985. From the late
15 eighties through I believe it was 2005, 17 to 20 years range
16 was in the Community Services, later renamed Parks and
17 Recreation Department, the position was manager. So that was
18 that entire period.

19 Following that, I was assistant to the city
20 manager. Following that, I was then in the renamed as Parks
21 and Recreation Department, the department head, and following
22 that, city manager.

23 Q All right. So, to be clear, because I'm a
24 little confused, you were manager of Parks and Recreation,
25 then you became assistant to the city manager, then you went
26 back to head of Parks and Recreation?

1 A That's correct, as department head. Director
2 was the title.

3 Q So manager and department head are different?

4 A Correct.

5 Q Department head being a higher position?

6 A Correct.

7 Q I see. And then you were promoted to city
8 manager.

9 What are the duties of the city manager?

10 A Overall responsibility for the entire operation
11 of the city, oversight over all of the divisions and
12 departments, and then implementing the council's policies and
13 procedures.

14 Q Okay. To whom do you report as city manager?

15 A The five city council members.

16 Q I see. They are your direct supervisors?

17 A That's correct.

18 Q Did you review any documents in preparation or
19 anticipation of your testimony today?

20 A Yes.

21 Q What?

22 A I reviewed the list of police incidents and the
23 summary reports of those from 2012 forward, as well as I
24 reviewed the calendar of two dates when I had met with
25 Mr. Xie, just to confirm that date, as well as the date when
26 I met with a development team that was putting together a

1 proposal to potentially purchase the Grand Inn.

2 Q What was the date that you met with the
3 development -- the team putting this case together?

4 A I met with -- February 11th, 2014.

5 Q And who was that team?

6 A David DiRienzo.

7 Q We'll have to go slowly so I can take them
8 down.

9 A I'm going to have to spell his name.

10 Q David.

11 A Last name D-i capital R-i-e-n-z-o.

12 Q Who is he?

13 A He is the --

14 Q Who was he at the time is my question.

15 A His exact, president or CEO of Urban West
16 Strategies.

17 Q President or CEO.

18 Okay. Next?

19 A And then a gentleman named Reed, R-e-e-d,
20 Chesworth, C-h-e-s-w-o-r-t-h.

21 Q Yes.

22 A He is a consultant with his own company, ARC.
23 I do not know what that stands for.

24 Q Who else?

25 A That's it.

26 Q So you met with these two gentlemen. They were

1 the team that was going to do what now?

2 A They had contacted -- let me rephrase that.

3 They were -- had development concepts that
4 looked at the consolidated property around former -- or auto
5 dealerships following particularly the General Motors either
6 closing or relocating non-freeway frontage automobile
7 dealerships. And they were investigating opportunities to
8 purchase those properties and consolidate those properties
9 with other surroundings so they can get a development --
10 enough for mixed-use development, which is what their --

11 Q Who was paying them, if you know --

12 A I have --

13 Q -- or sponsoring them for doing this work?

14 A I have no idea.

15 Q Okay. And what was the purpose of this
16 meeting?

17 A They had been interested -- they had an
18 understanding that the Renick business was one that was under
19 pressure from GM to relocate, and they had investigated an
20 opportunity to purchase that property and were interested in
21 getting contracts for surrounding properties. And they
22 were -- then this meeting was about what's the entitlement
23 and the application process for the City of Fullerton.
24 Should they acquire the property, what would they -- what
25 process would they need to go through if they were to shift
26 to a mixed-use-type project?

1 Q And did they seek your assistance in achieving
2 their goal?

3 A They -- it was just a fact -- they just needed
4 the factual process. It wasn't assistance. It was any
5 developer that had -- that was moving to a different use and
6 different entitlements on property, different zoning, just
7 needed the path to get there. Each city has a different set
8 of circumstances.

9 They did seek my assistance prior to this, and
10 that was they were trying to identify the property owner for
11 the Grand Inn property, and that's when -- so, prior to this,
12 I met with Mr. Xie. He reached out to the chamber. I knew
13 he was a member. I was not acquainted with Mr. Xie. And the
14 chamber arranged for a meeting where I could introduce this
15 development team and provide him the information and get some
16 direction from him.

17 Q So now Mr. DiRienzo and Mr. Chesworth were
18 interested in finding out how the property could be acquired
19 for the benefit of the Renick car dealership; is that right?

20 A No.

21 Q Okay. Correct me, please.

22 A Their development concept was to acquire
23 parcels, consolidate those parcels into a development area,
24 and they would then seek city approvals in the proper
25 entitlements or any changes in the zoning required to build a
26 mixed-use project. In other words, both commercial and

1 housing.

2 Q Now, you're familiar with the block that the
3 Grand Inn is on, right?

4 A Yes.

5 Q And the Grand Inn is sort of in the middle of
6 the block, right? It's not on a corner, right?

7 A Correct.

8 Q And if I leave the Grand Inn property towards
9 Euclid Street, on the left is the Renick car dealership,
10 correct?

11 A Correct.

12 Q That's a GM dealership, right?

13 A Correct.

14 Q And if I leave the Grand Inn property and go to
15 the right, there's more Renick dealership, right?

16 A I do not know the owner -- ownership of that
17 parcel to the north.

18 Q Okay. But it looks like a big parking lot but
19 people don't come in and out. It's a place where cars are
20 stored, right?

21 A Correct.

22 Q Whoever that might belong to. I want you to
23 assume for the moment that it belongs to Renick, okay?

24 A Okay.

25 Q Was the proposal for this mixed use that the
26 Grand Inn property would be turned into apartments?

1 A No.

2 Q What was it?

3 A There was no concept -- there was no plan at
4 that point. It was very preliminary. The development
5 process at the earlier stages is to get a number of
6 properties under contract contingent upon getting the
7 appropriate zoning from whatever jurisdiction you're in.

8 So, in this case, I believe they were looking
9 at getting -- first of all, just is there any interest in
10 selling the property? That was the first step. And that's
11 their business, not the city's business. So I believe there
12 were four properties they were looking at to see if they
13 could get under contract and then proceed with the potential
14 development.

15 Q Where were the other three properties?

16 A I don't know. Obviously, it's a separate
17 parcel. Whoever owns the parking lot area north of the Grand
18 Inn, as well as they had indicated there might -- they might
19 have some interest in a vacant parcel that wasn't necessarily
20 adjoining the property. There was a small restaurant that
21 was on there. It was just east of the property.

22 Q East. That would be behind it?

23 A Yeah.

24 Q Okay. There would be one more.

25 A Then the property where the Renick Cadillac
26 sits.

1 Q So these people were interested in did it sound
2 like buying out Renick?

3 A That's correct.

4 Q But on behalf of General Motors?

5 A No.

6 Q You said that there was a General Motors
7 interest in this or General Motors interest. What was --
8 explain to me what the General Motors connection was, please.

9 A Following the recession, so 2010, 2011, in
10 that -- probably up to 2013, 2014, General Motors was doing
11 quite a bit of consolidation. Either moving franchises away,
12 particularly those that are not on freeway frontage. So
13 there was a pretty significant movement by General Motors
14 throughout the country, particularly in Southern California,
15 to move dealerships to freeway locations.

16 We have two examples here in Fullerton. One, a
17 Chevrolet dealer, which is here on Commonwealth, was closed
18 and moved to another location. And my understanding from
19 both this development, the development team as well as the
20 Renicks themselves, they were under quite a bit of pressure
21 from General Motors to relocate.

22 Q Tell me what you know about the pressure that
23 the Renicks were under from General Motors.

24 A Simply that, that they were -- there was --
25 consistent with General Motors' published initiatives, that
26 they were looking to get their dealerships moved to freeway

1 locations and auto malls.

2 Q And the current location is not a freeway
3 location or auto mall, right?

4 A Correct.

5 Q Now, let's suppose that Renick could obtain the
6 Grand Inn property. Do you have any understanding about --
7 so, in other words, it would now own all three of those lots.
8 I want you to again assume that northern lot belongs to
9 Renick, okay? We now have three continuous properties,
10 right?

11 A Correct.

12 Q Do you have any understanding about whether
13 that arrangement would in any degree appease the concerns of
14 General Motors?

15 A I do not.

16 Q Okay. Have you ever discussed with anyone from
17 the Renick organization a desire to obtain the Grand Inn
18 property?

19 A No, I have not.

20 Q Have you ever discussed it with any third party
21 that the Grand Inn -- that the Renick organization is
22 interested in acquiring the Grand Inn property?

23 A None that I'm aware of during my -- my term as
24 city manager.

25 Q How about in your life?

26 A I'm not aware of specific details of the

1 Renicks' actions to obtain the Grand Inn.

2 Q No. I just said of their interest.

3 A I don't have knowledge of their interest.

4 Q So until 30 seconds ago you've never heard that
5 concept, correct?

6 A I'd be speculating.

7 Q Either you did or you didn't.

8 A I don't -- I don't have -- I don't have a
9 definitive answer on the Renicks' interest.

10 Q I'm not asking you what they want. Only they
11 can tell you that. What I'm asking you is what you heard.

12 MR. PALMER: I would object as irrelevant. I know
13 this is an administrative hearing and it is kind of like the
14 wild, wild west, but it sounds like we're getting into rumor
15 and innuendo.

16 MR. MILLER: Let's see where it goes.

17 HEARING OFFICER SILVER: Mr. Miller, what is your
18 offer of proof on this?

19 MR. MILLER: As I have said multiple times, this is a
20 politically motivated hearing. And one of the reasons that
21 this case is brought is to facilitate the acquisition of the
22 property by the Renick company.

23 HEARING OFFICER SILVER: And how -- just taking that a
24 step further. How does that relate to whether the property
25 is an alleged nuisance or not?

26 MR. MILLER: All of this will be clear in my closing.

1 Oblige me, please.

2 HEARING OFFICER SILVER: For now, please do oblige me,
3 I guess humor me and let me know, how does it relate to a
4 defense? Is it discriminatory enforcement? Is it just the
5 facts are manufactured?

6 MR. MILLER: I am going to prove to you that the Grand
7 Inn is not a public nuisance. I'm going to prove to you, as
8 I said, that the city's case is an illusion. That leads to
9 the question why would they do this? What is going on here?
10 It doesn't make sense. I'm going to help you make sense of
11 this.

12 HEARING OFFICER SILVER: Got it. Please proceed.

13 Mr. Felz, to the extent that you have an answer
14 to this, please so state. If you do not know, please so
15 state.

16 THE WITNESS: I do not know.

17 MR. MILLER: Would you repeat the question, please.

18 (Record read)

19 Q BY MR. MILLER: That's not a question you couldn't
20 not know the answer to. Either it's news to you or it's not.
21 Have you ever heard before coming out of my mouth that
22 there's interest on the part of anyone for the Renicks to
23 obtain the Grand Inn property?

24 A No.

25 Q So it's brand new, right? You just heard it
26 from me for the first time, right?

1 A That's correct.

2 Q Okay. Who hired Mr. DiRienzo or his company?

3 A I have no knowledge of who would have hired
4 him. It was represented to me that he was -- he had
5 developed a strategy. And he doesn't work for other people.
6 It's his company. And he was taking the opportunity to
7 investigate dealership properties that may come on the market
8 and see if there's development opportunities, again, with the
9 change in zoning.

10 Q And who hired Mr. Chesworth, if you know or if
11 you've heard?

12 A It was represented that it was Urban West,
13 which is Mr. DiRienzo.

14 Q So Mr. DiRienzo brought Mr. Chesworth?

15 A Correct, to the best of my knowledge, as it was
16 represented to me.

17 Q He is a consultant. What kind of consultant is
18 he?

19 A He has worked in the automotive industry. My
20 understanding is that he was able to I guess interpret or had
21 the best understanding of General Motors and their actions
22 with their dealerships.

23 Q Do you know -- now, the Renick -- it's Renick
24 Subaru and Cadillac, right?

25 A Correct.

26 Q And we've met two people from that company,

1 James, Sr., James, Jr. Do you know them?

2 A I know James, Sr.

3 Q Are they the owners, to your knowledge?

4 A It's the -- I don't know. The ownership, it's
5 the Renick family.

6 Q How do you know James, Sr.?

7 A Through his activities in the City of
8 Fullerton, he and his brother Leonard.

9 Q Is Leonard also involved in the car business?

10 A Yes. He's -- yes.

11 Q Okay. And you say you know him through his
12 activities in his business. Would you be more specific how
13 you know him.

14 A As city manager, you reach out to both large
15 and small businesses, but particularly those that generate a
16 lot of retail sales tax. So, meeting with the large
17 corporations in town, large businesses and small, you're
18 consistently reaching out and ensuring that whatever the city
19 can do to keep it business friendly.

20 Q And you said Renick generates a lot of sales
21 tax, correct?

22 A Auto dealerships typically do, yes.

23 Q He does, right?

24 A I couldn't give you his exact placement.

25 Q I didn't ask you that; just is he a substantial
26 contributor --

1 A Yes.

2 Q -- to the city sales tax?

3 A Yes.

4 Q So does it not seem counterintuitive for
5 General Motors to want to fix something if it is not broken?

6 A I can't speak to General Motors' strategies.

7 Q Have you ever heard from anyone else other than
8 these two gentlemen, DiRienzo and Chesworth, at that one
9 meeting that General Motors was in any way other than
10 completely pleased with the location of the Renick
11 dealership?

12 A Could you repeat the question.

13 Q Yeah. There was a lot of qualifications in it.
14 Why don't I reword it.

15 Disregarding this meeting that you had with
16 DiRienzo and Chesworth. Has anyone ever said to you or have
17 you ever heard in any way that General Motors wants Renick to
18 move?

19 A Yes.

20 Q Who did you hear that from?

21 A I've heard it from the Renicks themselves.
22 Also heard that from the -- I don't want to mischaracterize.
23 I assume he's the owner, but he held the dealership here, the
24 Chevrolet dealership. This conversation was widespread. It
25 wasn't about the Renicks, but this was a significant
26 industry-wide move.

1 Q So is the Chevy dealership --

2 A It was no surprise to anybody.

3 Q I'm sorry, go on.

4 A That's it.

5 Q Is the Chevy dealership a different place or
6 was that the predecessor of the Renicks?

7 A No. It's a different location here on
8 Commonwealth. It was -- it was the same initiatives that
9 were going industry-wide by General Motors to reduce their
10 number of dealerships and relocate them.

11 Q To your knowledge, is there any connection or
12 affiliation in ownership between the Renick Subaru-Cadillac
13 on one hand and the Chevrolet dealership on the other?

14 A No, not that I'm aware.

15 Q So you had a conversation or more with James
16 Renick, Sr., correct?

17 A Correct.

18 Q How many?

19 A I would say two or three.

20 Q Were they in person?

21 A Best of my recollection, yes.

22 Q Where did they take place?

23 A One was a meeting with myself and a council
24 member. They were briefing her, and she invited me to the
25 meeting, and they wanted to go over their concerns
26 regarding -- and make her aware of General Motors' position

1 and potential to relocate the dealership.

2 Q What was her name?

3 A That's Council Member Fitzgerald.

4 Q She's a current council member?

5 A That's correct.

6 Q That was one. And what were the other two?

7 A I had met with I believe it may have just been
8 Leonard early on when I was city manager, and General Motors
9 was making this -- you know, this pretty significant move
10 with the dealerships and asked him to brief me on his
11 orientation to what was -- what the industry was going
12 through.

13 Q And then there was a third one.

14 A I don't recall the third one. Those two were
15 specific.

16 Q Two or three, then.

17 A Yes.

18 Q Now, in these meetings they're telling you that
19 General Motors has a concern that they want dealerships to be
20 in another type of place, right?

21 A That's correct.

22 Q Why would they tell the city manager that?
23 You're not a real estate broker.

24 MR. PALMER: Objection; speculation.

25 Q BY MR. MILLER: Do you understand my question? What
26 is the significance of the role of the city manager to

1 receive that information?

2 MR. PALMER: Objection; speculation.

3 HEARING OFFICER SILVER: I think the first way you
4 stated was absolutely calling for a speculative response. I
5 think the second way you stated it, which is simply, and
6 correct me if I'm misstating it, Mr. Miller, "What is the
7 role of the city manager in this?" Right? That was your
8 question?

9 MR. MILLER: Yes.

10 HEARING OFFICER SILVER: I don't think that calls for
11 speculation.

12 The answer, as always, is the answer or I don't
13 know.

14 THE WITNESS: I'd ask you to repeat the question.

15 Q BY MR. MILLER: Sure. Accepting that Renick is
16 concerned that General Motors wants it to occupy a different
17 type of location, how can the city manager help?

18 A The city does have opportunities to, based on
19 city council policy direction, can offer incentives for
20 businesses to stay, auto dealership or other. So that's why
21 someone would make you aware. It's also a very large
22 business to be leaving, and there are certain legal
23 obligations for larger businesses when they leave a community
24 to notify the city through the city manager.

25 Q Were they telling you -- was the import of this
26 meeting, as you understood it, to provide you with

1 information so you could just make whatever plans the city
2 has to make or to seek your help?

3 A There was no help sought. There was no
4 specific help. Just it was to make the city aware of
5 movements that were happening, and then, as typically what
6 happens, if there is a significant movement of someone with a
7 lot of property, like an auto dealership, you tend to look
8 for -- the industry would be driven by reuse of that
9 property. So it's a -- I guess a courtesy or knowledge of
10 what could happen if a large parcel is vacated.

11 Q So it's -- as you're describing it, based on
12 your understanding, the meeting was for your benefit rather
13 than the Renicks' benefit, correct?

14 A I would agree with that.

15 Q Now, you said that you can give incentives,
16 you, the city can provide incentives to certain businesses to
17 make them stay or what have you, correct?

18 A Correct.

19 Q Were any such incentives proposed for the
20 Renicks?

21 A Never.

22 Q Okay. When did these meetings occur?

23 A Probably 2013.

24 Q They happened in 2013?

25 A 2012, 2013.

26 Q So four or five years ago, right?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

A Correct.

Q The Renicks are still where they were before,
right?

A Correct.

Q Do you have any understanding of why that is?

A I do not.

Q Okay. In these conversations that you had with
anyone from the Renick company, did the words Grand Inn come
up?

A I don't recall.

Q In any other meeting or encounter or
communications that you've had with anyone, has the Grand Inn
and the Renicks' business come up at the same time?

A In any conversation I've had?

Q Yes.

A Yes.

Q How many times?

A I do not know.

Q More than three?

A I don't recall.

Q More than one?

A Again, I don't recall the number.

Q But at least one?

MR. PALMER: Objection; asked and answered.

HEARING OFFICER SILVER: I agree.

Q BY MR. MILLER: Tell me about the one or two times

1 you recall.

2 A The Renicks were -- as neighbors to the Grand
3 Inn and a significant number of criminal activity and police
4 calls, et cetera, to a business, I am confident had come up
5 in conversation at some point.

6 Q With whom?

7 A I couldn't tell you, but I know that that
8 conversation -- if you're the business next door to a
9 business such as the Grand Inn with that level of criminal
10 activity, I am confident that the impacts on that business
11 came up in conversation.

12 Q Is there much criminal activity -- has there
13 been much criminal activity at the Renick property?

14 A I don't know the specific statistics.

15 Q No. Since you're talking about a lot at the
16 Grand Inn.

17 A Correct.

18 Q That's not a statistic. That's just a
19 generalization. So generalizing about the Renick properties,
20 what's the level of crime there?

21 A I don't believe there's criminal activity other
22 than what I would say is a spillover from the neighboring
23 property, the Grand Inn.

24 Q How do you know it's a spillover?

25 A I would base that on the police reports.

26 Q Okay. The gentleman sitting next to you is

1 your attorney, right?

2 A That's correct.

3 Q Have you spoken to any of the city's attorneys
4 about this hearing? No. Let me rephrase that. About your
5 testimony today.

6 A I've spoken to Mr. Palmer.

7 Q Okay. Tell me what he said and what you said.

8 MR. PALMER: Objection; relevance.

9 HEARING OFFICER SILVER: Let's take a stop. You are
10 obviously treading on some level of ice here, the depth of
11 which remains to be seen, so let's discuss this for a moment
12 here. I get what's going on.

13 Sir, you're counsel for Mr. Felz today.

14 MR. HICKEY: I am, yes.

15 HEARING OFFICER SILVER: What is your name, sir?

16 MR. HICKEY: Robert Hickey.

17 HEARING OFFICER SILVER: Robert Hickey. Pleasure to
18 meet you, sir.

19 Mr. Palmer, is your firm or are you in any way
20 representing Mr. Felz at any point in time?

21 MR. PALMER: No, sir.

22 HEARING OFFICER SILVER: Right now?

23 Okay. When did that representation end?

24 MR. PALMER: When he ceased being the city manager.

25 Actually, our firm has never represented Mr. Felz in his
26 personal capacity.

1 HEARING OFFICER SILVER: Right.

2 MR. PALMER: When he was city manager, obviously, we
3 provided legal advice.

4 HEARING OFFICER SILVER: Exactly. So your objection
5 at this point is simply relevance to that question.

6 MR. PALMER: Yes.

7 HEARING OFFICER SILVER: Okay. Mr. Miller, other than
8 seeking to unearth just general, very broad, unrestrained
9 boundaries of discussion between Mr. Felz and Mr. Palmer,
10 what exactly is it that you're looking for here?

11 MR. MILLER: I want to know what Mr. Palmer said to
12 him and what he said back.

13 MR. PALMER: It's irrelevant.

14 HEARING OFFICER SILVER: Relative to?

15 MR. MILLER: To his testimony, relative to the Renick
16 properties, relative to the Grand Inn.

17 HEARING OFFICER SILVER: Let's take those piece by
18 piece, then. So you're asking for --

19 MR. MILLER: I don't get to do a deposition. This is
20 my chance. It's only this.

21 HEARING OFFICER SILVER: That's fine. That's okay.
22 The purpose of this hearing is not to substitute for a
23 deposition. The purpose of this hearing is to determine
24 whether, in fact, the city meets its burden or not based on
25 its allegations about the Grand Inn. Correct? Are we agreed
26 on that?

1 MR. MILLER: Mostly. Not entirely.

2 HEARING OFFICER SILVER: Okay. If you're seeking
3 information from Mr. Felz, then your questions need to have
4 some minimal relevance. Obviously, you know all this. So I
5 guess what I'm wondering is -- let's put it to you this way:
6 My comment to you, Mr. Miller -- my suggestion, rather, is
7 when asking Mr. Felz questions about his conversations,
8 particularly when we're talking about counsel or former
9 counsel --

10 MR. MILLER: Never was counsel.

11 HEARING OFFICER SILVER: Right. The ethical
12 obligation for city attorneys or the client for city
13 attorneys is the majority of the council act in that
14 capacity, not the city manager, I get that. But my point is
15 let's have a relationship between the question -- you've
16 asked several extremely broad, open-ended questions. "Have
17 you ever this? Have you ever that?" When you're asking
18 questions here, what I'd like you to do, Mr. Miller, if you
19 would, is relate it to a subject, Mr. Palmer, for example.

20 MR. MILLER: I said, "Did Mr. Palmer discuss your
21 testimony here today?"

22 HEARING OFFICER SILVER: Yes. Just finish with that.

23 MR. MILLER: I asked him that question.

24 HEARING OFFICER SILVER: Please proceed, then. Thank
25 you.

26 Q BY MR. MILLER: You and Mr. Palmer discussed your

1 testimony here today, correct? You said that, right?

2 A Correct. I should add I did have a
3 conversation in Mr. Palmer's absence with Mr. Collins as
4 well.

5 Q Okay. So how many conversations in all did you
6 have with any attorney representing the city regarding your
7 testimony in this hearing?

8 A I believe three conversations.

9 Q Two with Mr. Palmer, one with Mr. Collins?

10 A Correct.

11 Q Which one happened first?

12 A I had -- with Mr. Palmer.

13 Q Okay. When was that?

14 A Several weeks ago.

15 Q And what was the subject matter of that
16 conversation?

17 MR. PALMER: Objection; relevance. I met with every
18 witness before I put them on the witness stand, so I suppose
19 if we go down this road, Mr. Miller could ask questions about
20 whatever I said to whatever witness I put on the witness
21 stand. Are we going to get into witness prep now?

22 MR. MILLER: No. Wait. Wait. Wait. Wait. Wait.
23 Mr. Palmer spoke to every witness he put on the witness
24 stand. Okay. He didn't put Mr. Felz on the witness stand; I
25 did.

26 HEARING OFFICER SILVER: Okay.

1 MR. MILLER: That has nothing to do with anything.

2 HEARING OFFICER SILVER: I think that's besides the
3 point. I think this line of questioning is -- I think you
4 are within your rights to be able to proceed along this line
5 of questioning. We're going to keep it on a short rope
6 because, as I'm running every question on both sides against
7 the minimal relevance standard -- does it have a tendency to
8 prove or disprove a material fact in controversy -- that's
9 what I'm checking against. So please proceed, but let's keep
10 this line of questioning narrowly limited.

11 Q BY MR. MILLER: What was the subject matter of your
12 first conversation with Mr. Palmer regarding the testimony
13 that you would provide at this hearing?

14 A It was to confirm dates of the testimony and
15 also to discuss how I needed to inform him or any other
16 procedure I needed to go through to have my attorney here.

17 Q So there was no discussion in that first
18 conversation about any of the issues in the case?

19 A That's correct.

20 Q Am I right?

21 A Correct.

22 Q Now, the second conversation, was that with
23 Mr. Palmer or with Mr. Collins?

24 A Mr. Collins.

25 Q And when did that occur?

26 A I would say seven to ten days ago.

1 Q Was that in person or by telephone or by some
2 other means?

3 A By telephone. By telephone.

4 Q Okay. And what was the subject matter of that
5 conversation?

6 A I needed to seek his direction or permission to
7 speak with an employee in the city manager's office who had
8 access to my calendar so I could confirm the dates when I met
9 with the development team and Mr. Xie.

10 Q And was there any other matter discussed?

11 A No.

12 Q Okay. That brings us to the third
13 conversation, which, again, was with Mr. Palmer. When did
14 that occur?

15 A That was last week.

16 Q And what was subject or subjects that you
17 discussed with him then?

18 MR. PALMER: Okay. Now, I have to have a separate
19 objection to that because that conversation included
20 Mr. Hickey, too. So we might be -- we might be treading on
21 an attorney-client privilege.

22 MR. MILLER: That's for Mr. Hickey to object to.

23 MR. PALMER: I'm going to start first and then
24 Mr. Hickey can speak up whenever he wants to.

25 HEARING OFFICER SILVER: Mr. Hickey.

26 MR. HICKEY: I thought the last two questions were

1 attorney-client. He is testifying today as to his role as
2 city manager. Things he said to Mr. Palmer, who is the
3 attorney for the City of Fullerton, I think would be
4 privileged, especially any conversation that included me
5 regarding today's proceedings, so I would object as well.

6 HEARING OFFICER SILVER: That's why I was going
7 through that little exercise there as well, trying to figure
8 out dates and such.

9 The privilege, to the extent that there is a
10 conversation between the city manager and a city attorney
11 during his tenure as city manager, that privilege is for the
12 city council to waive. So even if it were something that
13 Mr. Palmer or yourself, Mr. Hickey, were to say just go ahead
14 and testify about it, you lack the standing to do so.

15 So what I need to understand here is when these
16 privileges end, right? In other words, when the separation
17 occurs.

18 Mr. Felz, I think you said that you were city
19 manager through roughly Christmas, right?

20 THE WITNESS: Correct.

21 HEARING OFFICER SILVER: About the end of December or
22 so. This third conversation happened after that?

23 THE WITNESS: Correct.

24 HEARING OFFICER SILVER: Mr. Hickey, you were present
25 in this conversation?

26 MR. HICKEY: Yes.

1 HEARING OFFICER SILVER: But, Mr. Palmer, you were
2 also present in this conversation?

3 MR. PALMER: I was.

4 HEARING OFFICER SILVER: Therein -- correct me if
5 you're seeing it differently, but therein I think lies the
6 issue. I think the privilege does not extend to a
7 conversation with a nonrepresenting attorney. Am I right?

8 MR. MILLER: Yes.

9 HEARING OFFICER SILVER: I think the privilege is
10 broken at that point in time.

11 MR. HICKEY: Your Honor, I think -- I would
12 respectfully disagree with that. I think his role as city
13 manager has ended, but they're representing his actions that
14 took place during that tenure. So I think he's -- I think
15 the privilege still attaches, even though he is no longer
16 city manager. The discussion is about his tenure at that
17 point in time, so I would assert that the privilege still is
18 attached.

19 HEARING OFFICER SILVER: So within the scope --
20 basically he's discussing it within the scope and capacity of
21 his former position.

22 MR. HICKEY: Exactly, yes.

23 HEARING OFFICER SILVER: Is that right?

24 Or he's restating conversations that occurred
25 that were privileged.

26 MR. HICKEY: Exactly.

1 MR. MILLER: Here is the privilege. This is Evidence
2 Code 954. "The client has a privilege to refuse to disclose
3 a confidential communication between the client and lawyer."
4 Not between the lawyer for some third party, which is what
5 Mr. Palmer is.

6 MR. HICKEY: If I may respond to that, Your Honor.

7 HEARING OFFICER SILVER: Yes.

8 MR. HICKEY: Mr. Palmer is not a third party.
9 Mr. Palmer is representing the City of Fullerton. Mr. Felz
10 worked for the City of Fullerton at that time. He is
11 representing Mr. Felz's actions during that period of time.
12 So, even though his position is no longer, the conversation
13 has to do with his tenure during that period of time. So I
14 believe Mr. Palmer still is -- and I believe Mr. Felz
15 communicating with him is expecting the attorney-client
16 privilege at that point in time.

17 MR. MILLER: There's no such thing as expecting.
18 Either you have it or you do not have it.

19 Now, here's more. This is California Supreme
20 Court, Brunner versus Superior Court, 51 Cal 2d, 616 at 618.

21 HEARING OFFICER SILVER: I'm sorry, can you recite
22 that again.

23 MR. MILLER: 51 Cal 2d, 616 to -- on page 618. And
24 I'm going to read you the sentence. What its import is is
25 that this privilege is narrowly construed. Watch. Quote,
26 "The rule excluding the testimony of an attorney as to

1 confidential communications made to him by his client must be
2 strictly construed as it has a tendency to suppress relevant
3 facts that may be necessary for a just decision. The doubt
4 goes against the privilege."

5 HEARING OFFICER SILVER: I don't know the context of
6 that case. I have not read that case, although I will.
7 Thank you for the citation. My understanding has been quite
8 the opposite, that the attorney-client privilege is meant to
9 be liberally construed. I would imagine that the public
10 policy behind that is to help ensure open conversation
11 between a represented party and their counsel.

12 MR. MILLER: Right. But Mr. Palmer does not represent
13 this person anymore.

14 HEARING OFFICER SILVER: I understand that.

15 MR. MILLER: I'm not asking about anything he said to
16 the city attorney while he was a city employee. But now he's
17 as much a stranger to Mr. Palmer as he is to me.

18 HEARING OFFICER SILVER: I think there is a
19 delineation to be drawn between conversations that occur
20 afterwards that are we'll call it new conversations,
21 conversations that occur afterwards that are strictly
22 reciting the conversations that occur within the scope of the
23 privilege. Otherwise, any repetition of that after the fact
24 will lose the privilege coverage.

25 I think weighed against the minimal relevance
26 of this, let alone minimal probative value, I'm inclined to

1 favor Mr. Hickey's objection on this.

2 MR. MILLER: We don't know what the probative value is
3 because we haven't heard it yet. Let's suppose this. Let's
4 suppose this is the truth, and I'm not saying it is, but
5 let's just say. If Mr. Palmer said if Miller asks you this
6 question, respond this way, I want to know that. Or make
7 sure not to tell him about this and that, I want to know
8 that.

9 HEARING OFFICER SILVER: I think everybody -- I think
10 every attorney would always like to know that information.

11 MR. MILLER: Right.

12 HEARING OFFICER SILVER: I get that. Liking to know
13 it is not necessarily meeting a relevance standard.

14 MR. MILLER: If he said that -- and don't
15 misunderstand me. I'm not saying --

16 HEARING OFFICER SILVER: We understand it's
17 hypothetical.

18 MR. MILLER: I would not anticipate Mr. Palmer saying
19 that. But, if he did, he's not saying it in representation
20 of Mr. Felz. He's saying it in representation of the city.

21 MR. HICKEY: Your Honor, to speed up the process, I'll
22 allow him to ask that one question. It didn't happen, so ask
23 that one question. But, other than that, I think we get into
24 the privilege.

25 MR. MILLER: There's another point, too. Wait.
26 Excuse me.

1 HEARING OFFICER SILVER: Points are expanding now. I
2 want to make sure -- look, this is an awful lot of time to be
3 spending on a line of questioning the relevance of which I
4 see as very minimal.

5 MR. MILLER: I extremely don't, but here's another
6 point, too, which is this: The privilege extends only to
7 confidential communications. It does not extend to certain
8 other things, such as who was your attorney?

9 HEARING OFFICER SILVER: Correct.

10 MR. MILLER: Did you discuss this topic with your
11 attorney?

12 HEARING OFFICER SILVER: I disagree there.

13 MR. MILLER: For instance, have you ever heard this
14 question? Have you had an opportunity to discuss this plea
15 arrangement with your attorney?

16 HEARING OFFICER SILVER: I have heard that question.

17 MR. MILLER: Privileged? I don't think so.

18 HEARING OFFICER SILVER: I have heard that question.

19 Okay. A question that supposes the answer, a
20 question that gives the conclusion and asks if the attorney
21 asked or did you discuss that conclusion, right? That is the
22 same thing as asking what is the content of the conversation.
23 You have given the content instead. You've done it in
24 reverse. Said here's the content. Tell me if you discussed
25 this or not. That is getting to the exact same substantive
26 issue.

1 Regardless, we have spent more than I think
2 owing time on this very question. I think the question of
3 were you coached? Okay? I think that's walking the line.
4 If Mr. Hickey and Mr. Palmer don't have objection to that, I
5 would be inclined to allow that. I think anything beyond
6 that, we're not walking the line on privilege. I think we're
7 well within it.

8 So, if that's your question, and you would like
9 to ask it -- I don't see an objection over here. In fact,
10 Mr. Hickey said the opposite -- then please proceed with that
11 question.

12 Q BY MR. MILLER: Did Mr. Palmer tell you to say or
13 not to say anything in particular?

14 A No.

15 Q Did Mr. Palmer tell you anything about me?

16 A No.

17 HEARING OFFICER SILVER: Mr. Hickey.

18 MR. HICKEY: I'm going to object from that point
19 forward.

20 HEARING OFFICER SILVER: Okay. We are going to cut
21 off that line of questioning and we are going to proceed.
22 Thank you.

23 Q BY MR. MILLER: Are you engaged in any litigation
24 with the City of Fullerton right now?

25 A No.

26 Q Are you engaged in any negotiations on any

1 topic with the City of Fullerton right now?

2 A No.

3 Q Have you ever spoken to -- you said you spoke
4 to Henry Xie, right?

5 A Correct.

6 Q How many times did you talk to him?

7 A I believe I only spoke to him at the one
8 meeting, which was September 3rd. I had exchanged --

9 Q Of what year?

10 A -- following that email, communication with
11 him.

12 Q September 3rd of what year?

13 A September 3rd, 2013.

14 Q Okay. Where did that conversation take place?

15 A At the Fullerton Chamber of Commerce conference
16 room, their offices.

17 Q Who was present?

18 A Myself, Mr. Xie, and Theresa Harvey, the
19 CEO/president of the chamber.

20 Q And what was the topic of that conversation?

21 A The development team from Urban West had asked
22 for the contact information for the ownership of the Grand
23 Inn. I was not familiar with Mr. Xie, but I knew he was a
24 chamber member. And Theresa Harvey reached out to him and
25 asked him if he was willing to meet to discuss a proposal to
26 purchase the Grand Inn.

1 Q Okay. Now, who would have done -- the purchase
2 would have been by Urban West Strategies?

3 A That's correct.

4 Q Okay. And what, if anything, did you say at
5 that meeting?

6 A I explained to Mr. Xie the -- gave him some
7 background on what was going on regionally and throughout the
8 country with General Motors and dealerships being relocated.
9 There was a potential developer that had a concept to
10 purchase the Renick property and was looking at the
11 surrounding properties to potentially purchase, so I gave him
12 the background on that. And the city's role is in that case
13 to facilitate contacts and to provide the process for someone
14 who wanted to do this.

15 So, at that point, Mr. Xie indicated he'd have
16 to speak with the rest of the ownership group, which I
17 believe he stated was his brother, and also provided then the
18 contact information for any kind of offer for the property to
19 Mr. Ross, gave him the contact information for his offices in
20 Irvine. I forwarded that information to the Urban West
21 group.

22 Q To your knowledge, was any offer ever made?

23 A I believe there was.

24 Q By Urban West?

25 A Yes.

26 Q Do you know how much it was?

1 A I do not.

2 Q Do you have any sense of a ballpark figure of
3 what it was?

4 A I would -- the city, nor myself, were not
5 involved in any of that, but just as a courtesy. I know that
6 there was an offer made. And I would -- ballparking it, it
7 was probably in the several million dollar range, but the
8 valuation of it is both property and the value of the
9 business. We wouldn't have been involved in any of that
10 process.

11 Q I see. Now, you're aware that this hearing is
12 about whether the Grand Inn is a public nuisance?

13 A Yes.

14 Q Right?

15 And the city has raised issues regarding calls
16 for service and crimes and whatnot. You know about this?

17 A Yes.

18 Q Okay. Did any of those issues come up at this
19 hearing -- I'm sorry. Let me rephrase.

20 Did any of those issues come up at this hearing
21 that you had with the president of the chamber of commerce --
22 I keep saying hearing, I'm sorry.

23 Did any of those issues that were addressed at
24 this hearing come up at the meeting with the president of the
25 chamber of commerce?

26 A Briefly. Mr. Xie mentioned that he was

1 transitioning the hotel and upgrading. He talked about some
2 of the physical upgrades to the property because there was --
3 there were regular code enforcement complaints against the
4 hotel, so we had a conversation briefly about that. He was
5 committed to kind of the context of: I'm making
6 improvements. I think he described it as transitioning to a
7 boutique motel concept, and he was also interested in
8 potentially purchasing other properties in Fullerton and
9 wanted some assistance with that.

10 Q Okay. That was it?

11 A That was essentially it. I mean, there was --
12 the topic -- the meeting was about the potential purchase of
13 the property. And he did share with me some -- as proof that
14 they're making changes and he was dedicated to turning it
15 into a positive direction when we talked about that, he
16 shared some recent reviews from one of the websites. I
17 couldn't tell you which one.

18 Q Like Trip Advisor or something?

19 A Something along those lines, yes.

20 Q There is actually something in the record he
21 gets three-and-a-half stars at Trip Advisor.

22 Anyway, have you or anyone in your family ever
23 purchased, borrowed, leased a car from Renick?

24 A No.

25 Q Have you ever worked for Renick?

26 A No.

1 Q There is a rumor that you have some sort of
2 consulting agreement with Renick. Is that true or untrue?

3 A That is untrue.

4 Q You have no business relationship with Renick
5 whatsoever, correct?

6 A Correct.

7 Q Have you ever heard that rumor?

8 A Not -- not directly. I don't know how to
9 answer that question, frankly.

10 Q Yes or no. Are you hearing it from me for the
11 first time?

12 A No.

13 Q Who did you hear it from?

14 MR. PALMER: Objection; relevance. It's a rumor. Who
15 cares?

16 HEARING OFFICER SILVER: Mr. Miller, where are we
17 going with this?

18 MR. MILLER: I want to know if there's a relationship
19 between Mr. Felz and Mr. Renick. I'm not going to spend a
20 whole lot of time on this if it doesn't start leading
21 somewhere, but I'd like to know who said it and what he said
22 in response.

23 HEARING OFFICER SILVER: Fine. Please proceed.

24 THE WITNESS: I don't recall who told me that, but it
25 was something out of a blog or something probably.

26 MR. MILLER: You'll have those blogs in those big

1 black books over there. All right. We don't have to talk
2 further about that.

3 Q Do you know of any city officials or employees
4 who have purchased, rented, borrowed vehicles from -- a
5 vehicle from Renick?

6 MR. PALMER: Objection; relevance.

7 HEARING OFFICER SILVER: I assume this goes to the
8 political motivation theory.

9 MR. MILLER: What if all five council members have
10 Renick cars that they purchased cheaply?

11 HEARING OFFICER SILVER: What if?

12 MR. MILLER: What if? I want to know what the
13 connection is between the Renick business and city hall.

14 HEARING OFFICER SILVER: Let's take it a step further,
15 Mr. Miller. Let's just get to the heart of it. Let's
16 assume -- I want to be very clear. This is an assumption.
17 But just for the sake of argument, let's assume they did.
18 Let's assume the city council members had some rental cars
19 from this dealership. Let's assume that the owner of this
20 dealership wanted to buy the Grand Inn. Let's assume that
21 the city's role, as I think I've heard in testimony today,
22 has been to advise them on the entitlement and permit process
23 or simply to respond to questions about the entitlement or
24 permit process, if they wanted to do so, and try to develop
25 it, or whatever they wanted to do.

26 What does -- I'm trying to figure out the

1 relevance that this has to prove or disprove a material fact
2 here. What does this do -- I guess how does a political
3 motivation -- how is this -- and this is truly a sincere
4 question. How does a political motivation, whether it exists
5 or not, tend to prove or disprove a defense and what would
6 that defense be?

7 MR. MILLER: I explained that already, but I'll
8 explain it again.

9 HEARING OFFICER SILVER: I heard what you said.

10 MR. MILLER: Let me explain it again.

11 HEARING OFFICER SILVER: Please do.

12 MR. MILLER: Okay. I will prove to you -- you may
13 think I'm smoke, but I will prove to you two things. One,
14 the Grand Inn is not a public nuisance, and, two, everything
15 you've heard has been an illusion.

16 HEARING OFFICER SILVER: Okay.

17 MR. MILLER: So that sounds -- let's suppose I can
18 make out a case that maybe that's really true. It sounds
19 kind of counterintuitive. Why would the city go to all this
20 trouble to do this? I'm showing you why.

21 HEARING OFFICER SILVER: I understand that. I don't
22 think it's counterintuitive. I understand completely and
23 clearly the logic behind it. I think as to the issue of
24 public nuisance, whether it is or not, I eagerly await
25 hearing that portion of your case.

26 I think the other component of whether it's

1 illusory or not, it sounds like whether it's illusory or not
2 depends on whether there's a political motivation, right?

3 MR. MILLER: No.

4 HEARING OFFICER SILVER: Maybe there was a desire for
5 the city to get rid of this land or this user or this owner
6 and convert it into something else.

7 MR. MILLER: No. You are misanticipating where I'm
8 going.

9 HEARING OFFICER SILVER: Okay.

10 MR. MILLER: No. We're dealing with three issues that
11 I want to establish. One, the Grand Inn is not a public
12 nuisance. Two, the case that the city has presented has been
13 an illusion.

14 HEARING OFFICER SILVER: Okay.

15 MR. MILLER: Three, the reason the city is doing this
16 is for a political purpose. I still have to put this thing
17 in some kind of context.

18 HEARING OFFICER SILVER: Sure.

19 MR. MILLER: So that's the context.

20 HEARING OFFICER SILVER: I think that third one is the
21 one where I'm getting a little tripped up here. I think I'm
22 getting tripped up because, even if it were politically
23 motivated, which would not be ideal, that's for sure. That's
24 probably putting it lightly. But even if it were politically
25 motivated, isn't the issue whether the allegations of
26 nuisance are true or not? Isn't that the sole issue here?

1 Isn't the context within which the city sought to investigate
2 irrelevant to whether the things that -- the findings from
3 the investigation, whether they are true or not, are proven
4 by a preponderance standard or not?

5 MR. MILLER: No. The reason is -- the question is not
6 did I shoot Joe? That's a very easy yes or no question. A
7 public nuisance is an unreasonable situation that affects the
8 quality of life of a community, just being simple about it,
9 considering a million factors.

10 HEARING OFFICER SILVER: Sure, under the common law
11 standard.

12 MR. MILLER: Now, you can have something that's way
13 out on the extreme on one end, way out on the extreme on the
14 other. Sometimes you get something that's closer to the
15 middle. And the reason a city is prosecuting a case helps
16 tip that balance.

17 HEARING OFFICER SILVER: I don't know that I'm as
18 persuaded by that. I think my job is simply to look at the
19 evidence in the record.

20 MR. MILLER: Is this an unreasonable -- is this hotel
21 an unreasonable problem for the city for the reasons they've
22 stated or is it an unreasonable problem for the city in whole
23 or in part because the city wants to redevelop it?

24 HEARING OFFICER SILVER: I get that. I get your
25 point. Is the standard, though, for the common law of public
26 nuisance -- I assume this is a public nuisance that we're

1 seeking, correct? Not a private nuisance.

2 MR. PALMER: Yes.

3 MR. MILLER: Right.

4 HEARING OFFICER SILVER: Let's be clear. Whether it's
5 an unreasonable burden or interference on the city or whether
6 it is an unreasonable burden or interference on the
7 community.

8 MR. MILLER: Community.

9 HEARING OFFICER SILVER: Okay. So, then, how would
10 the political motivations of the city, then, prove or
11 disprove the impact of the Grand Inn upon the community?

12 MR. MILLER: The city and the community are closely
13 aligned. The city sees itself as the protector of the
14 community and it sees one of the interests of the community
15 to redevelop the Grand Inn property.

16 HEARING OFFICER SILVER: Mr. Palmer, since we're
17 spending a large part of our day dealing with these issues --
18 I want to make clear, the reason we're spending so many words
19 talking about these issues is we're getting into it very
20 early on. I understand, Mr. Miller, you've been kind enough
21 to indulge me and restate your theory a couple times for me,
22 and I appreciate it. I can tell this is going to be an
23 ongoing issue or at least I suspect it is going to be an
24 ongoing issue of relevance objections and then going to the
25 political motivations.

26 I'm simply trying to get to the root of it now

1 in the hopes that it will save us some time as we proceed
2 through this. If this is going to be a very short lived line
3 of questioning, and I mean I'm getting ready for coffee in
4 about 25 minutes, then let's have it out.

5 MR. MILLER: Let me lay out for you who my witnesses
6 are, okay? There are five. There's Mr. Felz. There's the
7 chief of -- former chief of police, Mr. Hughes, who is going
8 to be here at some point. Mr. Renick is over there. We have
9 an expert, Mr. Brooks, over here. And for a brief period of
10 time I'm going to recall Lieutenant Goodrich. There you go.
11 I'm not going to be calling witness after witness.

12 HEARING OFFICER SILVER: They are all here, so I
13 assume you're planning on getting through these in the next
14 day or two.

15 MR. MILLER: Yes, except for the chief, who isn't here
16 yet. I'm told he will be here at 10:00. Is he here?

17 MR. GOODRICH: He is in the area.

18 MR. MILLER: I'm sorry?

19 MR. GOODRICH: He is in the area. He is available.

20 HEARING OFFICER SILVER: Okay. Mr. Miller, enough
21 said. Thank you very much.

22 MR. MILLER: We are not going to be talking days and
23 days about this.

24 HEARING OFFICER SILVER: Okay. Good. Let's not talk
25 hours and hours and hours about this subject either in terms
26 of the political motivation. Let's move on.

1 MR. MILLER: Jay, would you remind me where I was,
2 please.

3 Q Do you know of any city officials or employees
4 who have purchased, leased, rented, borrowed a vehicle from
5 Renick?

6 A I do not have a comprehensive list of what
7 personal choices people make in purchasing vehicles.

8 Q I didn't ask you for all. I meant, you know,
9 any.

10 A I do not know of any.

11 MR. PALMER: Objection. Let the witness finish his
12 answer, please.

13 Q BY MR. MILLER: You don't know of anybody.

14 MR. PALMER: I will object. The witness wasn't
15 allowed to fully answer.

16 Q BY MR. MILLER: I'm sorry, please, by all means,
17 continue.

18 A None that I'm aware of, but I don't have full
19 knowledge. I have to qualify that answer. There's over
20 700-plus employees in the City of Fullerton.

21 HEARING OFFICER SILVER: Mr. Felz, that's completely
22 understandable. I'll just caution you that or perhaps advise
23 you that it's okay if you don't know something. You do know
24 or you don't know. It's kind of a binary world we live in,
25 right? If you don't know, then it's okay to say I don't
26 know.

1 THE WITNESS: Then I'll just say I do not know.

2 Q BY MR. MILLER: Okay. Very good. Are you aware of
3 any campaign contributions that the Renick company or any of
4 the Renicks individually have made to any city officials or
5 candidates for city office?

6 MR. PALMER: Objection; relevance.

7 HEARING OFFICER SILVER: Overruled. Please proceed.

8 THE WITNESS: I am not aware of their -- I'm not
9 aware.

10 Q BY MR. MILLER: Okay. All right. Now, I'm going to
11 discuss something only briefly. You were involved in some
12 incident on the night of November 8th to 9th, right, of this
13 past year?

14 MR. PALMER: Objection; relevance.

15 HEARING OFFICER SILVER: I don't know where this is
16 going. Mr. Miller.

17 MR. MILLER: It's a yes or no question.

18 MR. HICKEY: Your Honor, if I may speak.

19 HEARING OFFICER SILVER: Yes.

20 MR. HICKEY: We're going to get into a line of
21 questioning to what happened to Mr. Felz on the night of the
22 election, which resulted in his encounter with the Fullerton
23 Police Department of which there are current pending charges.
24 We can ask these questions. I'm going to advise my client on
25 each and every one of these not to answer the question on
26 Fifth Amendment grounds.

1 HEARING OFFICER SILVER: Is this relating to a
2 personal experience --

3 MR. HICKEY: Yes.

4 HEARING OFFICER SILVER: -- or a personal event or
5 something?

6 MR. HICKEY: Personal event, yes.

7 HEARING OFFICER SILVER: Mr. Miller, what is the
8 relevance of this?

9 MR. MILLER: It doesn't matter, does it? If he's not
10 going to answer on Fifth Amendment grounds, it's a moot
11 point. I'm going to ask one question, and Mr. Hickey can
12 answer it as well.

13 MR. HICKEY: No.

14 MR. MILLER: You haven't heard it yet.

15 MR. HICKEY: I'm not a witness.

16 MR. MILLER: Then Mr. Felz can answer it.

17 Q I find it hard to fit this into the Fifth
18 Amendment, which is: What is the status of the case?

19 MR. HICKEY: We're not discussing any of that. I
20 advise you to take the privilege.

21 MR. MILLER: We don't know if there's been a trial.

22 HEARING OFFICER SILVER: Mr. Felz, are you going to
23 take the advice of your counsel?

24 THE WITNESS: I'm going to take the fifth.

25 HEARING OFFICER SILVER: Thank you. Next line of
26 questioning.

1 MR. MILLER: I'm sorry?

2 HEARING OFFICER SILVER: Next line of questioning,
3 please.

4 Q BY MR. MILLER: Do you ever have occasion to see the
5 statements filed by candidates for city office or people in
6 city office regarding campaign contributions?

7 A Occasionally.

8 Q Okay. And when you said you didn't know of any
9 contributions by anyone in the Renick organization, do you
10 recall there weren't any or you don't recall one way or the
11 other?

12 A I don't recall.

13 Q One way or the other?

14 A I don't have knowledge of Renick's
15 contributions in any campaign at all.

16 Q Okay. You were city manager in -- I'm sorry,
17 give me the -- from late 2010. So you were city manager
18 during the Kelly Thomas incident, right?

19 A That's correct.

20 Q Okay. Do you know of any changes in procedures
21 that were instituted in the Fullerton Police Department as a
22 result of that incident?

23 MR. PALMER: Objection; relevance.

24 HEARING OFFICER SILVER: Mr. Miller, I assume this is
25 going to be going ultimately to the city's police procedures
26 related to investigating the Grand Inn; is that correct?

1 MR. MILLER: Absolutely.

2 HEARING OFFICER SILVER: You're simply trying to
3 determine if the procedures have changed; is that correct?

4 MR. MILLER: Yes.

5 HEARING OFFICER SILVER: Okay. Then what is the
6 relationship to the Kelly Thomas event?

7 MR. MILLER: Because that was a catastrophic event
8 that made national headlines. I don't care what the jury
9 said beyond a reasonable doubt. Six police officers murdered
10 a man.

11 HEARING OFFICER SILVER: This is all argument, I get
12 that.

13 MR. MILLER: We all know that.

14 HEARING OFFICER SILVER: I'm trying to understand how
15 does them changing their policies or not changing their
16 policies in response to that event affect your question?

17 MR. MILLER: Do you want me to flag my answers in the
18 room? If you want to go into chambers, then I'll tell you.

19 HEARING OFFICER SILVER: I expect people to respond
20 under oath in a true manner no matter whether you flag them
21 or not.

22 MR. MILLER: Those people didn't.

23 HEARING OFFICER SILVER: So your question is --

24 MR. MILLER: We're not going into this at length.
25 We'd be done by now.

26 HEARING OFFICER SILVER: I get that. I get that.

1 Now, brevity is an important factor, of course, but brevity
2 isn't a factor that creates relevance or does not create
3 relevance.

4 MR. MILLER: Let me ask him a more specific question.

5 HEARING OFFICER SILVER: Yes.

6 Q BY MR. MILLER: Were there any changes in procedures
7 with regard to audio or video body recording?

8 A As a result of the Kelly Thomas incident?

9 Q Yes.

10 A I'm sorry, can you give me a full question?

11 Q Sure. As a result of the Kelly Thomas incident
12 and the aftermath, was there any change in procedures or
13 instructions to police officers regarding the recording of
14 encounters with members of the public?

15 A The OIR group had a list of recommendations
16 that came in as a result of retaining their expertise. I do
17 not recall specifically all of those recommendations.

18 Q Do you recall any?

19 A I cannot cite them at this time. There were I
20 believe 59 recommendations. It's all been documented. It's
21 a public report.

22 Q Where can I find that report?

23 A It's on the city's website. It's been
24 extensively published.

25 Q Okay. Good. What does OIR stand for?

26 A Office of Independent Review.

1 Q Is that like internal affairs or did you hire
2 an outside consultant?

3 A Hired an outside consultant group.

4 Q I see. Do you know why three of the six
5 officers involved in that incident are still active Fullerton
6 police officers?

7 MR. PALMER: Objection; relevance.

8 HEARING OFFICER SILVER: Sustained. You do not need
9 to answer that question. Next question, please.

10 MR. MILLER: I think I'm done.

11 HEARING OFFICER SILVER: Thank you. Are you done with
12 this witness on direct?

13 MR. MILLER: Yes.

14 HEARING OFFICER SILVER: Thank you. Mr. Palmer.

15 MR. PALMER: Yes. Just briefly. I'm going to look a
16 little bit different than I have in the past because my large
17 nose has successfully broken my glasses.

18 (Discussion off the record)

19 HEARING OFFICER SILVER: Please proceed.

20 MR. PALMER: Thank you.

21 ^CROSS-EXAMINATION

22 BY MR. PALMER:

23 Q Mr. Felz, you talked briefly about the Urban
24 West Strategies meeting with Mr. Chesworth and Mr. DiRienzo,
25 right?

26 A Correct.

1 Q Who initiated that meeting?

2 A That was a request from Mr. DiRienzo and
3 Mr. Chesworth.

4 Q Did you have anything to do with initiating
5 that meeting?

6 A No.

7 Q Did you know it was coming down before it
8 occurred?

9 A They contacted my executive assistant and
10 scheduled something in my calendar, but other than that, no.

11 Q Do you know if anybody else under the
12 employment of the City of Fullerton at that time had anything
13 to do with initiating that meeting with Urban West
14 Strategies?

15 A No one.

16 Q Before you met with them, did you know either
17 Mr. DiRienzo or Mr. Chesworth?

18 A No. But I was familiar with Urban West as a
19 local developer. They had projects in Southern California.

20 Q Do you know if the plan to move dealerships
21 that you heard being discussed by General Motors with their
22 dealership owners, do you know if that is still something
23 they are trying to do?

24 A I do not know.

25 Q How did -- okay. So the meeting with
26 Mr. DiRienzo and Mr. Chesworth occurred. Did that occur

1 first or did the meeting with Mr. Xie occur first?

2 A The meeting with Mr. Xie occurred first.
3 Mr. DiRienzo contacted me to identify -- for assistance in
4 identifying the ownership of the Grand Inn.

5 Q Okay.

6 A Mrs. Harvey coordinated a meeting with Mr. Xie
7 and myself. She was in attendance to introduce this
8 development group and to see how they should proceed with
9 contacting Mr. Xie and express their interest in purchasing
10 his property.

11 Q Okay.

12 A And that's when Mr. Xie provided Mr. Ross's
13 information and contact information, and I forwarded that to
14 Mr. DiRienzo.

15 Q Was that the last meeting, the meeting with
16 Mr. Xie and then the meeting with Mr. DiRienzo and
17 Mr. Chesworth? Were there any subsequent meetings after
18 those two meetings about this topic?

19 A Yes. Mr. Chesworth alone came in and he had
20 said that they had put in an offer on the property. This was
21 a number of months later, and there was no substantive
22 information past that. Just very brief. That he was in the
23 area and they were awaiting responses and had been following
24 the direction of Mr. Xie and Mr. Ross.

25 Q So what happened to the plan?

26 A I don't believe that the Grand Inn had an

1 interest in selling the property.

2 Q As far as you know, it never went any farther
3 than these two meetings and an offer?

4 A Correct.

5 Q Anything still going on?

6 A I don't believe so.

7 MR. PALMER: Nothing further.

8 HEARING OFFICER SILVER: Thank you.

9 MR. MILLER: Mr. Silver, I forgot to ask two brief
10 questions on my direct. Would you allow me to do that now?

11 HEARING OFFICER SILVER: Yes. Under the caution that
12 will then allow Mr. Palmer.

13 MR. MILLER: By all means.

14 HEARING OFFICER SILVER: Please proceed.

15 ^REDIRECT EXAMINATION

16 BY MR. MILLER:

17 Q Mr. Felz, who was involved in the decision to
18 bring this public nuisance case?

19 A There were a number of parties from building
20 official, myself, but ultimately it was council direction.

21 Q Would you tell me all of the city staff who
22 participated in that decision-making process, please.

23 A It was the -- this is a code enforcement, so
24 the building official, based on the evidence provided by a
25 number of departments and information he was responsible, as
26 the point person on this, submitted the information. The

1727

1 city council was aware of it. And procedurally it moved
2 forward with the building official, Mr. Crane, who initiated
3 the letter to the Grand Inn.

4 Q Correct me if I'm wrong, before the matter was
5 brought to the city council, it was discussed and considered
6 solely by you and Mr. Crane?

7 A There were a number of departments involved. I
8 couldn't cite all of the individuals.

9 Q Was the city attorney involved?

10 A I do not know the specific discussions between
11 Mr. Crane and the city.

12 Q No. I'm just asking -- it's a yes or no
13 question.

14 A Then no.

15 Q I'm sorry?

16 A I don't know.

17 Q You don't know.

18 Okay. So what happened was there was a
19 proposal by staff to bring this case. Tell me if I'm right
20 or wrong. It was brought to the city council in closed
21 session and they gave it a thumbs up or thumbs down?

22 A Procedurally we needed their consensus in
23 closed session that we were going to move forward with
24 this --

25 Q So basically yes?

26 A -- advisement.

1 Q Yes, right?

2 A We were advising the city council of the
3 pending action.

4 Q And the city council met in closed session and
5 said go?

6 A Again, we were -- it was putting city council
7 under advisement. The policy and procedures were already in
8 place so they did not have a specific approval requirement at
9 that time.

10 Q Was the city attorney in the room, as far as
11 you know, when they met in closed session?

12 A Yes.

13 Q Okay. Exhibit 113. You don't have to turn to
14 it yet. These books are so unwieldy, but I will tell you if
15 I need you to.

16 HEARING OFFICER SILVER: Mr. Miller, what was the
17 number on that?

18 MR. MILLER: 113.

19 HEARING OFFICER SILVER: Of the city's?

20 MR. MILLER: Yes. I want to see who signed this
21 letter.

22 Q Jim Crane, he is the building code enforcement
23 person?

24 A Correct.

25 Q So, to the extent that this is a meaningful
26 question, who pressed the launch button or gave the command

1 to press the launch button?

2 A I directed that we proceed with this hearing.

3 Q You?

4 A Correct.

5 MR. MILLER: Okay. Thank you. Nothing further.

6 Wait. Wait. Wait. Something further.

7 Okay. Nothing further, Mr. Silver.

8 HEARING OFFICER SILVER: Thank you, Mr. Miller.

9 MR. MILLER: And thank you for obliging me on that.

10 HEARING OFFICER SILVER: Mr. Palmer, do you have
11 anything?

12 MR. PALMER: No.

13 HEARING OFFICER SILVER: Thank you.

14 MR. MILLER: I move for a recess.

15 HEARING OFFICER SILVER: I am grateful for that.

16 Thank you. That is granted.

17 Mr. Felz, you are released for the day. You
18 are released, period. Thank you very much.

19 MR. MILLER: Thank you very much for coming.

20 MR. GOODRICH: Mr. Miller, do you want Chief Hughes
21 next?

22 MR. MILLER: I'm sorry?

23 MR. GOODRICH: Do you want Chief Hughes next?

24 MR. MILLER: Yes, please.

25 HEARING OFFICER SILVER: All right. It's 10:25.

26 We'll come back at 10:35. Jay, we're off.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

(Recess)

HEARING OFFICER SILVER: Mr. Miller, we're back on.
Your next witness.

MR. MILLER: James Renick, Sr.

HEARING OFFICER SILVER: Mr. Renick, come on down. It is like the Price is Right, I guess, in a way. Please remain standing and raise your right hand. Good morning, sir.

^James Renick, Sr.,
called as a witness by the Grand Inn, having been duly sworn,
was examined and testified as follows:

HEARING OFFICER SILVER: Please have a seat and please state and spell your first and last name.

THE WITNESS: Sure. My name is James, J-a-m-e-s, Renick, R-e-n-i-c-k, senior.

HEARING OFFICER SILVER: R-e-n-i-c-k senior?

THE WITNESS: Yes.

HEARING OFFICER SILVER: Mr. Miller, your witness.

MR. MILLER: Thank you.

^DIRECT EXAMINATION

BY MR. MILLER:

Q How do you do, Mr. Renick. I'm Stuart Miller.

A How do you do, sir.

Q First of all, thank you for coming.

A My pleasure.

Q Have you spoken to the city attorney, any of the city attorneys about this case?

1 A Other than that I needed -- I would probably be
2 called, no.

3 Q When did you have that conversation?

4 A I don't recall.

5 Q But it wasn't in the last couple of days,
6 right?

7 A No.

8 Q Okay. Did you initiate the conversation or did
9 they?

10 A I don't recall.

11 Q Why did you think you'd probably be called?

12 A Because I think this whole thing is to try and
13 show some giant collusion between Renick, my organization --
14 when I say we, I'm speaking for my brother and my employees.
15 That there's some big collusion with us and the city to force
16 the Grand Inn out.

17 Q What gave you that impression? Let me withdraw
18 that.

19 You and I have never met before, right?

20 A We have never met.

21 Q You have never met Mr. Ross before, right?

22 A No, I have not.

23 Q So what gave you the impression that there was
24 a theory that there was a big collusion between you and the
25 city?

26 A It's the only logical explanation.

1 Q For?

2 A For your defense that the Grand Inn is not a
3 public nuisance.

4 Q Okay. Have you spoken to any city official or
5 employee about the hearing, apart from any of the city's
6 attorneys?

7 A No, I have not.

8 HEARING OFFICER SILVER: Mr. Miller, do you mind
9 speaking up? This wood chipper is in my right ear right now.

10 MR. MILLER: I would not mind.

11 Q Have you spoken to any city officials or
12 employees other than the city's attorneys regarding this
13 hearing?

14 A No, I have not.

15 Q Okay. I remember seeing you during the public
16 comment session of the hearing on the first day. You were
17 here, right?

18 A Yes, sir.

19 Q Have you attended any other sessions of this
20 hearing?

21 A I have for short periods of time.

22 Q How many?

23 A At least two others, for an hour or two here
24 and there.

25 Q Okay. I envy you.

26 Have you reviewed any documents in anticipation

1 of your testimony today?

2 A Yes, I have. I have the public records on
3 donations to Bruce Whitaker concerning who donated and how
4 much money was donated to his campaign to be elected to the
5 city council. Other than just my own personal notes. And
6 I've also reviewed the notice, I guess that's what you'd call
7 it, of the initial complaint of the city versus the Grand
8 Inn. So I've reviewed all of the police calls that were --
9 and that was just -- I think that was just three years worth.

10 Q You're referring to the notice of public
11 hearing; am I right?

12 A Yes.

13 Q Now, you looked at the records of campaign
14 contributions of Mayor Whitaker, right?

15 A Yes.

16 Q Did you look at the records for any other
17 present or former city official or candidate for office?

18 A I did not.

19 Q Okay. Why did you look at Mayor Whitaker's in
20 particular?

21 A I wanted to see if the Grand Inn or its
22 associates had donated money to his campaign.

23 Q I see. Now, when I refer to you, I mean you
24 personally, anyone else associated with your company or the
25 company itself, okay?

26 A You're referring to me or not anybody else

1 except me?

2 Q No. I'm going to use the word you just for
3 shorthand. It will mean Renick Subaru and Cadillac, you
4 personally, your brother, anyone else involved in your
5 company or family, okay?

6 A Very well.

7 Q Okay. Have you made any campaign contributions
8 to any present or former candidate for office in Fullerton?

9 A Yes.

10 Q Okay. To whom?

11 A It would have been to Jennifer Fitzgerald, Greg
12 Sebourn. That's all I could think of offhand.

13 Q Now, you can think of those two. Could there
14 be others?

15 A Maybe.

16 Q Okay. Now, Ms. Fitzgerald we've already
17 established is on the current council, right?

18 A Yes.

19 Q You were here. You heard that.

20 Mr. Sebourn, is he on the current council?

21 A I believe so.

22 Q How much did you contribute in all to
23 Ms. Fitzgerald?

24 A I think as a company we donated 250 bucks. I
25 personally have given under a hundred dollar donations just
26 once or twice. This also goes back to her first -- their

1 first tries in getting into city council. Small donations,
2 under a hundred dollars.

3 Q So we're talking, in the aggregate, three
4 figures?

5 A Oh, no. Three figures? I thought you said
6 four figures. Certainly totally under \$500 probably. Okay,
7 under \$700.

8 Q So that's a yes?

9 A Yes.

10 Q Now, what about -- the same question for
11 Mr. Sebourn. How much in the aggregate have you all
12 contributed to his campaigns?

13 A I'll guess for you, counselor.

14 Q You're not allowed to guess. That's a dirty
15 word here. Guesstimate.

16 A I don't know.

17 Q Give me an estimate.

18 A 300 bucks.

19 Q Okay. Thank you. Have you discussed --
20 forgive me if I asked you this question already. Have you
21 discussed this hearing with any city official or employee
22 apart from the attorneys?

23 A No.

24 Q Now, your business, your main headquarters is
25 immediately to the left of the Grand Inn as I leave Grand Inn
26 property towards Euclid, correct?

1 A Yes. We can call that to the south.

2 Q Okay, to the south. But you also own the
3 property immediately to the north, right?

4 A That's correct.

5 Q You use that to store cars, right?

6 A Correct.

7 Q Would you like to buy the Grand Inn property?

8 A Absolutely.

9 Q Okay. Have you ever discussed the prospect or
10 idea of purchasing the Grand Inn property with any present or
11 former city official or employee?

12 A I know I discussed it with Theresa Harvey
13 several years ago. I might have discussed it with her at a
14 cocktail party or fundraiser for one of the local officials,
15 that's about it.

16 Q Anybody else?

17 A That's all I can recall.

18 Q Have you ever had such a discussion with
19 Mr. Felz?

20 A Not that I recall.

21 Q Okay. Now, Theresa Harvey, who is she?

22 A She is the CEO of the North County Chamber of
23 Commerce. Before that she was in charge of city -- Chamber
24 of Commerce for the City of Fullerton.

25 Q I think I missed -- could you repeat your
26 answer for me, please. Who is Theresa Harvey?

1 A She is the head of the North County Chamber of
2 Commerce, as I understand it, which is a combination of Brea
3 and Placentia and Fullerton and maybe some other cities, and
4 they combine together to create one commerce.

5 Q I see. And before that, you said she was the
6 head of the Fullerton Chamber of Commerce?

7 A That is correct.

8 Q That's why I was confused. Got it.
9 When did you have this conversation with her?

10 A 2010, 2011.

11 Q Okay. And can you recount the substance of the
12 conversation, please.

13 A Sure. It was: "Theresa, what do you know
14 about the Grand Inn? Do you know if they're interested in
15 selling? Who owns it? What's the disposition?"

16 And she said she didn't know much, as I
17 remember. She didn't know much, but she would try and find
18 out.

19 Q Did she?

20 A She did tell me later on -- yes. She did tell
21 me later on that it was owned by a Mr. Xie. I guess that's
22 how you pronounce his name.

23 Q Xie.

24 A Xie.

25 Q Xie.

26 A Like in she wore a dress?

1 Q Like he and she.

2 A And that she would try and make contact with
3 him. After that, nothing.

4 Q Okay. Now, you were here for Mr. Felz's
5 testimony, right?

6 A Yes.

7 Q And he told us about a concern that General
8 Motors has with regard to the location of auto dealerships.
9 You heard that, right?

10 A Yes.

11 Q Was his testimony accurate, in your view?

12 A Yes, it was accurate. It was very understated
13 of the complication of that. There's a lot missing, but what
14 he said is absolutely accurate.

15 Q To make it simpler rather than me pulling it
16 out to get you out of here sooner, can you just tell me the
17 full situation?

18 A Sure. I'll summarize it. We were under
19 tremendous pressure from General Motors to relocate to the
20 Buena Park Auto Mall because that's where their studies
21 showed where a Cadillac dealership should be. They have
22 various ways -- the manufacturer has various ways of
23 pressuring us. We are protected under California Franchise
24 Law that they can't force us to move, where in many states
25 they can force a dealer to move or to do whatever they want,
26 but not in California.

1 So my brother and I decided that we were not
2 going to do that, and that they can try and pressure us all
3 they wanted, but that we wanted to stay here in Fullerton
4 because we owned our land and we would have to go buy land in
5 Buena Park Auto Mall. And it just didn't make any kind of
6 business sense of a model that, when you're only selling 40
7 to 50 new Cadillacs a month, how can you go buy six million
8 dollars worth of land and then put a three million dollar
9 dealership on it when you're selling 50 cars a month?

10 Q That happened when?

11 A That really was intense around the bankruptcy
12 and our recession, so let's say between 2007, 2009.

13 Q Are you still under pressure to relocate from
14 GM?

15 A Not as much, no.

16 Q At all?

17 A There's always a teeny bit of pressure, meaning
18 a casual telephone call, "Do you have any interest in
19 relocating?"

20 Q You say that you were interested in acquiring
21 the Grand Inn property, right?

22 A Yes, sir.

23 Q Why do you want it?

24 A Well, it would connect our land and it would
25 give us badly needed space for the storage of new vehicles
26 and maybe even current service vehicles where we're servicing

1 the public's vehicles and we don't have room to park them.

2 Q I see. Have you ever made an offer on the
3 property?

4 A No.

5 Q Have you ever sold, leased, given any vehicle
6 to any city employee or official or family member of any city
7 employee or official?

8 A Not to my knowledge. Your subpoena asked us
9 that question earlier last week. No, we've never sold
10 anything to the City of Fullerton, and, to our knowledge,
11 never sold anything to an employee of the city.

12 Q Or official?

13 A Or official. Anyone.

14 Q Okay. Good. Did you ever buy a vehicle from
15 any such person?

16 A I don't think so, no.

17 Q Do you buy vehicles or do you only deal with
18 new cars?

19 A We buy vehicles at the auction and we have cars
20 that are traded in. If someone comes in off the street and
21 wants us to buy their vehicle, we don't do that.

22 Q Do you know Captain Rudisil in the police
23 department?

24 A I recognize the name, and I probably know him,
25 but I'm terrible with names. I remember faces. So yes, I
26 probably do know him. I know a lot of policemen.

1 Q Okay. So do I now, but I don't know Captain
2 Rudisil. Have you ever met with him?

3 A I don't recall.

4 Q Have you ever spoken to him?

5 A I don't recall. Can you put it in context and
6 maybe I will recall. I don't know.

7 Q Have you ever spoken to him about the Grand
8 Inn?

9 A I don't know.

10 Q Okay. Do you know Mr. Felz?

11 A Yes, I do.

12 Q Have you ever had contact with him in which the
13 Grand Inn was discussed?

14 A Yes, I have.

15 Q How many times?

16 A Oh, I don't recall, sir. Very few.

17 Q More than -- would it more than three?

18 A Let's say more than one and less than five.
19 How's that?

20 Q Fair. Okay. When was the most recent one?

21 A I recall it was after the national elections,
22 somewhere after that when I heard a rumor that he was going
23 to be leaving the city's employ. I don't even remember how I
24 contacted him. It was "I'm sorry to hear that. And would
25 the city be pursuing continuing public nuisance against the
26 Grand Inn?" To which he said to his knowledge, yes.

1 Q Okay. When was the first conversation you had
2 with him regarding the Grand Inn?

3 A I don't recall.

4 MR. MILLER: Excuse me one moment.

5 Q How did you first find out that the city was
6 going to -- was asserting or was going to assert that the
7 Grand Inn is a public nuisance at this hearing?

8 A Someone told me, sir, and I don't remember who.

9 Q Do you know if it was before or after the case
10 was formally initiated? I can give you a date on that if you
11 want.

12 A It would have been before, I think, because I
13 don't know when, let's call it, the filing took place, so I'm
14 supposing it was before.

15 Q It was March 28th, 2016.

16 A It probably was before.

17 Q Who told you?

18 A I don't recall, sir.

19 Q Can you give me an estimate of how far in
20 advance of that date you knew?

21 A No, sir, I can't.

22 Q I'm sorry, you told -- did you say that you
23 don't remember who told you?

24 A I do not remember.

25 Q Okay. What did you learn in that -- what did
26 you learn about this case before it was filed?

1 A Nothing.

2 Q Well, you learned that it was going to be
3 filed?

4 A Well, besides that.

5 Q Okay. Were you told about that individually or
6 at a meeting or in some other context?

7 A I don't recall, Mr. Miller.

8 Q You just knew?

9 A Yeah.

10 MR. MILLER: Okay. Nothing further.

11 HEARING OFFICER SILVER: Thank you, Mr. Miller.
12 Mr. Palmer.

13 MR. PALMER: Yes, please.

14 HEARING OFFICER SILVER: Please proceed.

15 ^CROSS-EXAMINATION

16 BY MR. PALMER:

17 Q Mr. Renick, do you and I know each other?

18 A No, sir.

19 Q Do you remember when we first met?

20 A Maybe you and I shook hands and said hello
21 during the very first hearing here in these chambers.

22 Q The public comment time?

23 A Yes.

24 Q Didn't know each other beforehand?

25 A No.

26 Q Haven't spoken between then and now?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

A No.

Q I think I had a brief conversation with you today about nothing more than scheduling?

A Yes, sir, that's right.

Q Do you know Mr. Collins?

A No.

Q Ever met him before?

A No.

Q Seen him, obviously, in the room with me?

A Correct. Other than that, no contact. I don't know him.

Q Who was the city attorney with whom you had a conversation about this hearing?

A Who was the city attorney?

Q Mr. Miller I thought said there was some conversation with some members of the city attorney's law firm. Did I mishear that?

HEARING OFFICER SILVER: I don't recall.

THE WITNESS: I didn't hear that.

HEARING OFFICER SILVER: Yes, I don't recall that question.

MR. PALMER: You recall it, right?

MR. COLLINS: I do.

MR. PALMER: Jay, would you be able to search on maybe city attorney?

HEARING OFFICER SILVER: It's a fair question to ask.

1 You can ask the question.

2 Q BY MR. PALMER: Did you have any conversation about
3 this hearing with any member of the Fullerton City Attorney's
4 Office?

5 A No, sir.

6 Q Okay. Do you know -- well, I guess I should go
7 back. Were you here the whole morning?

8 A Yes.

9 MR. MILLER: I'm sorry, I didn't hear the question.

10 Q BY MR. PALMER: Were you here the whole morning?

11 A Yes, I've been here the whole morning.

12 Q So you saw Mr. Felz's total testimony?

13 A Yes, I did.

14 Q Do you know Mr. DiRienzo?

15 A I do.

16 Q How do you know him?

17 A I know him as the CEO of Urban West.

18 Q In what context do you know him as the CEO of
19 Urban West?

20 A He approached I'm going to say me, but it's
21 going to be us. He approached us -- I don't even remember
22 when -- to see if we were interested in developing our
23 property.

24 Let me help you out here.

25 Q Okay.

26 A Mr. DiRienzo's company specializes in taking

1 automobile dealerships, mostly from widows where the operator
2 has passed away and to help them redevelop the land into
3 something else that's going to create a cash flow for the
4 widow and all those -- the siblings, whatever it might be.

5 Mr. -- I can't think of his name right now.
6 Mr. Chesworth.

7 Q Yes.

8 A His specialty is in finding projects. And he
9 finds the buyers for the franchise, and usually that
10 franchise is going to move to a new location. So he's
11 talking with auto groups across the country, wherever it
12 might be. He's a very well connected, very knowledgeable
13 guy. The two of them work together in that Reed will help
14 whoever wants to sell the franchise or keep it and operate.
15 And Urban West, Mr. DiRienzo, he redevelops the land, if it
16 comes to that, into multiuse, apartments, whatever it might
17 be.

18 So we were in a position under the pressure of
19 Cadillac and General Motors to move, and we just didn't want
20 to do that. It would benefit them, but not us. So they
21 wanted to know if we were interested in selling the property,
22 our property, our current property.

23 Q Right.

24 A Selling the franchise and then redeveloping the
25 property. It's very simple.

26 Q I understand. So Mr. DiRienzo and/or

1 Mr. Chesworth together or separately initiated contact with
2 you?

3 A That is correct.

4 Q And opened up that topic of discussion?

5 A Correct.

6 Q Did you call them?

7 A No. We didn't call them, and we never signed a
8 contract. I'm going to give this to you. We never signed a
9 contract with them. It was all verbal. We met in our
10 offices. It was, like, okay, if you want to give it a try,
11 if you want to make an offer on this property, go ahead. Let
12 us know what happens. Let us know how it progresses.

13 We never hired them. We never signed a check
14 with them. We never signed a contract with them, nothing.

15 Q Do you know if your meeting with these two
16 gentlemen was before or after their meeting with Mr. Felz?

17 A It would have been before.

18 Q Why is that?

19 A Because the logic of it is that why would they
20 meet with anybody in the city if we were not interested in
21 selling or redeveloping?

22 MR. MILLER: Speculation.

23 HEARING OFFICER SILVER: I don't think it really
24 matters either way. Please proceed.

25 MR. PALMER: Thank you.

26 Q So did those negotiations bear fruit? What

1 happened with them?

2 A Not much.

3 Q Okay. Didn't go very far?

4 A No. We were made aware that at least two
5 offers were made to Mr. Xie, one was through the mail that
6 they got no response to, even though there was a -- he had to
7 sign receipt that the parcel had been received, and one that
8 was dropped off in person at the Grand Inn by employees of
9 Urban West. And that, to their amazement, there wasn't a
10 telephone call, no response, no nothing. They just kind of:
11 Oh, okay.

12 Q Were you and/or anybody in your organization
13 involved in the crafting of those offers?

14 A Absolutely not.

15 Q Nothing to do with it?

16 A No. We don't know anything about it.

17 Q So, at some point, this whole project
18 possibility died on the vine?

19 A Correct.

20 Q Is there any possibility that you know of in
21 your mind that it may come back?

22 MR. MILLER: I'm sorry, I didn't understand that
23 question.

24 Q BY MR. PALMER: Is there any possibility in your
25 mind that it may come back?

26 A No.

1 MR. MILLER: I still don't understand the question.

2 MR. PALMER: I think the witness did understand.

3 HEARING OFFICER SILVER: The answer will remain.

4 Q BY MR. PALMER: So I'm trying to figure that out.

5 If I don't know you and you don't know me, is there somebody
6 here in this room or somebody here in the City of Fullerton
7 that is your puppet that's trying to get the City of
8 Fullerton to go after Grand Inn so that you can sometime in
9 the future acquire the property?

10 A Absolutely not.

11 Q Okay. You don't know what I'm talking about?

12 A I think the Russians did it, to tell you the
13 truth.

14 Q Okay. Mr. Collins, he's not your puppet?

15 A No, sir.

16 Q Mr. Jones, Richard Jones, the City Attorney,
17 he's not your puppet?

18 A No, sir.

19 Q Is the Grand Inn a public nuisance?

20 A I think it is.

21 Q Why?

22 A I know it is.

23 MR. MILLER: Objection. Calls for legal conclusion,
24 calls for ultimate decision of the ultimate fact.

25 HEARING OFFICER SILVER: I agree. I think if you
26 rephrase the question.

1 MR. PALMER: I will try it again.

2 Q How long have you and your family owned and
3 operated Renick Cadillac?

4 A Since 1953, and we've been in this location
5 currently on Euclid since 1963.

6 Q And personally you, how long have you been part
7 of the management operation of the Renick Cadillac at that
8 location?

9 A I've been the vice-president and owner in the
10 corporation since the late nineties, but I did not work
11 there.

12 Q I'm sorry, I didn't mean to interrupt you. But
13 you have knowledge of the operation, day-to-day operations?

14 A Yes, sir.

15 Q So you would then be a neighboring property
16 owner to the Grand Inn?

17 A Correct.

18 Q On both your south and north sides?

19 A Correct.

20 Q So do you have experience in experiencing
21 events that you think came from the influence of the Grand
22 Inn being a next-door neighbor?

23 A Yes.

24 Q Based on that, what's your experience?

25 A It's a hell hole.

26 Q Why?

1 A You're asking for my personal experience. When
2 I have my female employees coming back in and saying they
3 were walking to their employee lot and they witnessed acts of
4 prostitution happening on the side of the Grand Inn next to
5 our lot. When they are accosted by people standing in front
6 of the Grand Inn who are obviously renting rooms there, "Hey,
7 baby, do you want to come in and have a good time?" Et
8 cetera, et cetera, et cetera. Yeah, I know -- I have
9 knowledge. That's just part of that it's a public nuisance.

10 MR. MILLER: I'm going to object to all of this. It's
11 hearsay. It's inconsistent with all of the city's theory of
12 the case and the evidence that it's presented.

13 HEARING OFFICER SILVER: The question called for the
14 witness' -- overruled. The question called for the
15 witness' --

16 MR. MILLER: Experience.

17 HEARING OFFICER SILVER: -- personal experience and
18 observations. I just heard Mr. Renick state, "I observed it.
19 I've seen it." I think -- let's stick with his personal
20 knowledge. Whether it contradicts the city's theory is a
21 consequence the city may face.

22 MR. MILLER: He didn't say he saw those things. He
23 said he heard it from other people.

24 HEARING OFFICER SILVER: Hearsay is admissible but
25 cannot be used, in and of itself, to support a finding, so
26 overruled.

1 I will caution you, though, Mr. Palmer, you've
2 exceeded the scope.

3 MR. PALMER: No further questions.

4 HEARING OFFICER SILVER: Thank you. So, Mr. Miller,
5 you get another chance.

6 ^REDIRECT EXAMINATION

7 BY MR. MILLER:

8 Q Mr. Renick, are you aware of any offer that has
9 been made to purchase the Grand Inn property in the last
10 year?

11 A I don't remember when the last offer from Urban
12 West was, and that would be the only one that I might have
13 knowledge of. If they're getting offers from outside real
14 estate developments, I'm not aware of those. How would I
15 know? So the only one that I can say offers is what I
16 referred to earlier which concerned Urban West calling us on
17 the phone and saying, "Hey, we've made a couple of offers.
18 We've had no response. What do you want to do?"

19 Q Would you remind me when the last time that
20 happened was, please.

21 A More than two years ago.

22 MR. MILLER: Okay. Nothing further. Mr. Renick,
23 thank you for coming in.

24 THE WITNESS: Thank you.

25 HEARING OFFICER SILVER: Mr. Renick, it looks like
26 you're all finished. Thank you very much.

1753

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

THE WITNESS: Thank you, sir.

MR. MILLER: Is Chief Hughes here?

MR. PALMER: Yes.

MR. MILLER: Can we take a very brief recess?

HEARING OFFICER SILVER: Yes, certainly. It is 11:02.
Will 11:10 be okay?

MR. MILLER: Yes. Five.

HEARING OFFICER SILVER: Okay. We'll be back in five.
We're off. Thank you.

(Recess)

HEARING OFFICER SILVER: All right, Jay. We're back
on.

MR. MILLER: Before the witness is sworn, one brief
thing. I have given you three volumes of the Grand Inn's
exhibits. I live in fear of going through a long trial or
hearing and forgetting to move my exhibits into evidence.
Therefore, I am moving now to put all my exhibits into
evidence. You may defer your decision, but the motion has
been made.

HEARING OFFICER SILVER: That is an understandable and
common fear, I think.

MR. PALMER: I'm not one to elevate form over
substance.

MR. ROSS: We also have a book of evidence exhibits
that was presented at the beginning of the hearing --

HEARING OFFICER SILVER: I recall.

1 MR. ROSS: -- which would make it four volumes.
2 HEARING OFFICER SILVER: You're moving all four?
3 MR. ROSS: All four.
4 HEARING OFFICER SILVER: Mr. Palmer.
5 MR. PALMER: No objection.
6 HEARING OFFICER SILVER: So moved.
7 MR. MILLER: Did you say no objection?
8 MR. PALMER: I said no objection to the procedure. To
9 the extent that there's an exhibit that we don't talk about,
10 then we may have issues.
11 MR. MILLER: Without question.
12 MR. PALMER: I'm not going to stand on ceremony about
13 a formal motion to admit.
14 MR. MILLER: Good.
15 HEARING OFFICER SILVER: Just to put the proverbial
16 nail in the attorney coffin here, we have already set up a
17 procedure for a motion to strike. So if that were to come or
18 there was some objection, let us know. Otherwise, please
19 don't.
20 All right. Please raise your right hand. Good
21 morning to you.
22 MR. HUGHES: Good morning.
23 ^Danny Hughes,
24 called as a witness by the Grand Inn, having been duly sworn,
25 was examined and testified as follows:
26 HEARING OFFICER SILVER: Thank you. Please have a

1 seat. Please restate and spell your first and last name for
2 the record.

3 THE WITNESS: It is Danny Hughes, D-a-n-n-y, last of
4 Hughes, H-u-g-h-e-s.

5 HEARING OFFICER SILVER: Good morning, Mr. Hughes.

6 THE WITNESS: Good morning, sir.

7 HEARING OFFICER SILVER: Mr. Miller, your witness.

8 ^DIRECT EXAMINATION

9 BY MR. MILLER:

10 Q Good morning.

11 A Good morning.

12 Q I introduced myself before, but I'm Stuart
13 Miller.

14 A Nice to meet you, sir. Sorry you shook a sick
15 hand.

16 Q Thank you very much for coming.

17 A My pleasure.

18 Q Have you reviewed any documents in preparation
19 for your testimony today?

20 A I have not.

21 Q Now, would you tell us, please, the history of
22 your employment with the City of Fullerton.

23 A Sure. It began in 1983 as a police cadet. I
24 served there for two years, became a police officer in 1985.
25 Worked patrol, ultimately went to -- became a narcotic
26 investigator, worked street level narcotics. Got promoted to

1756

1 major narcotics, and then, unfortunately, on June 21st of
2 1990, I had a partner that was ambushed and murdered during a
3 200 kilo reverse sting. Based upon that, I was transferred
4 to the Los Angeles District Attorney's Office for about ten
5 months on the crimes against police officers unit.

6 I returned back to the police department after
7 about a ten month time period. Worked again at major
8 narcotics and then went to patrol where I was promoted to the
9 position of corporal and served as a field training officer.
10 Served in that capacity, then was promoted to a police
11 sergeant. Worked as a sergeant in patrol for two years, then
12 was assigned to our community policing team.

13 Served as a supervisor of the community
14 policing team for approximately two years and then was given
15 an opportunity to create a new unit called the crime impact
16 team that was, in essence, a surveillance unit that
17 profiled -- or really spent most of its time looking at
18 crimes and those people who are part of recidivism, mostly
19 parolees and probationers.

20 Worked that unit for approximately two more
21 years as a sergeant. Returned back to patrol, supervised the
22 field training officer program and then was promoted to
23 lieutenant. Served as the watch commander on Thursday,
24 Friday, Saturday evenings responsible for the entire city on
25 the weekends, as well as specifically the downtown bar issues
26 that we were incurring.

1 Served as a watch commander for two years, was
2 then assigned to our training in internal affairs division
3 where I oversaw the hiring of our personnel, the training of
4 our personnel at our internal affairs division. Served in
5 that capacity for two years and then was promoted to a police
6 captain and was in charge of the patrol division. And in
7 2012 I was assigned as the acting police chief and then later
8 that year was named the permanent police chief by our city
9 council and served in that role until November of 2016.

10 Q Thank you. Now, remind me, because there was
11 so much information there, when were you in internal affairs?

12 A I oversaw the internal affairs as a lieutenant,
13 and that was approximately 2009.

14 Q Until?

15 A Until 2010, when I was promoted to captain.

16 Q What month in 2010, if you recall?

17 A I'm sorry, sir?

18 Q Do you recall the month or the season that you
19 were promoted out of internal affairs?

20 A I was promoted to captain. I believe it was in
21 February of 2010.

22 Q Great. Thank you. Now, you're working in
23 security at Disneyland, correct?

24 A Yes.

25 Q Since 2011 have you ever lived in Fullerton?

26 A Not since 2011, no.

1 Q You're familiar with the Grand Inn, right?

2 A I am.

3 Q At 1000 South Euclid, right?

4 A Yes. Yes.

5 Q Now, disregarding the Grand Inn, is this -- is
6 that in an area of high crime, low crime or what?

7 A It depends on what time period you're referring
8 to.

9 Q 2011 to the present.

10 A In 2011 I would say it was the nucleus of crime
11 in that area.

12 Q Okay. I want to be very, very clear that we're
13 understanding each other. No matter how much crime occurs at
14 the Grand Inn, I want you to remove that from your answer.
15 My question is from 2011 to the present, is the Grand Inn in
16 a high crime area, disregarding the Grand Inn itself?

17 A You're asking me to disregard facts that I know
18 of, and, sir, I don't know that I can do that. I will tell
19 you that if it wasn't for the Grand Inn, I don't believe that
20 that would be a high crime area.

21 MR. MILLER: I'll move to strike that answer as not
22 responsive. It wasn't what I asked.

23 MR. PALMER: It actually is responsive.

24 HEARING OFFICER SILVER: I think it was responsive.

25 MR. MILLER: No. The question was: Is it or is it
26 not; not would it or would it not be if certain impossible

1 things happened.

2 HEARING OFFICER SILVER: I think his response was: I
3 can't make that conclusion without reference to the facts
4 that he perceives as facts.

5 Q BY MR. MILLER: Are there a lot of crimes in the
6 neighborhood that don't occur at the Grand Inn?

7 A There are.

8 Q Okay. Thanks. And we're talking about that
9 period, right?

10 A You asked after 2011, correct?

11 Q Right.

12 A Yes, sir.

13 Q A lot of crimes that don't occur at the Grand
14 Inn?

15 A That is correct.

16 Q Okay. Now, the city's case has focused
17 primarily on the year 2015. They've got -- they have this
18 big exhibit book. I don't know if you've seen it. It's this
19 one that has over a hundred police reports in it. Have you
20 ever seen this?

21 A I have not.

22 Q Okay. It has five exhibits for 2014, 75 for
23 2015, and one or two for 2016. So 2015 is kind of the
24 central focus of what we've been talking about during these
25 many days of hearing.

26 Can you give me an estimate, and since you were

1 the chief during 2015, can you give me an estimate of how
2 many gun crimes involving a person actually holding a gun
3 occurred in Fullerton in the year 2015?

4 A I could not, no.

5 Q Could you give me a minimum?

6 A I could not, no.

7 Q For instance, could you say there were more
8 than ten?

9 A I wouldn't want to guess, sir. I don't know.

10 Q Okay. Can you tell me how many domestic
11 violence incidents occurred in the City of Fullerton,
12 approximately, in the year 2015?

13 A I believe -- I believe we were averaging about
14 40 domestic violence cases a year in that year -- 40 a month
15 that year.

16 Q 40 a month. So that would be 480.

17 A I'll trust your math, sir.

18 Q Yeah. Okay. Good. How many -- is
19 prostitution a problem in the City of Fullerton? No. Let me
20 rephrase it because one prostitute, I suppose, is a problem.

21 Are there at lot of prostitution cases in the
22 City of Fullerton?

23 A I don't know how you would define a lot.

24 Q About how many prostitution arrests would you
25 say occurred in the City of Fullerton in the year 2015?

26 A I don't know.

1 Q More than a hundred?

2 A I don't know, sir.

3 Q How many sexual assaults would have occurred,
4 approximately, in the City of Fullerton in 2015?

5 A I do not know.

6 Q In an average year.

7 A Again, without looking at any statistics. I
8 haven't memorized the different categories of crimes in the
9 City of Fullerton in that year.

10 Q Okay. In any -- I modified my question. On an
11 annual basis, year in, year out.

12 A Again, I don't know.

13 Q Okay. The same thing I asked you before about
14 prostitution arrests.

15 MR. PALMER: It's asked and answered.

16 Q BY MR. MILLER: Not focusing on the year 2015, but
17 just on a general annual basis.

18 A It would be the same answer. I haven't prepped
19 for any crime statistics, sir.

20 Q Okay. How many homicides occur in the City of
21 Fullerton on average in a given year?

22 A I believe an average given year, one to three.

23 Q The same question for attempted homicides in a
24 given year.

25 A I do not know.

26 Q But homicides obviously stand out, right?

1 A They do, yes.

2 Q Okay. So would you know an approximate number
3 of armed robberies?

4 A I do not know.

5 Q Would you know an approximate number of child
6 abuse incidents?

7 A It would be the same answer for every crime I
8 have described. I have not memorized or prepped for any
9 crime statistics.

10 Q We were at the end of my list.

11 A Good. There was still petty theft you haven't
12 called, but no, I wouldn't know that one either.

13 Q Okay. Now, would you agree with me from time
14 to time some odd or aberrant event will occur at every hotel?

15 A Yes.

16 Q Let us suppose -- what I want to know is what
17 conclusion as a police chief you would draw from a single,
18 never repeated incident at a business that has been in
19 Fullerton for many years? I'm going to give you an example.
20 Suppose you have a downtown bar, and in the course of several
21 years, there's been one and only one fistfight in it. Would
22 this bar be seen as a problem location with regard to
23 violence among patrons or would it be seen as a place that
24 has a low instance of violence among patrons?

25 A If I was aware of just one instance taking
26 place.

1 Q I'm telling you there is only one.

2 A I wouldn't see that as a problem location, no.

3 Q Okay. Would that actually be a good figure?

4 A It would be.

5 Q One swallow doesn't make a summer, right?

6 A I would agree with that.

7 Q Are you familiar with the problem of child
8 trafficking?

9 A I am.

10 Q Just so we're talking about the same thing,
11 I'll give you a definition of it and you tell me if that is
12 your understanding. Which is a child, someone under the age
13 of 18 under the control of someone else, engages in
14 prostitution.

15 A I would agree with that, yes.

16 Q Okay. Now, the President made some recent
17 remarks on this subject, which I'm going to mark as whatever
18 our next exhibit is. I will give it out to everyone. I want
19 to know if you agree with what he said.

20 A With what President Trump said?

21 Q Yes.

22 A Very good. This will be my first.

23 Q I'm sorry?

24 A It will be the first in a hearing, but thank
25 you.

26 Q Me, too.

1 MR. ROSS: This will be number 286.

2 MR. MILLER: 286. He was actually a client of mine
3 back in 2009.

4 HEARING OFFICER SILVER: 286?

5 MR. MILLER: 286.

6 Q Now, this is called "Remarks by President Trump
7 at Listening Session on Domestic and International Human
8 Trafficking," February 23rd, 2017. I have highlighted the
9 parts that I'm going to ask you if you agree with.

10 He said, "The absolutely horrific practice of
11 human trafficking is getting worse, and it's happening in the
12 United States in addition to the rest of the world." Agree
13 or disagree?

14 A I do agree with that.

15 Q Second, "The human trafficking epidemic, which
16 is what it is." In other words, he's saying it is an
17 epidemic. Do you agree?

18 A I do.

19 Q Okay. "People don't realize how bad it is in
20 this country." Do we agree?

21 A I agree.

22 Q All right. Done with this.

23 Do you know Officer Angela Bennett of the
24 Huntington Beach Police Department?

25 A I do not.

26 Q She was the city's first witness, and we were

1 all, I'm sure, impressed with her. She testified about child
2 trafficking. I'm going to read you four questions and
3 answers. Tell me if you agree or disagree.

4 "QUESTION: Is child trafficking of this
5 nature, underage prostitution and posing, and whatever these
6 minors are subjected to, a common event, relatively speaking,
7 in hotels?

8 "ANSWER: Yes."

9 Do you agree?

10 A I do.

11 Q "QUESTION: That happens a lot, right?

12 "ANSWER: A lot."

13 Agree?

14 A I do.

15 Q "QUESTION: In the best hotels and in the worst
16 hotels, right?

17 "ANSWER: Yes."

18 Do you agree?

19 A I do.

20 Q And, finally, "Are you aware of any other
21 incident at the Grand Inn involving the exploitation of a
22 minor?

23 "ANSWER: I am not."

24 Now, there was one incident which was the
25 city's first incident that it presented its case on. She
26 knew of no other. Do you?

1 A In terms of sex trafficking?

2 Q Yes. There was one involving an unfortunate
3 15-year-old from Ohio.

4 A I am aware of that one.

5 Q Do you know of any other one?

6 A I am not.

7 Q Okay. Now, from a hotel's point of view, since
8 human trafficking occurs at virtually every hotel from the
9 best to the worst, a single instance of human trafficking
10 could be the result of bad luck, right?

11 A I don't know that I would agree with your
12 question the way you stated it occurs at every hotel. I
13 don't believe it occurs at every hotel. I do agree that they
14 do occur at hotels.

15 Q Okay. There is evidence in the record that you
16 haven't seen the Hilton hotels are plagued with this problem
17 internationally. I'm sure they have taken serious steps to
18 correct it, but it happens even at that level. One swallow
19 doesn't make a summer, right?

20 A I would agree with that, but I can't agree it
21 happens at every Hilton hotel. I'm not aware of that.

22 Q No. I'm sure there are some hotels that,
23 through happenstance or through intentional acts, have
24 avoided this problem. But when it happens once, we don't --
25 we can't say that it wasn't just bad luck, right?

26 A Well, I don't know that if it happens once, if

1 we're only referring to the act of sex trafficking of a
2 child, then you can say maybe that's the case. I think if
3 you take a look at the totality of what the environment is at
4 a hotel and what may be attracting that type of criminal
5 conduct from happening, I wouldn't agree with your statement.

6 Q So, then, you would expect that there would be
7 more than one over this space of many years, right?

8 A Again, you asked me if I was aware of others.
9 I'm not aware of others, but I'm not aware that there haven't
10 been additional sex trafficking of children occurring at that
11 hotel. What my statement was is in regards to your question
12 about if there was only one. Again, I think you have to take
13 a look at the totality of what the environment is at a
14 particular hotel and does that environment create a condition
15 that allows for criminal conduct, including sex trafficking,
16 occurring at a particular hotel.

17 Q What if we knew absolutely without any doubt
18 there was one and only one incident. Could we attribute the
19 cause of that incident to the hotel or could it also just be
20 one of those things that happens almost everywhere?

21 MR. PALMER: Objection; speculation.

22 HEARING OFFICER SILVER: To the extent that you know,
23 you may answer. To the extent that you do not know, please
24 so answer.

25 THE WITNESS: I don't know. Again, I will tell you my
26 experience is the environment that is created at a particular

1 location that allows for criminal misconduct is a direct
2 reflection of those types of crimes that occur there.

3 Q BY MR. MILLER: So if we have a Hilton hotel where
4 there are multiple instances of child trafficking, which
5 there are, then you would attribute that more likely to be a
6 result of the particular environment at that hotel; am I
7 right?

8 A It may. Again, you're asking me questions
9 about -- again, I hate to -- I stay at Hiltons, so I hate to
10 brand their name. I will just tell you that I am not aware
11 that your analogy of the Hilton is, number one, accurate,
12 and, number two, there could be Hiltons that are in areas
13 that the environment is poor. I don't know.

14 Q Okay. So the answer to this line of
15 questioning is you don't know, right?

16 A I think -- in terms of your line of
17 questioning, I think my answer has been consistent that I
18 think it's the environment and the totality of what takes
19 place at that hotel or what's managed at that hotel which
20 allows for criminal misconduct to take place.

21 Q Do you know Officer James Talbot?

22 A I know who he is. I don't know him.

23 Q He's a good officer, right, as far as you know?

24 A Again, I don't know him.

25 Q Okay. I'm going to read you excerpts from his
26 testimony, and I want you to tell me if you disagree with

1 anything he said. Fair?

2 A Yes, sir.

3 Q This is from page 523, lines 1 to 24. He's
4 talking about Exhibit 32 in which he arrested two people at
5 the Grand Inn for outstanding warrants and possession of
6 methamphetamine and paraphernalia, okay?

7 A Okay.

8 Q So you're listening for anything here that you
9 disagree with.

10 "QUESTION: They had misdemeanor warrants. If
11 the Grand Inn did not exist, would they still have had those
12 misdemeanor warrants?

13 "ANSWER: Yes.

14 "QUESTION: They just would have been someplace
15 else, right?

16 "ANSWER: Correct.

17 "QUESTION: If the Grand Inn did not exist,
18 they still would have had methamphetamine, right?

19 "ANSWER: I suppose so, yes.

20 "QUESTION: They would just have been someplace
21 else, right?

22 "ANSWER: Presumably.

23 "QUESTION: If the Grand Inn did not exist,
24 they still would have had their paraphernalia, right?

25 "ANSWER: Probably.

26 "Just someplace else, right?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

"ANSWER: Yes.

"QUESTION: So we don't have to go through it every time, that would be true of all the incidents that you have recounted, right?

"ANSWER: I guess you could say so.

"QUESTION: Yes, right?

"ANSWER: Yes."

Do you agree or disagree?

A I can agree that he answered the questions that way.

Q No. No. No. I want to know if you think that his analysis is correct.

A Not completely, no.

Q How no?

A I don't know how someone can make a conclusion that somebody may possess methamphetamine somewhere else or not, not knowing the facts in which they have possessed that.

The Grand Inn is a location that is well known for distributing illegal substances, including methamphetamine. So, without knowing the facts of that case, I don't know if those individuals actually went there to and obtained the methamphetamine from people at that location.

In terms of the narcotic paraphernalia, again, it's a place that allows people and sells narcotic paraphernalia to individuals and users. So I don't know how somebody can conclude that if they were somewhere else, that

1 they wouldn't have that. I would hope if they were at a
2 church they wouldn't have that. So I don't know that I can
3 make a definitive decision that in all cases that would be
4 the case.

5 Q I will tell you, just so we are all working on
6 somewhat of the same level of knowledge, there's been no
7 evidence of sales of paraphernalia, very little of narcotics
8 sale.

9 MR. PALMER: Objection. That misstates the evidence.

10 HEARING OFFICER SILVER: Mr. Hughes, it's been a long
11 hearing. This has been going on for quite a while. There is
12 a lot of evidence out there, a lot of information. Please
13 take attorneys' representations of the evidence for what they
14 are. So, with that said, please respond if you know the
15 answer.

16 THE WITNESS: In terms of --

17 HEARING OFFICER SILVER: Once a question is posed.

18 MR. MILLER: Once a question is posed.

19 Q Okay. Now for the next question. My question
20 is: Apart from the Grand Inn. So the Grand Inn should not
21 be part of your answer, okay?

22 With that understanding, can you name for me
23 five businesses in Fullerton that, in your mind, are the
24 locations of the most crime or of a lot of crime?

25 MR. PALMER: Objection; irrelevant.

26 HEARING OFFICER SILVER: Mr. Miller, offer of proof?

1 MR. MILLER: If there are many places that have much
2 more crime than we do, then we are not unreasonable, given
3 the nature of the community.

4 HEARING OFFICER SILVER: Objection overruled. Please
5 proceed.

6 THE WITNESS: I cannot think of another business in
7 the City of Fullerton that has an issue with crime.

8 Q BY MR. MILLER: Not one?

9 A I cannot think of one, no.

10 Q Is that because there are none or because your
11 responsibilities just did not focus on the information that
12 would allow you to answer that question?

13 A I would think that being born and raised in
14 Fullerton and serving in this community for 33 years, I would
15 know of different businesses in the town that there would be
16 high crime elements, and I'm not aware of any.

17 Q Okay. Do you know how the crime rate in
18 Fullerton compares to the crime rate in cities -- in other
19 cities of Orange County?

20 A I could give you some general ideas only based
21 upon, again, crime stats I looked at well over a year and a
22 half ago.

23 Q Please.

24 A I think that generally we are higher -- we have
25 a higher crime rate in terms of sex crimes, but that in our
26 property crimes, in our violent crime we are better than most

1 in Orange County with the same population, certainly in terms
2 of other areas that -- I would say our beach communities. We
3 are not -- we do not have the low level crime that they have.
4 But I certainly think that the City of Fullerton has done a
5 very good job in terms of having an acceptable -- there's
6 never an acceptable level of crime, but I will just say, in
7 terms of the number of police officers that are given to the
8 police department to combat crime, I think they've done a
9 very good job at it.

10 Q You've mentioned -- first of all, I was talking
11 about per capita. You're answering in terms of per capita,
12 right?

13 A Yeah. I'm answering in regards to the crime
14 stats that I've looked at in terms of from the FBI crime
15 stats and the Department of Justice.

16 Q Okay. Now, you mentioned sex crimes. Does sex
17 crimes include let's say both prostitution and rape?

18 A They would both, yes.

19 Q So anything involving sex?

20 A Correct.

21 Q I see. I have two more exhibits. So this will
22 be I guess 287 and 288. I'll tell you what they are and then
23 I will distribute them. One is a document called "California
24 Locations by Crime Rate." And it lists every single city in
25 the State of California with regard to violent crime and
26 property crime. What is property crime?

1 A It would be crime such as burglary, thefts.

2 Q Okay. And then I have taken -- I got a list of
3 all 34 cities in Orange County, and I copied the stats for
4 those because this big exhibit is every city in the
5 country -- in the state. I marked where Fullerton rates so
6 we can see that. The big one is 287. The little one 288.

7 Now, if we rank cities from 1 to 34, 1 being --

8 HEARING OFFICER SILVER: Sorry, Mr. Miller, let me
9 stop you for one second. Is this in my packet?

10 MR. MILLER: No. Those three things that I gave you,
11 President Trump's comments and these two things, are not in
12 your packet.

13 HEARING OFFICER SILVER: I have President Trump's
14 comments marked 286. I don't have 287 and 288.

15 MR. MILLER: Did I not hand it to you?

16 HEARING OFFICER SILVER: Unless I had an out-of-body
17 experience there, I don't think so.

18 MR. MILLER: Forgive me.

19 HEARING OFFICER SILVER: That's okay.

20 MR. MILLER: 287, 288.

21 HEARING OFFICER SILVER: Thank you, sir.

22 All right. Thank you. Please proceed.

23 Q BY MR. MILLER: As I said, there's 34 cities -- I
24 need this for a moment. There's 34 cities in Orange County.
25 Fullerton is -- they're all alphabetical. If we rank them
26 one is the worse and 34th is the best, according to this --

1 and this is for 2014. In violent crimes, Fullerton is number
2 seven. In property crimes, number six.

3 Okay. Would you remind me -- oh, two
4 questions. First, remind me again the exact date that you
5 left your position as chief, your last day on the job.

6 A November 10th of 2016.

7 Q Now, I'm sure you'll remember knowing about the
8 Kelly Thomas incident on July 10th, 2011, right? You may not
9 remember the date, but you know the event.

10 A Well, I think the date is incorrect, but it's
11 July 5th.

12 Q July 5th.

13 A Yes, sir.

14 Q Okay. What was your role in the department
15 then?

16 A I was a police captain.

17 Q Was this incident under your jurisdiction?

18 A I assume it was -- if you're asking was I
19 present? No.

20 Q No. No. No. I know you were not present.
21 What I mean is Lieutenant Goodrich has explained the
22 structure of the police department, and he said under the
23 chief there's two captains. One's in charge of this and
24 one's in charge of that. One of the things that one of the
25 captains was in charge of was patrol and the other captain
26 was not.

1 So my question for you is: Were you in the
2 line of command that one would go down and encounter -- and
3 would cover these officers on patrol?

4 A Yes. So I was the patrol captain, but just for
5 your better understanding, there were actually three captains
6 at that particular time. One was in charge of investigation,
7 one was in charge of patrol, and one was in charge of
8 internal affairs or administrative.

9 Q So you were patrol?

10 A I was, yes.

11 Q There were a lot of disappointing components in
12 the officers' behavior that night, right, and in the ensuing
13 investigation?

14 MR. PALMER: Objection; relevance.

15 MR. MILLER: Transitional material. Give me a chance.

16 HEARING OFFICER SILVER: Transitional material. I
17 don't see the relevance. I don't see the relevance at all.

18 MR. MILLER: Allow me.

19 HEARING OFFICER SILVER: I don't see the relevance at
20 all to the line of questioning regarding the Thomas event.
21 We have hashed this already.

22 MR. MILLER: Give me a chance.

23 HEARING OFFICER SILVER: I will give you an incredibly
24 short rope on this one.

25 Q BY MR. MILLER: All right. Now, there were at the
26 time audio recordings made of the incident by gadgets carried

1 by the police officers, right?

2 A If you're discussing about the recordings,
3 yeah. There were tape recorders. I wouldn't describe them
4 as gadgets.

5 Q Machines. And they were body worn, right?

6 A No. They were attached to -- most of them were
7 attached to the belts. If you're referring to body worn
8 cameras, we had not had body worn cameras at that point.

9 Q Right. But they were wearing some audio
10 device, right?

11 A Correct. These are audio recorders.

12 Q Okay. That they wore on their person?

13 A That's correct.

14 Q As it happened, there were some video recording
15 made by some surveillance camera as well?

16 A That is correct.

17 Q And the officers' account of the incident
18 differed markedly from what was revealed in the recordings,
19 right?

20 MR. PALMER: Objection; relevance.

21 HEARING OFFICER SILVER: Mr. Miller.

22 MR. MILLER: I'm trying to establish the critical
23 importance of recordings in order to cross-examine the police
24 officer.

25 HEARING OFFICER SILVER: We've discussed recordings,
26 as I recall, since day one on this.

1 MR. MILLER: Right. Here is the chief who can provide
2 the best evidence for me so I can preserve my record on this
3 critical issue.

4 HEARING OFFICER SILVER: Is this not being reviewed
5 potentially I guess if there is an appeal de novo, right? Is
6 that correct?

7 MR. MILLER: I think so. I'm not sure Mr. Palmer
8 agrees. I think so.

9 HEARING OFFICER SILVER: I will allow you this
10 question, and then we'll be moving on from the Kelly Thomas
11 event.

12 MR. MILLER: See where I go.

13 HEARING OFFICER SILVER: That is the issue here. That
14 is the very issue here. The relevance is specious.

15 MR. MILLER: All right. Will you repeat my question,
16 please.

17 (Record read)

18 THE WITNESS: I don't believe that would be an
19 accurate statement.

20 Q BY MR. MILLER: You think it's inaccurate?

21 A Yes.

22 Q All right. If I had gotten a yes, we'd be done
23 with that.

24 HEARING OFFICER SILVER: Sure.

25 MR. MILLER: We got a no. I have to deal with it.

26 MR. PALMER: Objection; relevance.

1 HEARING OFFICER SILVER: It is 11:45. Here's what
2 we're going to do on this particular issue. Mr. Miller,
3 Mr. Ross, Mr. Palmer, Mr. Collins, and Jay, we're going to go
4 discuss in camera for the next 5 to 15 minutes this
5 particular issue because I am having trouble finding any
6 relevant link to this hearing on this line of conversation.
7 At the same point in time, I want you to be able to have your
8 chance to really hash it out rather than keep our witness
9 sitting here, plus my coffee needs a refill. It's 11:45.
10 Jay, let's go off for the moment. We'll be back at 12:00
11 o'clock.

12 (The following proceedings were had in a closed conference
13 room:)

14 THE COURT: Jay, are we on?

15 THE REPORTER: Yes.

16 THE COURT: Tell me where we're going with this. I
17 get the theory. You've been kind enough to repeat it several
18 times for me. I thank you for that.

19 MR. MILLER: Here is where we're going with it. These
20 offers lied in many ways. They said he was combative. He
21 wasn't. They said he didn't comply with their orders. The
22 video showed that he did. He begged for his life. They
23 refused to have him treated until the paramedics dealt with
24 some injury with the police officers.

25 What I want to know -- there are two things.
26 One, have there been changes to the recording policy since

1 then? And why are three of these six officers still on the
2 force when they lied? They killed somebody. And why would I
3 think this police department is trustworthy when these three
4 officers are still there?

5 MR. PALMER: Mr. Miller has made an adequate record of
6 his claim that we should have given him the recordings,
7 either audio recordings, which are called DARS, D-A-R-S, or
8 the body worn camera. He has made that point several times
9 with several witnesses. He doesn't need to reemphasize that
10 point with Chief Hughes. That is in the record.

11 This is nothing more than trying to smear the
12 Fullerton Police Department with an event that has been
13 adjudicated by a criminal jury, by internal affairs
14 investigation, by an outside investigator. This is nothing
15 more than trying to open that wound again. I think it's
16 improper.

17 If the sole -- if the sole reason is to
18 establish the record that he doesn't have the recordings,
19 whether audio or video, and that is somehow a due process
20 violation, you don't need to go into that event to have that
21 in the record. It's already in the record.

22 MR. MILLER: That's not the only reason I want it. I
23 want to know why three officers who have been found to have
24 misrepresented --

25 MR. PALMER: That is not true.

26 THE COURT: Let him finish. Go on.

1 MR. MILLER: I think the Grand Inn is not a public
2 nuisance, but we're not ending the hearing based on my
3 assertion. I want to know why three officers who lied about
4 the content of their recordings in this incredibly important
5 case are still on the force.

6 THE COURT: You mean the Thomas case.

7 MR. MILLER: Yes. What standards do we have here to
8 ensure the accuracy of police testimony if people who have
9 lied about what happened when a man was killed are still
10 allowed --

11 THE COURT: Were any of those officers that were
12 involved testifying in this hearing?

13 MR. PALMER: No.

14 MR. MILLER: No.

15 THE COURT: They were not.

16 MR. MILLER: One more thing.

17 THE COURT: Forgive my ignorance on the Kelly Thomas.
18 There was a grand jury review of this; is that right?

19 MR. PALMER: No. The District Attorney filed criminal
20 charges on the main two actors in the event, Officer Ramos
21 and Officer Cicinelli. There was a criminal jury trial about
22 three years ago over Christmas.

23 THE COURT: Okay.

24 MR. PALMER: And they were acquitted.

25 THE COURT: Was there any grand jury review or review
26 by a court of the city's I guess police operating standards?

1 MR. PALMER: No, not that I know about.

2 THE COURT: Are you aware of one?

3 MR. MILLER: No. Something very important that you
4 don't know. One of the officers who did testify at this
5 hearing is now facing felony charges for misrepresenting the
6 contents of his recording.

7 THE COURT: That officer did already testify?

8 MR. MILLER: Yes.

9 THE COURT: Okay. I don't recall this coming up.

10 MR. MILLER: We just found out.

11 THE COURT: This is not something you cross-examined
12 on.

13 MR. MILLER: We didn't know it at the time. I'm sure
14 Mr. Palmer wouldn't have put him on if he had known. We know
15 it now. It is one of our exhibits to show you.

16 THE COURT: Okay.

17 MR. MILLER: That this officer, who testified about
18 the Grand Inn, is now facing felony charges because he said
19 one thing happened in a case and the recording showed
20 something else happened.

21 THE COURT: Sure. So that will be something that
22 you'll be submitting or is in the packet already.

23 MR. MILLER: It is in the packet already. This is an
24 important question. I'm going to ask the police chief what
25 he knows about this officer as well.

26 THE COURT: As to the Kelly Thomas incident, that's

1 irrelevant. We're not going to be going there any further.
2 I've heard both sides. I simply do not see the relevance
3 here, at least in a way that is not otherwise -- which you're
4 not otherwise able to protect your rights, so I don't see
5 that as being an issue. It's due process and a due process
6 issue that I'm sure will be fleshed out in front of a judge
7 on this.

8 MR. MILLER: That's only half.

9 THE COURT: Okay.

10 MR. MILLER: The other half is I want to know what
11 standards the city has to ensure the veracity of police --

12 THE COURT: There it is.

13 MR. MILLER: -- when three of those people are still
14 active police officers.

15 THE COURT: I think the latter part of that question
16 just goes right back to the Kelly Thomas issue, obviously.
17 And you said further you contest the findings of the jury on
18 this or disagree with them on it.

19 MR. MILLER: No. No. You don't get it. Some jury
20 found that they were not found guilty beyond a reasonable
21 doubt.

22 THE COURT: Right.

23 MR. MILLER: That doesn't interest us. We're
24 preponderance. Money was paid. There's a preponderance.

25 THE COURT: Your question -- I think the first part of
26 your question is a fair question to ask. If you want to ask

1 it, I'll certainly allow it.

2 MR. MILLER: That question, just for clarity, was --

3 THE COURT: Yes.

4 MR. MILLER: -- what are these three officers doing on
5 the force or what?

6 HEARING OFFICER SILVER: No. I think your fair
7 question is: What standards does the police department have
8 to govern its investigative procedures or protect against
9 fraud? I'm not going to give you the question, but that's
10 just --

11 MR. MILLER: I want to know what you think is a fair
12 area.

13 THE COURT: That's the gist of the question. I think
14 when you're asking the police department or a former chief
15 what standards they have in investigating crimes in the city
16 when it was under his watch, I think that's a fair scope
17 here. I think that goes to the investigative procedures to
18 determine whether there is a nuisance.

19 MR. MILLER: If that is your ruling, that is your
20 ruling.

21 THE COURT: With Kelly Thomas, I think we're well
22 beyond it.

23 MR. MILLER: Let's just take notes here, since we're
24 not going to convene until probably after lunch.

25 THE COURT: I think we're going to go in there. I
26 think we're going to try to hammer this. When do you need to

1 leave? 1:30 downtown?

2 MR. PALMER: No. It's in Santa Ana. 12:45-ish.

3 MR. COLLINS: Danny Hughes will not be available after
4 lunch.

5 THE COURT: I don't want to stop Mr. Miller in the
6 middle of his questioning either. I want to give him a
7 chance to get through it. So, within the scope, irrespective
8 of the Kelly Thomas matter.

9 MR. MILLER: Okay. I will not mention Kelly Thomas.
10 Fair. Let's go.

11 THE COURT: Let's not poke at that bush either.

12 MR. MILLER: No. I'm going to ask two questions.
13 What procedures do you have to ensure accuracy? What do you
14 do if the officer's account says this and the recording says
15 that?

16 THE COURT: I think that's a fair scope.

17 MR. MILLER: Then we are going to talk about the
18 officer who did testify here.

19 THE COURT: I think that's fair as well because we
20 have an officer who did testify, and I think that we do have
21 at least some nexus here to this individual. I don't know
22 what you will or won't get out of officer -- or former Chief
23 Hughes. Let's get through it.

24 (The following proceedings were had in open chambers:)

25 HEARING OFFICER SILVER: Jay, we're back on. Officer
26 Hughes, I'm sorry for the break there. Thank you for still

1 being with us.

2 Mr. Miller, please continue.

3 MR. MILLER: Thank you.

4 Q Chief, would you please turn to -- I want to
5 help you find it. I'm still working my way through these.
6 You have three black books somewhere.

7 MR. ROSS: Which one?

8 Q BY MR. MILLER: Exhibit 1 -- volume one. Do you
9 have it? You may only have volume three over there. We want
10 Exhibit 254.

11 A I'm sorry, sir, what number?

12 Q 254. This is -- tell me when you're there,
13 please. Have you ever seen this document before?

14 A I have.

15 Q I'm sorry?

16 A I have.

17 Q Okay. This is "Use of Body Worn Camera
18 Recorders." For instance, at the end of the first paragraph,
19 it says, "These recorders are intended to assist officers in
20 the performance of their duties by providing an unbiased
21 video and audio record of a contact." Right?

22 A Yes.

23 Q That's true, right?

24 A Correct.

25 Q And it says here somewhere, take my word for it
26 because I want to -- I'm very respectful of your time.

1787

1 Quote, "Recordings obtained from BWC provide an objective
2 record of these events." Right?

3 A Yes sir.

4 Q That's true?

5 A I'm taking your word for it, yes.

6 Q No, not that it says it. The statement is
7 true?

8 A That is true.

9 Q Okay. It is because sometimes officers
10 misremember, right?

11 A I'm sorry, what do you mean by that?

12 Q Sometimes an officer will have an incomplete or
13 erroneous memory of something?

14 A They could, yes.

15 Q Sometimes they round things off to the nearest
16 exaggeration, right?

17 MR. PALMER: Objection. I don't understand the
18 question.

19 THE WITNESS: I don't know that I would clarify it as
20 that, no, sir.

21 Q BY MR. MILLER: Officers don't ever exaggerate in
22 their reports?

23 A Not that I've seen, no, sir.

24 Q Do they ever lie?

25 A Not that I'm aware of. I'm aware there have
26 officers that lied, and when it is brought to the attention

1 of that administrator, that person is terminated.

2 MR. MILLER: All right. Now, Mr. Silver, we are
3 getting into things that are contrary to what we were talking
4 about before.

5 HEARING OFFICER SILVER: You're still within the scope
6 of the questions. You're still within a fair scope.

7 MR. MILLER: No. I know. When the chief says, "I'm
8 not aware that officers have lied," I want to ask him about
9 situations which --

10 HEARING OFFICER SILVER: You cannot.

11 MR. MILLER: -- they did.

12 HEARING OFFICER SILVER: You have your other line of
13 questioning that we discussed that is permissible, referring
14 to a prior witness.

15 Q BY MR. MILLER: So is it your testimony, chief, that
16 you are not aware, either through direct observation or
17 through hearing it through the department, of any officer who
18 gave one account of an encounter with someone, a member of
19 the public, that differed from what the recording showed?

20 A That's a different question. I would say that
21 I am aware that there have been times in which allegations
22 have come that a police officer has not provided accurate
23 information, and each of those times that I'm aware of, in
24 each and every case, that officer has been terminated.

25 Q Do you know Officer Miguel Siliceo,
26 S-i-l-i-c-e-o?

1 A I do.

2 Q Is he a good officer, in your opinion?

3 A I know who he is. I don't believe that I've
4 ever worked for him, but I have -- or worked with him, but I
5 have managed him.

6 Q I'm sorry, you worked with him but -- I didn't.

7 A I have not worked with him, but I have managed
8 him.

9 Q By "managed" you mean you were his supervisor?

10 A I was either a lieutenant or a captain, but I
11 did not work directly with him, no.

12 Q I understand. Would you turn to page -- do you
13 have exhibit book volume three over there?

14 A I do.

15 Q Would you look at 268, please. Tell me when
16 you're there.

17 A I'm there.

18 Q It says -- this is a report from the Orange
19 County Register that Officer Siliceo is charged with one
20 felony count of false report because his report about some
21 encounter with some member of the public was contradicted by
22 his recorder. That he said that this person resisted arrest
23 and the recording showed he did not. Did you know about this
24 or is it news to you?

25 A I'm sorry, what was the last question -- the
26 last part?

1 Q Did you know about this already or are you
2 hearing it from me for the first time?

3 A No. I'm aware of this investigation. I
4 believe it is an active personnel investigation.

5 Q Okay. To your knowledge, what is the status of
6 this investigation?

7 MR. PALMER: Objection; relevance. It goes into a
8 peace officer's personnel file, therefore, it's protected and
9 confidential under Penal Code Section 832.5, point 7, point
10 8, and 1043 of the Evidence Code.

11 MR. MILLER: The question is what's the status of it?
12 Is it ongoing? Is it over?

13 MR. PALMER: The status of the investigation is
14 confidential.

15 HEARING OFFICER SILVER: Yes. Is this at an
16 administrative, internal level? Is this in court? Where is
17 it?

18 MR. PALMER: There's two separate things going, as far
19 as I know. I don't know the details of it.

20 HEARING OFFICER SILVER: That's what I'm getting to.

21 MR. PALMER: From what I can tell from the answers and
22 what other things I know from the outside, there is both a
23 criminal case and an internal affairs investigation going on.

24 HEARING OFFICER SILVER: Which one are you asking
25 about, Mr. Miller?

26 MR. MILLER: At this point I was asking about the

1 internal.

2 HEARING OFFICER SILVER: I see.

3 MR. MILLER: Do you know the status of it? Yes, you
4 do or no, you don't.

5 HEARING OFFICER SILVER: I think the answer is yes or
6 no. Do you know the status?

7 THE WITNESS: I do not know the status.

8 Q BY MR. MILLER: Okay. Do you know the status of the
9 criminal case?

10 A I do not.

11 Q Okay. And it's your testimony, please correct
12 me if I'm misunderstanding it, that if the internal
13 investigation confirms this allegation, Officer Siliceo would
14 be terminated?

15 MR. PALMER: Objection; relevance. Danny Hughes is no
16 longer the police chief. I don't think it would be his
17 decision to make and rank speculation based on that.

18 MR. MILLER: I didn't ask that.

19 HEARING OFFICER SILVER: Objection overruled. Chief,
20 to the extent you know, please so state. If you do not know,
21 please so state.

22 THE WITNESS: I'd have to ask you to repeat your
23 question.

24 MR. MILLER: Sure. Jay, would you mind.

25 (Record read)

26 THE WITNESS: I could only answer if I was the police

1 chief and the investigation came back on anybody that they
2 had provided false testimony or had lied in a police report,
3 that I would recommend the termination.

4 Q BY MR. MILLER: Who would decide whether to
5 terminate an officer?

6 A Ultimately, the police chief. So it would be a
7 recommendation from -- after the investigation, a lieutenant
8 would provide the recommendation to a captain in most cases.
9 That captain would then make a recommendation to the police
10 chief, and then the police chief would partake in a Skelly
11 hearing, and after that Skelly hearing, they would render a
12 decision, and then ultimately there are several levels of
13 appeals that are involved in the process.

14 Q Internal appeals?

15 A No.

16 Q Or are they litigation?

17 A Yes. So they would be -- the City of Fullerton
18 has it that the first right has to go to the chief of police
19 to reconsider his or her decision. The next level goes to
20 the city manager. The next level goes to a hearing officer,
21 and the next level is court. I'm sorry, the next level is
22 city council and then ultimately it ends up in court.

23 Q Are the police unionized?

24 A In Fullerton, sir?

25 Q Yes.

26 A Yes, they have a union.

1 Q I'm going to tell you my understanding of the
2 hierarchy in the police department. Please tell me if I'm
3 right or wrong. Chief at the top, then you go down to
4 captain, lieutenant, sergeant, corporal, and officer. Am I
5 missing anything?

6 A No, sir.

7 Q Where does detective fit in?

8 A A detective could be either an officer or a
9 corporal.

10 Q I see. Okay. There is a police station --
11 now, we are at 303 West Commonwealth, right? That's the
12 address here?

13 A That's correct.

14 Q There's a police station across the street at
15 237 West Commonwealth, right?

16 A Correct.

17 Q Is that the main police station or is it just a
18 satellite, typical precinct station, if you will?

19 A It is the only police station we have.

20 Q It's the only one.

21 Okay. Now, I've seen some police reports.

22 Maybe I can show you one. Okay. If you look at 282, open to
23 any page at random, okay? Any page except the very
24 beginning. I just want you to -- you don't even have to read
25 it. Just look at it, any page. We've got this micro print.
26 Do you see it? Are you with me? There, you're looking at

1 one. Perfect. There are those kind of reports.

2 Now, here is what I see. If there is an event
3 that happens in this building, it wouldn't say 303 West
4 Commonwealth. It says 3XX. Are you familiar with that?

5 A First of all, with full understanding, I can't
6 see this print that you have at all right here. But if you
7 want to tell me what this is, I'd be happy to let you know if
8 I understand it.

9 Q Okay. This is something on the website, on the
10 Fullerton PD website.

11 Now, addresses, for some reason, lack the last
12 two digits. They say XX. For example, if there is an
13 incident that's at Grand Inn, it doesn't say 1000 South
14 Euclid. It says 10XX South Euclid. Does this ring a bell or
15 is this news to you?

16 A Again, I know that there are systems put in
17 place that are for external communications, so that if there
18 was a victim, say, of domestic violence or a location of a
19 rape, something like that, that we would not put the exact
20 address in that. But I have nothing to do with how that
21 system is --

22 Q I know you don't.

23 A Or when it happens or not happens.

24 Q I just want to know if you're familiar with it.
25 It's universal. It's not only in specific crimes.

26 A I really haven't had any experience with it.

1 Q Here is what I'm driving at. There are crimes,
2 a substantial number, listed at 2XX West Commonwealth. So
3 I'm trying to figure out are those things occurring at the
4 police station or are they occurring at the other businesses
5 up and down the block?

6 Now, would there be a lot of crimes reported at
7 the police station as occurring there?

8 A Not that they were occurring there, but they
9 would be crimes that would be reported there.

10 Q If I went to the police station and I said I
11 live on Main Street, 123 Main Street, and I was assaulted
12 there. Wouldn't the report be 123 Main Street?

13 A It would be, yes.

14 Q So is it fair to assume that if there's
15 something, some crime at 2XX West Commonwealth, it happened
16 at one of the many other addresses on that block?

17 A Again, sir, I'm not familiar with the system
18 you are referring to.

19 Q So you don't know one way or the other?

20 A I do not.

21 Q Now, I've seen police records that list --
22 sometimes they list an assault. I'm sorry, sometimes they
23 list a specific crime, narcotics possession or assault or
24 what have you. But sometimes they say "miscellaneous
25 report." Does that sound familiar to you?

26 A I know what a miscellaneous report is, sir.

1 Q What is it?

2 A It's just a report that somebody maybe wants
3 something documented that doesn't rise to the level of a
4 crime. It may be suspicious circumstances or it may be --
5 sometimes we document it. Maybe somebody with either
6 emotional or mental conditions that feels that they need --
7 they need to have what they said documented. And even though
8 it might not necessarily rise to a crime, it might not
9 necessarily be accurate. And a way to try to resolve that
10 issue with individuals that have some emotional and mental
11 conditions, the officer will document it in an effort to try
12 to satisfy that individual so that they feel they have
13 actually made a police report.

14 Q So is it fair to assume if it says
15 "miscellaneous report," it's probably not a crime?

16 A In most cases. It could be -- it could be a
17 miscellaneous report. It could be somebody documenting that
18 somebody found a syringe somewhere. That would be a crime,
19 but they didn't know who the owner was, so they may just
20 utilize a miscellaneous report to document the possession of
21 it so that they could then destroy it. I can't think of many
22 cases where a miscellaneous report would be a crime at all.

23 Q The overwhelming number would be something
24 noncriminal?

25 A It would be 99.9 percent.

26 Q All right. Good. Thank you.

1 Do officers ever find out the disposition of
2 cases? So, if I'm an officer and I arrest somebody for some
3 crime, some serious crime, let's say. Will I typically be
4 informed of the disposition, pled guilty, trial, or if this
5 and that?

6 A I'm not aware of a process in place that
7 notifies the police officer, but many times that police
8 officer will be a witness in that case and the deputy
9 district attorney may notify the officer of the conclusion of
10 that case.

11 Q Have you ever spoken in public about the Grand
12 Inn?

13 A I have.

14 Q How many times?

15 A I think I've been to two meetings.

16 Q Okay. What was the nature of those meetings?
17 Let me explain what I mean before you answer. For example,
18 was it a city council meeting or was it something gathered
19 for that particular purpose or something else?

20 A I've had a meeting with Henry Xie talking about
21 the concerns about the activities at the Grand Inn.

22 Q That was a public meeting?

23 A He brought -- I believe he brought somebody. I
24 don't remember who he brought, but it was a meeting which I
25 had with him and others talking about the concerns that we
26 had about the activities that were occurring at the Grand

1 Inn, and he asked for some recommendations, which we provided
2 to him.

3 I've had a -- and I think in terms of at
4 least -- at least two community meetings that I've had or at
5 least that I participated in that the Grand Inn came up in
6 conversations from residents.

7 Q And at those meetings -- where were they held?

8 A I believe the meeting with Mr. Xie was held at
9 the police department. Another meeting was at Nicolas Junior
10 High. And I think another meeting was in the front yard of a
11 house in the neighborhood.

12 Q Okay. And did you encourage people who wanted
13 to speak up against the Grand Inn to attend?

14 A Well, the Grand Inn was, quite frankly, a very
15 minimal part of those meetings. What we held was -- I
16 routinely had community meetings throughout the city and
17 would address those issues in those neighborhoods concerning
18 anything that concerned that particular neighborhood. And so
19 although the Grand Inn was certainly a major concern of the
20 neighbors in those meetings, overnight parking and fireworks
21 were at a much higher level of a concern than was the Grand
22 Inn at that particular time.

23 Q Okay. I'm looking for one of our exhibits. I
24 just got these back from the printer so I'm not as at home
25 with it as I would have liked to be. Here it is. It's
26 Exhibit Number 263.

1 A Would you like me to turn to that, sir?

2 Q Yes. If you can read this one, I'm impressed.
3 We can try to get a clearer copy of it.

4 HEARING OFFICER SILVER: 262, 263?

5 MR. MILLER: 263.

6 Q Let me try to read it. "There will be a public
7 hearing on June 22nd for" -- okay. This was about this
8 hearing that we're having today. It says this. I want you
9 to tell me if you said this. "As the chief of police said,
10 we need to show up as community and try to close this motel."

11 A I've never said that.

12 Q Or anything to that effect?

13 A No.

14 Q This person is mischaracterizing or misstating
15 anything that you've done?

16 A You haven't told me who this person is.

17 Q Ana Hernandez.

18 A I don't know who that is.

19 Q Okay. That's what it says. You never said
20 that, and that's great. I accept your word for that.

21 A No.

22 Q Okay. Are you aware of any other public
23 nuisance proceedings that have ever been brought in the City
24 of Fullerton besides, obviously, this one?

25 A I'm not -- again, I'm not generally involved in
26 the public nuisance aspect. I do know that there was a hotel

1 or an apartment complex at 915 West Orangethorpe that had a
2 number of calls for service and code enforcement issues back
3 in the early nineties that I believe the process got started
4 and then there was some type of settlement. My understanding
5 was there was some type of settlement, and the corrections
6 were made, and the process had started.

7 Q Was that called the Ambassador?

8 A No, it was not. It's adjacent to 1000 South
9 Euclid. I don't recall --

10 Q Would that not be the Renick property?

11 A No. It would be right behind it -- in essence,
12 right behind. It was an apartment complex at 915 West
13 Orangethorpe. I just don't recall what the name of it was.

14 Q That was, like, in the early nineties you said?

15 A I believe it was very early nineties.

16 Q That's something like 25 years ago. Anything
17 since then that you know of?

18 A I'm not involved. This is the only time I've
19 ever been involved in one of these types of hearing.

20 Q As far as you know -- I'm not asking you about
21 your involvement. Do you know -- have you ever heard there
22 was another one or is this it?

23 A No. I don't know that I would -- I don't know
24 that somebody would tell me that. I'm not involved in that
25 type of process.

26 Q Okay. Were you involved at all in the meetings

1 or decision to institute this proceeding?

2 A Only in regards to being asked about compiling
3 information about what had taken place at the Grand Inn.

4 Q Who asked you to do that?

5 A The city manager, Joe Felz.

6 Q Apart from that, no?

7 A No.

8 Q Okay. Now, you heard the testimony -- you
9 weren't here for Mr. Felz's testimony; am I right?

10 A No, sir, I was not.

11 Q This will take a little longer than I would
12 hope, but it won't take long. You know that on each side of
13 the Grand Inn there's Renick Subaru and Cadillac, right?

14 A I'm aware of that, yes.

15 Q Have you ever heard that Renick would like to
16 acquire the Grand Inn property?

17 A I have.

18 Q Apart from what you heard today?

19 A I have, yes.

20 Q What have you heard?

21 A Only from Mr. Henry Xie that he felt that the
22 Grand -- that he felt that the Renicks wanted to purchase his
23 property.

24 Q Have you ever met with anyone from the Renick
25 family or company with regard to the Grand Inn?

26 A No.

1 Q Have you ever spoken to them on the phone or
2 received letters or had any other communications?

3 A You know, let me take that back. I believe
4 that Mr. Renick that was here earlier today had asked me at
5 one point, "What is happening with the Grand Inn? This place
6 is out of control."

7 My response was: "I don't have anything to do
8 with that. That's the city."

9 Q Did he ask you that while you were still police
10 chief --

11 A He did.

12 Q -- or after?

13 Do you know Captain Rudisil?

14 A I do.

15 Q What is his job?

16 A He is the captain at the police department.

17 Q But there's three captains you said?

18 A There's now two. If you're asking what his
19 specific job is, he's in charge of investigation.

20 Q As opposed to patrol?

21 A Again, I should say as far as I know. As of
22 six months ago he was in charge of investigations.

23 Q Fair enough.

24 A He was not in charge of patrol.

25 Q I'm not expecting you to know what happened
26 since November 10th.

1 Are you aware of any sort of relationship
2 between him and anyone in the Renick family or business?

3 A I am not.

4 Q Never heard of it?

5 A Never heard that, no.

6 Q Okay. Are you aware of any lobbying or
7 pressure from anyone in the Renick family or company
8 regarding the Grand Inn upon city officials, employees,
9 agents?

10 A Not that I'm aware of, sir, no.

11 Q To your knowledge, has Renick -- when I say
12 Renick, that just means anyone named Renick, in the Renick
13 family, Renick company, okay? Do you know if any -- to your
14 knowledge -- let me put it this way. To your knowledge, has
15 Renick ever called the police regarding the Grand Inn?

16 A I'm sorry, regarding the Grand Inn?

17 Q To your knowledge, has Renick, any Renick, ever
18 called the police about the Grand Inn?

19 A I don't know. Not to my knowledge.

20 Q Okay. Can you give me an estimate of your
21 opinion of how much of the total crime in Fullerton happens
22 at the Grand Inn as a percentage?

23 A Again, I think in terms of -- as we discussed
24 before, I haven't prepped for any of that. I don't know what
25 the numbers are at the Grand Inn compared to the rest of the
26 city.

1 Q Okay. Now, I want you to suppose -- again,
2 take the Grand Inn out of your mind for a minute. Let's
3 suppose there's just some other business that you think
4 causes whatever kinds of problems the Grand Inn causes, and
5 by kinds of problems, I mean crimes or calls for service or
6 what have you.

7 How much, in your opinion, of the total crime
8 in Fullerton would have to occur there in order for this to
9 be a public nuisance?

10 A If there was -- again, the decision on whether
11 it's a public nuisance is not that of a police chief.

12 Q Understood.

13 A But in terms of public safety issues, that --
14 any location that would have the same type of calls for
15 service, whether it be in the numbers of the narcotic-related
16 incidents that take place, the sex trafficking of a minor,
17 someone leaving there and holding hostage children at a
18 neighboring school, reports of prostitution, those are all
19 things that are very, very concerning to public safety.

20 Q But, chief -- excuse me.

21 HEARING OFFICER SILVER: Let the witness finish.

22 MR. MILLER: No. This is not -- this is Mr. Palmer's
23 closing. This is not -- excuse me, please. This isn't the
24 question.

25 MR. PALMER: He asked the question. The witness
26 should be allowed to answer.

1 HEARING OFFICER SILVER: I agree.

2 MR. MILLER: Yes, he should be allowed to answer the
3 question, not talk about something unrelated.

4 HEARING OFFICER SILVER: The question was pretty
5 broad, wasn't it?

6 MR. MILLER: No. I asked for a number.

7 HEARING OFFICER SILVER: Chief, do you have a number?

8 THE WITNESS: I do not have a number, sir.

9 HEARING OFFICER SILVER: So your testimony is going to
10 scope, then; is that correct?

11 MR. MILLER: That's not my question.

12 HEARING OFFICER SILVER: No. No. I'm sorry. I asked
13 him a question. You then interrupted me. I'll ask for the
14 answer.

15 THE WITNESS: Sir, yes. It's in regards to him asking
16 me if I knew any other location had similar types of calls --

17 HEARING OFFICER SILVER: Right.

18 THE WITNESS: -- would I give a similar type of
19 response. It always would be determined on the types of
20 calls for service we're getting.

21 Based upon the seriousness of the calls at a
22 specific location, if they included calls such as sex
23 trafficking of a minor, someone leaving holding children
24 hostage in a neighboring school --

25 HEARING OFFICER SILVER: Right, I heard.

26 THE WITNESS: -- prostitution, people leaving with

1 guns, that would require a police response to begin looking
2 at that location and finding ways which we can minimize it or
3 reduce the type of criminal activity at that location,
4 whether it's at the Grand Inn or any other location within
5 the city.

6 HEARING OFFICER SILVER: Understood. Stop you there.

7 Mr. Miller.

8 Q BY MR. MILLER: Let's talk about something else,
9 okay? I want to know in your opinion about what percent of
10 the total crime in Fullerton would have to occur at a
11 particular location in order for that to be a public
12 nuisance. Let's assume that all the crimes there are
13 misdemeanors.

14 A Sir, again, I don't make a determination on
15 whether or not a location is a public nuisance or not.

16 Q Okay.

17 A What my job was at the time as the police chief
18 was to make the determination on whether a location was a
19 risk to public safety. So whether it was crimes of felonies
20 or misdemeanor crimes, when a location is needing a
21 tremendous amount of police response, fire response, code
22 enforcement response and is having a negative impact on the
23 community, it is the responsibility of the police to take
24 some type of action on it.

25 Q All right. Now, you used the phrase risk to
26 public safety. Now, let's suppose you have a business in

1 Fullerton and there's been one crime there in the course of
2 several years, okay? One. That's a risk to public safety to
3 be sure, isn't it?

4 A But you didn't ask me that question in your
5 question earlier. You asked me to make an assessment. When
6 we make assessments, sir, I'm looking at the totality of
7 circumstances.

8 Q Right.

9 A So, yeah, I could certainly agree that one
10 incident at a location could be a risk, but what we're
11 looking at is the totality of circumstances that are
12 happening at a location and what, if any, mediation is taking
13 place to stop that risk to public safety from continuing.

14 Q I have to disagree with you when you say, "This
15 is what we're looking at." No. This is what you're looking
16 at. This is not what I'm looking at.

17 I want to focus again on the very simple
18 question. I'm trying to get a number, an approximate number.
19 I want to understand the ballpark of where we are here.

20 Now, what term would you use, if not public
21 nuisance, to refer to a business or a location that had a
22 sufficiently disproportionate amount of calls for service,
23 crimes, what have you, that would put it into the category of
24 abnormal, too much, okay? Give me a term that you would use
25 for such a place.

26 A That would risk public safety.

1 Q Okay. So then we're going to agree for a
2 moment the place that has a handful of crimes over the course
3 of many years is not a risk to public safety, fair?

4 A Again, I've tried to explain this, sir, and I
5 apologize if I'm not doing a very good job of it. But when
6 making a determination, we're going to look at -- or I would
7 look at the totality of the types of calls and the totality
8 of circumstances at that specific location and whether I felt
9 that it was a risk to the community, the surrounding
10 businesses and the surrounding schools.

11 Q But every place with even one crime,
12 misdemeanor, somebody has an outstanding warrant, that's a
13 risk. So I want to find out -- there's a qualitative
14 distinction that's being made between the Grand Inn and other
15 places, right?

16 A I would -- I would say we'll just agree to
17 disagree. You may be stating that one single call is a risk.
18 I'm telling you that I look at the totality of the
19 circumstances at a specific location and what risk that poses
20 to the community.

21 Q Okay. So give me -- my defense -- just so you
22 understand. I'm not saying there's crime everywhere, so what
23 do you want? That's not my point at all.

24 There is something about the Grand Inn that
25 makes it, if not unique, special, in your view, yes or no?
26 It's just a yes or no question.

1 A I would not use a description as it's special.

2 Q From a policing point of view.

3 A From a policing point of view, I would describe
4 the Grand Inn as a public safety issue. That it is a
5 location that attracts criminal behavior. It's a location
6 that attracts criminals, and it has a negative impact on not
7 only the police services to the remainder of the community,
8 but also has a negative impact on the neighboring businesses,
9 the safety of the schools and the safety of that
10 neighborhood.

11 MR. MILLER: I'm going to move to strike this answer
12 as not responsive. It's a yes or no question.

13 HEARING OFFICER SILVER: Overruled. I disagree.

14 Q BY MR. MILLER: Do you have in your mind a
15 percentage of crimes, if you will, relative to the totality
16 of the City of Fullerton that would put a business or a
17 location in that kind of category?

18 A No.

19 Q Do you think it is helpful for a hotel to have
20 a no-rent list so that it can avoid renting rooms to known
21 troublemakers?

22 A Again, I was a police chief. I didn't run a
23 hotel. I will just tell you that it makes sense to me that
24 if you have people who have created problems at your location
25 before, that you wouldn't rent to them again.

26 Q That's a yes?

1 A That would be a yes.

2 Q Okay. Good. There you go.

3 Okay. Did you know that the Grand Inn has a
4 no-rent list?

5 A I did not.

6 Q It's on the last page of Exhibit 22.

7 Would you agree with me that, as a general
8 proposition, it would be a good idea for police officers to
9 tell the Grand Inn about criminals and troublemakers on-site
10 to help the Grand Inn reduce crime on its premises by adding
11 those people to its no-rent list?

12 A I'm sorry, could you rephrase that, please.

13 Q Yes. There's been a lot of testimony, I've
14 asked virtually every officer -- and there's been 43 of
15 them -- they made an arrest. They arrested somebody for
16 paraphernalia or meth in his pocket or warrants. "Did you
17 tell Grand Inn personnel about this person?" The answer
18 almost invariably was no.

19 It seems to me -- I want to know if you agree
20 with me -- that if the Grand Inn had this information, it
21 would be helpful to it in keeping those people from renting
22 rooms at the Grand Inn because they could put them on the
23 no-rent list.

24 A I could see how that could be one part that
25 would be helpful as well as other aspects of it, yes.

26 Q Yes. Okay. I'll take yes.

1 Now, there's been a lot of testimony, and I'd
2 like to know if you agree with it. We may even have covered
3 this with Officer Talbot. There's no way for a civilian to
4 know that someone has an outstanding warrant, right?

5 A No, that is not accurate, to my knowledge.

6 Q How would I, as a civilian, know if Mr. Ross
7 has an outstanding warrant?

8 A Well, Mr. Ross, I hope you don't have an
9 outstanding warrant.

10 MR. ROSS: I hope I don't.

11 THE WITNESS: But one could go onto the Orange County
12 Sheriff's website. There's a drop-down box on how do I check
13 to see if I have a warrant. You can obtain the information
14 there or you could go to the courthouse and ask the warrant
15 clerks as well.

16 Q BY MR. MILLER: Now, suppose I have a business open
17 to the public and there's somebody there. Here's somebody.
18 Is there a feasible way for me to know that this person has a
19 warrant?

20 A Not unless you were to run that person in the
21 system I just described, you would not.

22 Q So it's a no, right?

23 A No. It would be -- under those circumstances
24 you told me, if they do not run that person under that
25 system, they wouldn't have that opportunity to do that.

26 Q How would I know the name of that person?

1 A Well, if they're renting a room from you, sir,
2 they normally provide you with their name and identification.

3 Q Or if they're visiting someone?

4 A I don't know, sir.

5 Q Or if they're on the property.

6 Okay.

7 HEARING OFFICER SILVER: Mr. Miller, we're going to
8 pause there for one moment. Jay, let's go off for a second.

9 (Discussion off the record)

10 HEARING OFFICER SILVER: Jay, we're back on.

11 MR. PALMER: I'm going to go, then.

12 HEARING OFFICER SILVER: Best of luck.

13 Please proceed.

14 Q BY MR. MILLER: Would you agree with, I think it was
15 Officer Talbot, if I'm at the Grand Inn and I have a warrant.
16 If I leave the Grand Inn and I go to McDonald's, I still have
17 the warrant, right?

18 A That would be accurate.

19 Q If I have meth in my pocket, I will still have
20 meth in my pocket if I go to McDonald's or the supermarket or
21 the movies and so on?

22 A Correct.

23 Q Whose job is it, whose responsibility is it to
24 ensure that there are not many people in Fullerton with
25 outstanding warrants?

26 A I'm sorry?

1 Q Who is responsible for making sure that there
2 aren't a lot of people in Fullerton with outstanding
3 warrants?

4 A I think it would be the responsibility of a
5 number of people. It would be the responsibility of the
6 court system, the responsibility of the police department,
7 and ultimately the responsibility of the individual who was
8 scheduled to go to court who chose not to.

9 Q Okay. But once that person makes that
10 decision, it's really the job of the police department,
11 right?

12 A It's certainly the job of the police to arrest
13 that person. They have the opportunity to either turn
14 themselves in to the court or the jail system as well.

15 Q It's the job of the police department to make
16 sure the people don't have illegal drugs, right?

17 A It is.

18 Q And the same for paraphernalia, right?

19 A Correct.

20 Q Now, you know that Joe Felz, city manager at
21 the time, was stopped for a possible DUI around November 9th,
22 right?

23 A Yes, sir.

24 Q We have an exhibit which I think you wrote.
25 I'd like you to confirm that for me. Where did I put it? It
26 is number 280. No. No. No. I'm sorry. 279.

1 A Would you like me to turn to that, sir?

2 Q Yes, please.

3 Did you write this?

4 A I did.

5 Q Now, Mr. Felz was stopped by one of your
6 officers or a sergeant or somebody in the wee hours of
7 November 9th, 2016 for some traffic issue, right? So far so
8 good?

9 A No, he wasn't stopped. The police did respond
10 to a call of him being involved in a collision.

11 Q Right. He was in a collision. He smelled of
12 alcohol and various other things were going on, right?

13 MR. COLLINS: We're going to object to relevance,
14 Mr. Silver.

15 HEARING OFFICER SILVER: Please give me one more
16 second here as I make my way through this exhibit.

17 MR. MILLER: We're only looking at the first page.
18 Somehow there's more pages.

19 HEARING OFFICER SILVER: Understood. Mr. Miller,
20 offer of proof.

21 MR. MILLER: Let me ask my next yes or no question and
22 then you'll see, all right?

23 HEARING OFFICER SILVER: Yes, proceed.

24 Q BY MR. MILLER: On November 9th, 2016 did Mr. Felz
25 receive the same treatment that any other citizen would have
26 received or did he get special treatment from the police

1 department?

2 A I don't know. I wasn't there.

3 Q From you. Did he get special treatment from
4 you?

5 A Oh, absolutely not.

6 Q Is it the norm when an officer is investigating
7 a case at 1:30 in the morning to call you at home?

8 A That depends on the case.

9 Q Was there a violent felony in this case?

10 A Sir, you know there was not.

11 Q So what's special about this one?

12 A What was special about this one is it involved
13 our city manager. So, in cases that involved a city council
14 member, city manager, another city employee, someone that was
15 an employee from a different city, those are cases that,
16 generally speaking, they would wake a police chief up and let
17 them know about that.

18 Q So you can do what?

19 A Help provide direction.

20 Q Why doesn't the officer on the spot treat this
21 person like everyone else?

22 A The same person -- the same reason why I don't
23 get called in the middle of the night on everybody who gets
24 stopped for drunk driving. When there is -- especially in
25 the City of Fullerton, when there is somebody, whether it be
26 a city council member, in this particular case, the city

1 manager, those type of incidents are going to what I would
2 describe blow up. No matter what decision is made regarding
3 the outcome of that case, there will be allegations and
4 conspiracy theories and all sorts of information that comes
5 from that.

6 So, generally speaking, the supervisor would
7 notify a lieutenant. That lieutenant would notify the
8 captain. The captain generally would either make the
9 decision or contact me.

10 Q But if Mr. Felz is going to be treated just
11 like everyone else, why don't we just let the chips fall
12 where they may?

13 A Because, when it comes to making those type of
14 decisions, based upon what that officer is observing, we may
15 not handle it the same way. We may call timeout and pause
16 and have another jurisdiction come in and conduct that
17 investigation. We don't normally do that for every single
18 citizen that might be stopped, but there are cases in which
19 we might do that.

20 Q Why would you bring in another jurisdiction as
21 happened here?

22 A I'm sorry?

23 Q It seems to have happened here, that we would
24 contact the California Highway Patrol, it says. Why would
25 you consider bringing in a different jurisdiction in this
26 case?

1 A Just for objectivity. Again, especially in the
2 City of Fullerton where there seems to be such an
3 antigovernment and conspiracy theories from folks that have
4 some either emotional issues or some mental issues. So the
5 effort is to try to provide some objectivity. Again, it all
6 depends on what that supervisor is describing to the person
7 on the other end of that phone on whether or not we're going
8 to call for that or not.

9 HEARING OFFICER SILVER: Word of caution before the
10 next question. I feel that I have given pretty ample room to
11 negotiate this conversation and this issue regarding the
12 investigation of Mr. Felz. I would like the next questions
13 to now bring you back to related to the Grand Inn. So let's
14 move on to that.

15 MR. MILLER: You don't know where we're going on this.
16 Weird stuff is about to happen. It says -- there are two
17 things I want to look into here.

18 Q First, you spoke on the phone with this suspect
19 in the field?

20 HEARING OFFICER SILVER: Hold on a second here, I'm
21 sorry. I thought you were going to tell me what those two
22 avenues were. I thought you were making an offer of proof
23 here. We're hearing a lot about Officer Felz, a witness, by
24 the way, the defense called. So, to the extent we are going
25 to some sort of impeachment or something, that would be an
26 odd issue.

1 MR. MILLER: This is a 776 witness. Come on, we know
2 that. When I said, "two more questions," I thought I'll make
3 the questions. I didn't realize you wanted it done to you.

4 HEARING OFFICER SILVER: I did, yes. I'm sorry, I
5 wasn't clear enough on that. I'm trying to figure out the
6 relationship of the Grand Inn to the police.

7 MR. MILLER: Because we have, as I said before, very
8 selective treatment of the popular versus the unpopular, the
9 connected versus the disconnected.

10 It seems to me very unusual when someone is
11 stopped or is being examined as a potential drunk driver -- I
12 understand why they called the chief. I understand that.
13 Why does the chief talk to the suspect and tell him what the
14 procedures are going to be?

15 HEARING OFFICER SILVER: There it is. Okay.

16 MR. MILLER: And why don't they do the normal standard
17 breathalyzer test and preserve the evidence like they do for
18 everybody else?

19 HEARING OFFICER SILVER: That's where we've gone to
20 the relevant component. Your first component about why are
21 they notifying him or why aren't they notifying him, why are
22 they notifying the Grand Inn or why are they not notifying
23 the Grand Inn? Is that something that you would ultimately
24 do? That I believe is where you're ultimately trying to head
25 with this; is that correct? If you are, I think that's fair.

26 MR. MILLER: Okay. Well, yes.

1 HEARING OFFICER SILVER: So let's stick to that part.

2 MR. MILLER: But the second one is the same question.

3 In other words --

4 HEARING OFFICER SILVER: As individual facts of the
5 former city manager's arrest, I don't see any relationship of
6 that to the Grand Inn or that it's necessary to get to the
7 other part of your question. I'm trying to protect relevance
8 here, that's all.

9 MR. MILLER: The defense is not -- he committed a
10 crime. Although I've already told you my view on drunk
11 drivers, right? You recall?

12 HEARING OFFICER SILVER: Yes.

13 MR. MILLER: Let's ask the first question first and
14 then we'll come back to the second part.

15 HEARING OFFICER SILVER: Let's hear it.

16 Q BY MR. MILLER: The first question. "I provided the
17 above" -- this is the third paragraph. "I provided the above
18 directions" -- I'm skipping stuff here. "I provided the
19 above directions to the field sergeant and also briefly spoke
20 to the city manager on the phone to explain what protocol
21 would be followed."

22 Why did you talk to the suspect on the phone?

23 MR. COLLINS: Again, relevance, Mr. Silver.

24 HEARING OFFICER SILVER: Overruled. Please proceed.

25 THE WITNESS: At this particular time, he wasn't a
26 suspect. He was a person who was involved in a collision.

1 So what -- he had asked to speak -- he had asked the sergeant
2 to speak to me, so I spoke to him. I explained to him
3 that -- first of all, I asked if he was injured. He said he
4 was not. I explained to him that we were going to conduct an
5 investigation, that the sergeant believed that he had been
6 drinking alcohol. And, therefore, that we were going to
7 have -- I was going to have the supervisor on scene conduct
8 some preliminary examinations to see if he felt he was under
9 the influence to the level of being in violation of the law.
10 If he was, we would push the pause button and we would call
11 the CHP or a neighboring agency to come and handle the
12 investigation, but that this was going to happen.

13 Q BY MR. MILLER: You say he wasn't a suspect?

14 A At that particular time, he was an individual
15 who was involved in a collision. It happened to be the city
16 manager, and the supervisor believed he was intoxicated.

17 Q Doesn't that mean that the officer was
18 suspicious?

19 A It does. But, again, what I was doing was
20 explaining to the then city manager what was going to take
21 place, that we were going to conduct an investigation, and
22 that he may have asked to speak to me, but we were going to
23 conduct our investigation. And ultimately it is that
24 investigation and my notifying the District Attorney's Office
25 and requesting them to investigate that led to his ultimately
26 being charged.

1 Q Was the CHP called?

2 A It was not, no.

3 Q Now, if he smelled of alcohol and he crashed
4 his car into a tree, why would he not be given a
5 Breathalyzer, urine, blood test, something like that?

6 MR. COLLINS: Again, relevance.

7 HEARING OFFICER SILVER: Sustained. There's no
8 relevance. I fail to see any connection there. We're on
9 thin ice.

10 MR. MILLER: Because he's the city manager, that's
11 all.

12 HEARING OFFICER SILVER: I thought you were going
13 ultimately to the issue -- I think you referenced earlier,
14 Mr. Miller, there was a slew of testimony by city police
15 officers about whether they notified the Grand Inn management
16 or not after each incident they testified about. I thought
17 you were going to protocol for that or whether it's important
18 or not.

19 MR. MILLER: I'm sorry?

20 HEARING OFFICER SILVER: Notification to a potential
21 property manager or suspect about potential crimes or alleged
22 crimes.

23 MR. MILLER: Are we done with the question of
24 shouldn't they have told Grand Inn about these?

25 HEARING OFFICER SILVER: I was operating under the
26 impression that this was continuing along that. It appears

1 that you are going along under the theory of disparate
2 treatment.

3 MR. MILLER: Yes.

4 HEARING OFFICER SILVER: Or selective enforcement.

5 MR. MILLER: Yes.

6 HEARING OFFICER SILVER: Selective enforcement is not
7 a defense, however, to a public nuisance claim.

8 MR. COLLINS: That's correct. It is a separate action
9 brought under the Equal Protection Clause.

10 MR. MILLER: No. No. No. If there's many -- look,
11 you can't compare things that happened at the Grand Inn with
12 this.

13 Now, let us remove this one really nasty thing
14 that happened at the Grand Inn. We know about that. Take
15 that apart. In my view, my own personal view as a citizen, I
16 hate drunk drivers. I'll remind you my wife was almost
17 killed by one. So I don't think that there's any kind of
18 imbalance here. And when I see the level of attention given
19 to trivia at the Grand Inn and blaming us for the fact that
20 somebody has a warrant on the property, on one hand, and here
21 you have somebody, the city manager, endangering people's
22 lives using a deadly weapon and crashing it into trees, and
23 there's no suspicion, not even to preserve evidence to avoid
24 what the chief says is the fear of conspiracy theories and to
25 preserve transparency. Something is wrong here. I want to
26 know why this would happen.

1 We're focusing on this one incident which
2 wouldn't take long. We've spent more time arguing about it
3 than it would take to get the answer.

4 HEARING OFFICER SILVER: We're arguing about it
5 because of the question of relevance, that's why we're
6 arguing about it. I've sat here and I've overruled several
7 objections. And I'm trying to give you as much slack as
8 possible to continue along this line, which I find to be very
9 tenuous in terms of relationship.

10 Selective enforcement -- unless my
11 understanding of the law is incorrect, selective enforcement
12 is not a defense to a public nuisance claim. So I don't see
13 a relevance here.

14 MR. MILLER: Selective enforcement actually is a
15 defense.

16 HEARING OFFICER SILVER: Discriminatory enforcement
17 is.

18 MR. MILLER: Okay. There you go.

19 HEARING OFFICER SILVER: Choosing where to begin, even
20 if that choice may be incorrect or something, is not.

21 MR. MILLER: No. No. I know that. I know you have
22 to start somewhere.

23 HEARING OFFICER SILVER: I think that is the theory
24 behind it.

25 So let's move off of Mr. Felz's DUI. If
26 there's a discussion to be had about how the city

1 investigates something or why they investigate it, perhaps
2 that's different. But as to Mr. Felz's alleged DUI or
3 whatnot, that is a separate issue, and we are off that.

4 Q BY MR. MILLER: Is it the norm at a crime scene when
5 there is evidence that has -- that by its nature is
6 impermanent, that the police officer is supposed to take
7 measures to preserve it?

8 A I'm sorry, can you repeat that?

9 Q Yes. Would you read it back, please.

10 A Maybe I could ask you to rephrase it because I
11 didn't understand what you were asking me.

12 Q Sure. Is it the norm at a crime scene when
13 evidence is impermanent for the officer in the field to make
14 efforts to preserve it?

15 A It would be normal procedures for them to do
16 that if they believed the crime had taken place.

17 Q Why wasn't it preserved in this case?

18 A In which case, sir?

19 Q The Felz case.

20 MR. COLLINS: Objection. I thought we were moving
21 past the Joe Felz incident.

22 HEARING OFFICER SILVER: We are moving past that.

23 MR. MILLER: I'm done. Wait. One second.

24 HEARING OFFICER SILVER: Any further questions?

25 MR. MILLER: No.

26 HEARING OFFICER SILVER: Thank you. Mr. Collins.

1 MR. COLLINS: Yes, several questions, please.

2 ^CROSS-EXAMINATION

3 BY MR. COLLINS:

4 Q Mr. Hughes, are you here under the command of
5 subpoena today?

6 A I am not.

7 Q Are you a, quote, unquote, "puppet" of the
8 Renick dealership that operates in the City of Fullerton?

9 A I would hope not, no.

10 MR. MILLER: That's not my phrase.

11 Q BY MR. COLLINS: Are you aware that it has been
12 suggested by the attorneys for the Grand Inn that the Renick
13 dealership is driving this nuisance abatement action?

14 A Only based upon my hearing the testimony of
15 Mr. Renick earlier today. Besides that, I had no knowledge
16 of that.

17 Q Did you hear what Mr. Renick's response was to
18 that question?

19 A I believe I did.

20 MR. MILLER: To what question?

21 THE WITNESS: In terms of whether or not he was trying
22 to purchase the property?

23 Q BY MR. COLLINS: Yes. And act as a driving force
24 behind the city's action to pursue this public nuisance
25 action.

26 A He denied that.

1 MR. MILLER: Wait a minute. No, he didn't. I didn't
2 ask that.

3 HEARING OFFICER SILVER: We're on cross-examination
4 right now.

5 MR. MILLER: Misstates the evidence, misstates the
6 testimony.

7 HEARING OFFICER SILVER: There you go. Do you care to
8 rephrase that question, or, to put it differently, please
9 rephrase the question.

10 MR. COLLINS: I'll withdraw the question.

11 Q Mr. Hughes, in your opinion or in your
12 observation, what is driving the city's motivation to pursue
13 this public nuisance?

14 MR. MILLER: Speculation.

15 HEARING OFFICER SILVER: Sustained. Chief, I will
16 caution you to the extent that you know the answer, please
17 answer. To the extent you do not know, please so respond.

18 THE WITNESS: What's driving it is the unlawful
19 misconduct that's been taking place at the Grand Inn.

20 HEARING OFFICER SILVER: Let me clarify. I did
21 overhear that, Mr. Ross. I understand your point. His point
22 was I sustained the objection and I'm letting him answer
23 anyway. I want to be clear in my position on that.

24 The question calls for speculation,
25 potentially, unless you know. If you know, then please
26 answer. It appears that you're saying that you know and

1 you're answering. If this is simply a guess, then that is
2 not proper.

3 MR. COLLINS: The question asks for his opinion.

4 HEARING OFFICER SILVER: Did it?

5 MR. COLLINS: It did. "In your opinion, what is the
6 driving force behind the city's action?"

7 MR. MILLER: That still asks for speculation.

8 HEARING OFFICER SILVER: If you have an opinion.

9 MR. MILLER: Even more so because an opinion is
10 invariably going to be speculation about this, unless he has
11 knowledge of it, and he's testified already he doesn't. All
12 he did was provide some data.

13 HEARING OFFICER SILVER: We'll do it this way. Chief,
14 do you have an understanding or knowledge of why the city is
15 pursuing this?

16 THE WITNESS: In part, yes, sir.

17 HEARING OFFICER SILVER: Okay. Why?

18 THE WITNESS: In part, it has to do with the criminal
19 conduct that has consistently occurred at the Grand Inn. And
20 despite efforts to try to curb that criminal conduct, it's a
21 location that is not only where criminal conduct is taking
22 place, but is actually drawing in. It's like a magnet for
23 criminal activity. And all efforts to try to curb that have
24 not occurred -- haven't be able to do so. Because the
25 magnitude of not only the amount of crime that's taking
26 place, but the crimes, such as, again, the sex trafficking of

1 a minor, shooting at police officers, holding a classroom
2 hostage from people who are leaving that location,
3 prostitution. And then activity notifying those that are
4 under criminal suspicion at the motel, having the motel
5 employees notifying them that they're under police
6 surveillance and the police officers are there.

7 I believe the totality of that, in terms of not
8 only the police resources but the fire resources, the
9 ambulance resources, but the danger in which this location is
10 providing to the surrounding community, is why the city is
11 moving forward with these allegations -- with this process.

12 Q BY MR. COLLINS: Thank you. Going back to the
13 questions that the Grand Inn's attorneys have proposed to you
14 for the addresses that are reported in the arrest log. Would
15 assaults on police officers at the city's jail facility be
16 reported at the police department's address?

17 A It would.

18 Q Same with the bringing in contraband to the
19 jail; is that correct?

20 A Yes, sir.

21 Q You also mentioned earlier in your testimony
22 that you met with Grand Inn's owner Henry Xie?

23 MR. MILLER: I'm sorry, I can't hear you.

24 Q BY MR. COLLINS: You also mentioned earlier in your
25 testimony that you met with the Grand Inn's owner Henry Xie?

26 A I have.

1 Q Did you make any recommendations to him?

2 A I did.

3 Q What were those?

4 A I made several recommendations to him. I told
5 him that, for whatever reason, that he needed -- his hotel
6 was creating an environment that was attracting criminals
7 there to conduct criminal behavior. And told him that they
8 needed to be much more proactive in terms of engaging with
9 people that were loitering in the parking lots, that were
10 walking the hallways and appeared to be coming and going for
11 very short periods of time, and it was the same rooms that
12 were doing that. That those were consistent with narcotic
13 sales that were taking place there.

14 That he should take a look at reaching out to
15 the rest of the community to let them know that he was trying
16 to work on those issues that many of the neighbors were
17 complaining about. That he should take a look at having a
18 security guard there. Maybe look at fencing, look at
19 lighting. But I think, most importantly, I suggested that he
20 go and speak to other operators of hotels in the City of
21 Fullerton that are not having these type of problems because
22 his hotel is the only one in the City of Fullerton that is
23 having this type of impact on the city.

24 He was very receptive, seemed to be. I've
25 always had a very good relationship with Mr. Xie. Matter of
26 fact, he ended up -- I didn't cash it, but he ended up

1 sending us, the police department, a check, a donation,
2 thanking us for the good work that we had done, and said he
3 would be looking at these actions.

4 I also told him the police -- have his
5 employees call the police when they suspect that there's any
6 type of criminal activity taking place or if they felt there
7 was anything suspicious or suspicious people that were in his
8 parking lot or in his hotel, to call us, and we would be
9 happy to come and help him really resolve this issue. And
10 nothing seemed to change.

11 Q Thank you. Final question. Earlier you were
12 asked questions about a specific online post about a member
13 of the community attributing a statement to you about what
14 they should do in response to the Grand Inn. What did you
15 say to the community that night?

16 MR. MILLER: That misstates the testimony. That event
17 was about this hearing -- that online post was about this
18 hearing, and he said he wasn't at that hearing.

19 HEARING OFFICER SILVER: Okay.

20 MR. MILLER: So what did he say to the community that
21 night? He didn't say anything that night. He already
22 testified to that.

23 HEARING OFFICER SILVER: Do you understand the
24 question?

25 THE WITNESS: Actually, I do not.

26 HEARING OFFICER SILVER: Okay. Mr. Collins, let's

1 rephrase the question, please.

2 Q BY MR. COLLINS: Did you meet with members of the
3 community where the Grand Inn was discussed?

4 A Again, I believe I have done so on at least two
5 occasions.

6 Q What did you tell the community about the Grand
7 Inn, if anything, at those events?

8 A Most of -- again, the Grand Inn was a very
9 small part of this community meeting, and I just explained
10 the process, that the city is going through a process. That
11 there is a public hearing. You're more than welcome to come
12 and share your viewpoints at the public hearing. But most of
13 it was really talking about other issues other than the Grand
14 Inn.

15 MR. COLLINS: Thank you. Nothing further.

16 HEARING OFFICER SILVER: Mr. Miller.

17 MR. MILLER: Yes. Thank you.

18 MR. COLLINS: I'm sorry, are we doing another round of
19 direct? My cross didn't expand the scope at all.

20 MR. MILLER: I think it did.

21 HEARING OFFICER SILVER: I think there was one issue
22 in particular where it did. That's the part where I see
23 Mr. Miller questioning.

24 ^REDIRECT EXAMINATION

25 BY MR. MILLER:

26 Q I have three simple things. One is in response

1 to this question about your understanding or knowledge about
2 why the city commenced this proceeding. You said, "In part,
3 because of criminal conduct at the Grand Inn." What's the
4 other part?

5 A I don't know. I don't have anything to do with
6 the process of when they -- when the city makes a
7 determination to look at a location as a nuisance. I can
8 only tell you from the police department, our aspect was to
9 provide data regarding criminal activity that was taking
10 place there.

11 Q Okay. So, in part, this, and the other part
12 you don't know?

13 A I do not know.

14 Q Okay. Mr. Collins asked you about jail
15 offenses. So at 237 West Commonwealth is a jail?

16 A That is correct.

17 Q How many people can -- what is the normal
18 capacity of the jail?

19 A I believe -- I believe it will hold
20 approximately 20 -- I will just say two dozen, say 24
21 individuals. However, what takes place oftentimes is that
22 because we exceed the capacity, we make several trips with
23 prisoners to the Orange County Jail on a nightly basis to
24 reduce that capacity and then we generally are filling it
25 back up.

26 Q Okay. How common is it for there to be a

1 jail-related crime? What I mean by that is the things that
2 you referred to such as somebody sneaking contraband to a
3 prisoner, things of that nature?

4 A Fairly common, sir.

5 Q Okay. One a day, an hour, a week, a month?
6 Ballpark.

7 A Ballpark, at least once a day.

8 Q Okay. Now, final point. You said that other
9 comparable hotels don't have this level of problem that you
10 perceive at the Grand Inn, right?

11 A That's correct.

12 Q Let me give you two names and tell me if you
13 think that that is the case regarding them. Would you say
14 that the Fullerton Inn is a less troublesome place crime-wise
15 than the Grand Inn?

16 A I would.

17 Q By what factor, if you can give me that kind of
18 an estimate?

19 A Just based upon my experience in Fullerton and
20 looking at the calls for service that we get and looking at
21 the nightly reports from our watch commander about the
22 activities that take place within the city, the Grand Inn
23 seemed to be on that report almost on a nightly basis.

24 Q I'm sorry, that's not my question. My question
25 is --

26 A Sir, I thought you asked me my opinion on why I

1 came to that conclusion, and that's what I was trying to
2 explain to you.

3 Q If I did -- the record will show what I asked,
4 but that certainly wasn't what I had in my head.

5 Is it your understanding, based upon your work
6 as a police chief and police officer at all levels of the
7 department, that the level of crime at the Fullerton Inn is
8 substantially lower than the Grand Inn both in quantity,
9 number of crimes, and quality, seriousness of crimes?

10 A Yes.

11 Q Now, Officer Goodrich -- I'm sorry, Lieutenant
12 Goodrich testified that when we're looking at these hotels,
13 you can't compare a hotel with 200 rooms with a hotel with
14 five rooms. We were talking about events per room, things
15 like that.

16 With the Lucky Hotel, which is small, taking
17 into account that it's a small place, would you say the same
18 thing is true about the Lucky, which is, compared to the
19 Grand Inn, it has much less crime both in quality and
20 quantity?

21 A Yes.

22 MR. MILLER: Nothing further. Thank you.

23 HEARING OFFICER SILVER: Thank you. All right. Chief
24 Hughes, you are relieved. Thank you very much.

25 THE WITNESS: Thank you, sir.

26 MR. MILLER: Thank you very much for coming.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

THE WITNESS: You're welcome.

HEARING OFFICER SILVER: It is 1:10 we'll call it. I think it's about time for lunch.

Jay, let's go off for one second.

(Discussion off the record)

1 Fullerton, California - Monday, April 24, 2017

2 Afternoon Session

3
4 HEARING OFFICER SILVER: We're back on. Mr. Miller,
5 your next witness.

6 MR. MILLER: Yes. Barry Brooks, please.

7 HEARING OFFICER SILVER: Mr. Brooks, please remain
8 standing and raise your right hand. Good afternoon, sir.

9 MR. BROOKS: Good afternoon.

10 ^Barry Brooks,
11 called as a witness by the Grand Inn, having been duly sworn,
12 was examined and testified as follows:

13 HEARING OFFICER SILVER: Thank you. Please have a
14 seat. Please spell your first and last name.

15 THE WITNESS: First name is Barry, B-a-r-r-y, last
16 name is Brooks, B-r-o-o-k-s.

17 HEARING OFFICER SILVER: Thank you, Mr. Brooks.
18 Mr. Miller, your witness.

19 MR. MILLER: Thank you.

20 ^DIRECT EXAMINATION

21 BY MR. MILLER:

22 Q You've got two black books next to you there.
23 There's one that's called volume three. Actually, no. This
24 one is in volume one. Do you have volume one?

25 A I have one and three.

26 Q In volume one there is Exhibit 258.

1837

1 A What was the page number?

2 Q 258. Tab number.

3 A Tab 258. Okay.

4 MR. MILLER: Everybody ready?

5 HEARING OFFICER SILVER: Yes.

6 Q BY MR. MILLER: Have you seen this document before?

7 A Are you asking me?

8 Q Yes.

9 A I'm sorry, I thought you were talking to --

10 Q Mr. Brooks, have you seen this document before?

11 A Yes, I have.

12 Q Okay. And what is it?

13 A It's my curriculum vitae.

14 Q Did you prepare it yourself?

15 A Yes.

16 Q Is everything in it true?

17 A Yes.

18 MR. MILLER: Let me explain to you where we're going,
19 Mr. Silver. Mr. Brooks is going to be our expert on matters
20 of policing. So first I'm going to qualify him.

21 Q Could you recount your education for me,
22 please.

23 A Well, I have a total of seven college degrees,
24 two undergrad degrees, five graduate and postgraduate
25 degrees, which you can see obviously here on the CV. Do you
26 have a copy?

1 HEARING OFFICER SILVER: I do, yes, sir.

2 THE WITNESS: Professional experience goes back about
3 33 years.

4 Q BY MR. MILLER: Let's start with education first, do
5 it piece by piece.

6 A Okay.

7 Q We can go faster if I lead him.

8 You have a Master's --

9 HEARING OFFICER SILVER: Go ahead.

10 Q BY MR. MILLER: From Boston University you have a
11 Master's in criminal justice, right?

12 A Yes.

13 Q From Trinity Law School you have a JD?

14 A Correct.

15 Q You have a bachelor of criminal justice from
16 Salem State University in Massachusetts?

17 A True. Yes. Which makes me a Patriots fan, by
18 the way. Sorry.

19 Q Sorry?

20 A Which makes me a Patriots fan, sorry.

21 HEARING OFFICER SILVER: Congratulations.

22 Q BY MR. MILLER: Okay. And you have these other
23 ones?

24 A Yes.

25 Q And would you recount for us, please, your
26 professional experience.

1 A Professional experience in criminal justice
2 system spans about 33 years starting back in '81, Army
3 military police, military intelligence. Worked the SWAT
4 team, and I was a sheriff back in Massachusetts for a little
5 while, became a US Marshal. I was planning on staying there.
6 Fate would happen to bring me to California in '88 where I
7 was hired by LAPD. Spent the next 25 years working in a
8 myriad of assignments, including a lot of gangs, narcotics,
9 investigated a lot of homicides through my career. I did
10 promote to sergeant in '96, detective later on.

11 I have worked corruption task force, such as
12 the Rampart task force. I've also spent time working in the
13 abused child unit. Also I've worked with FRIS (phonetic)
14 conducting nuisance complaints.

15 Q Okay. Anything else? You can refresh your
16 recollection by looking at your document.

17 A Did you want me to get into my teaching?

18 Q Let's do professional. For instance, what did
19 you do for the defense department?

20 A I was on a one-year contract to work with
21 special forces to teach them how to identify Taliban hiding
22 among the population, especially in Afghanistan, what they
23 are masters at doing. I had to instruct them on
24 methodologies such as biometrics, atmospheric, things which,
25 as a police officer, you get an understanding for how to read
26 people very quickly or you die. This is important in the

1 field of where people are trying to kill you and hiding among
2 the population.

3 So I helped write that curriculum at the
4 Pentagon that was called the Comet Hunter program that was
5 taught to any Marine going into combat theater. I went
6 around the world teaching that, Okinawa or Hawaii, the lovely
7 29 Palms, all over the place.

8 Q And what did you do for the California Supreme
9 Court?

10 A I was working for the office of trial counsel
11 investigating complaints made against attorneys, prosecutors,
12 sometimes judges. And we had our own trial on the seventh
13 floor where we prosecuted those that we thought violated the
14 State Bar Act, B&P Codes and other relevant ones.

15 Q What about the United States Marshals Service?

16 A Marshals Service was very interesting. I
17 started there as an intern and then they hired me to work the
18 asset and forfeiture division which I did for about a year.
19 I was about to go to FLETC, the Federal Law Enforcement
20 Training Center, when fortuitously I got a call from a friend
21 in California, came to LA, happened to take the exam for
22 LAPD, got hired on the spot. Moved 3,000 miles and joined
23 LAPD with a couple suitcases in my hand.

24 Q Now, I realize we're going backwards in time
25 here. What about the Essex County Sheriff's Department?
26 That's in Massachusetts, right?

1 A Yes. That was mainly working in jails back in
2 Massachusetts, not like California. California sheriffs tend
3 to patrol unincorporated areas of the county. Back there
4 it's not true. They mainly just take care of prisons and
5 transportation of prisoners, and that's mainly what I did.

6 Q Okay. And then finally, the National Guard.

7 A Six years military police investigating crimes
8 in the federal installations. I also worked the Boston
9 Marathon every year. In fact, it was the spot I normally
10 worked where the bombing went off.

11 Q Sorry, you worked that spot?

12 A Yeah. I was assigned that same spot for six
13 years.

14 Q But not that day?

15 A No. This is going back to the eighties. We
16 did events like that. We did hurricane evacuations, things
17 like that.

18 Q Would you say you have a very broad experience
19 in the range of police work?

20 A Police work as well as other field -- judicial
21 field, correction field.

22 Q Okay. It says you have some teaching
23 experience. Would you tell us about that, please.

24 A I started teaching after I got my first
25 Master's back in '96 at the LA Community College system and
26 taught business law, contracts and some criminal justice

1 courses. Then I moved up to the four-year institutions,
2 mostly private ones because when you're working patrol, it's
3 hard to work a 15-week semester like at a Cal State because
4 any month you could be bumped from day watch to night watch.
5 When you're in the middle of handling a 15-week semester, you
6 can't afford to get bumped to another shift and just cut out
7 your class.

8 The private schools tend to run more compact
9 classes, five to six -- five weeks for undergrads, six weeks
10 for master level courses, so I mainly stuck to those. I did
11 work up to graduate level, and even doctorate and PhD level
12 work that I was teaching. I sat on a PhD decision committee
13 for about five years. I also have written curriculum for
14 different universities that has been taught all over the
15 world.

16 Q Okay. Tell me about Ashford University.

17 A Ashford is mainly military or paramilitary.
18 They're a pretty big school. I'm not sure what the total
19 number of students are. I teach their Master's in homeland
20 security and their Master's in criminal justice course. I am
21 currently teaching three courses there right now, which is
22 cyber crimes, insider threats and terrorism, and
23 constitutional law.

24 Q You have something coming up at UCLA in the
25 fall it says?

26 A Yeah. I have a friend of mine who works for

1 the president of the UC system. He's in charge of all 11,
2 UCLA. He teaches over there. He got me on the schedule to
3 teach a fall class in homeland security starting in
4 September.

5 Q Okay. And then you've done curriculum
6 development?

7 A Yes. As I say, I've developed probably a
8 couple Master's level ethics class, meta-ethics,
9 deontological, teleological, ontological, applied ethnics,
10 especially when it comes to law enforcement. And I've also
11 sat on the POST committee, Peace Officers Standards in
12 Training, which is responsible for regulating law enforcement
13 in California and for giving training. I've sat on several
14 committees for them in guidance. I was put on there by the
15 Governor's Council, working on issues of critical thinking
16 because of all the bad shootings the last couple of years.
17 I've been on a few other. I just testified at a hearing
18 concerning Black Lives Matter down in Oceanside in front of
19 the ACLU and city council.

20 Q It says you've worked as an expert witness.
21 How many times have you testified as an expert?

22 A Criminally?

23 Q In all. Why don't you divide it criminally and
24 other.

25 A Criminally, I'm a court qualified expert in the
26 Superior Court State of California for 20 years as a

1 narcotics expert in packaging, handling, sales, under the
2 influence, 11550 H&S. Gang, I'm an expert, recognized expert
3 in gang, everything associated with gang from paraphernalia
4 to the way they operate systemically. Also an expert in
5 ethics, especially when it comes to police corruption.

6 I just wrote a book that's coming out in two
7 weeks nationally. It will be in Barnes & Noble in two weeks.

8 Q What's the name of it?

9 A It's called "The Sin Blue Line." It's about
10 corruption in law enforcement.

11 Q The Thin Blue Line?

12 A "Sin Blue Line."

13 Q Sin Blue Line.

14 A Play on words.

15 Q Got it. Have you testified as an expert in
16 civil cases?

17 A Administrative civil?

18 Q Or legal or judicial, anything.

19 A Grand juries. But civilly, not civilly as an
20 expert. I have done administratively, yes.

21 Q How many administrative cases?

22 A 20, 25.

23 Q Okay.

24 A Parole hearings, probation hearings and all of
25 that stuff.

26 Q Have you testified in court as a percipient

1 rather than expert witness?

2 A Of course.

3 Q How many times?

4 A At least a hundred.

5 MR. MILLER: Okay. Mr. Silver, I move that Mr. Brooks
6 be recognized as an expert in police work and in the criminal
7 justice system from a policing point of view.

8 HEARING OFFICER SILVER: I don't anticipate there's an
9 objection to that from Mr. Collins.

10 MR. COLLINS: No.

11 HEARING OFFICER SILVER: All right. Absolutely.

12 MR. MILLER: Thank you.

13 Q Mr. Brooks, thank you very much for coming
14 today.

15 A You're welcome.

16 Q Do you have much experience with crimes
17 occurring at hotels?

18 A Sure. Yeah.

19 Q Would you agree or disagree with the notion
20 that from time to time odd and aberrant events occur at every
21 hotel?

22 A I think that's the nature of things, causation.

23 Q So it's a yes?

24 A Yes.

25 Q Okay. Are you familiar with the neighborhood
26 of the Grand Inn?

1 A I've been there once.

2 Q Okay. Now, I want you to accept my
3 representation, which is in one of the exhibits we gave you
4 today, Mr. Silver, that the Grand Inn has 59 rooms.

5 A So noted.

6 Q So noted. Thank you.

7 According to the city, the Grand Inn is in the
8 middle of a high crime area.

9 And you find that, Mr. Silver, on page 1592 of
10 the transcript, lines 1 to 23. That's just sort of
11 background to set up the rest of the testimony.

12 Are you familiar with the problem of child
13 trafficking?

14 A Yes.

15 Q And how would you define it?

16 A You mean numerically or --

17 Q No. What does it mean?

18 A Child trafficking? Some definitions vary from
19 state to state or under the Mann Act, but generally it's
20 prostitution of juveniles or sometimes the trafficking part
21 can be moving them around, even out of the country at certain
22 points in time.

23 Q Usually under the control of someone else?

24 A Of course. Either a pimp or -- from my
25 experience, normally they take them and get them under the
26 control of a narcotic substance. That's the way they get to

1 them, so they are -- they need narcotics. Basically they
2 become a junkie, and that's how they control them.

3 Q So what experience have you had with this
4 problem of child trafficking as a police officer?

5 A As a police officer, it's not uncommon to get
6 calls from the Department of Children and Family Services and
7 other services to go to locations where these things have
8 happened. Removing children from their homes, and also in
9 the field having to deal with, just as a police officer,
10 getting these type of calls.

11 I also worked the abused child unit out of the
12 Wilshire Division where I would handle the type of calls that
13 were very -- they're very hard to handle, you know.
14 Everything from parents, you know, tying up their children,
15 leaving them in basements, to, you know, children just -- I
16 had one guy rape his own two-year-old daughter, things like
17 that, just pretty bad.

18 Q Okay. And you told me something about a father
19 and his 11-year-old daughter.

20 A Yeah. One case we had I think it was either
21 the Marriott or the Hilton down by LAX on Century Boulevard,
22 running a task force down there, and we had one father who
23 was prostituting his 11-year-old daughter.

24 Q Okay. Thank you. Now, we had testimony the
25 first day of the hearing from Officer Angela Bennett of the
26 Huntington Beach Police Department on this subject. I'm

1 going to read you three questions and answers from that
2 examination. I want you to tell me for each answer if you
3 agree or disagree, okay?

4 A Okay.

5 Q "QUESTION: Is child trafficking of this
6 nature, underage prostitution and posing and whatever these
7 minors are subjected to, a common event, relatively speaking,
8 in hotels?

9 "ANSWER: Yes."

10 Do you agree?

11 A I agree.

12 Q "QUESTION: That happens a lot, right?

13 "ANSWER: A lot."

14 Do you agree?

15 A Yes.

16 Q "QUESTION: In the best hotels and in the worst
17 hotels, right?

18 "ANSWER: Yes."

19 Do you agree?

20 A Yes.

21 MR. MILLER: Mr. Silver, this is found on page 67.

22 HEARING OFFICER SILVER: Thank you.

23 Q BY MR. MILLER: Now, what would you conclude about
24 the Grand Inn if I told you it had exactly one instance of
25 child trafficking for one night in the space of six years, no
26 more, no less?

1 A I would say that is a statistical anomaly.
2 They are way ahead of the curve as far as other similarly
3 situated hotels. I would think there would be a lot more.

4 Q Okay. Now, moving away from child trafficking
5 into prostitution, which is the normal adult type of
6 prostitution. Are you familiar with whether prostitution is
7 or is not a common problem at hotels?

8 A It is.

9 Q Okay. How do you know?

10 A I've dealt with it many times working vice. We
11 had prostitution tasks forces. We did reverse stings
12 sometimes. We'll grab the johns of the prostitutes. And
13 many times it happens at hotels, motels. Some of the cheaper
14 ones you pay by the hour. Some of the more expensive ones,
15 you charge more money. It happens pretty much at any hotel
16 or motel.

17 Q Now, I want you to assume that except for the
18 single incident of child trafficking that we discussed, there
19 has been no arrest for prostitution in the six years -- in
20 six years at the Grand Inn, and I want you to assume further
21 there are no hourly rates at the Grand Inn.

22 A Okay.

23 Q What does this tell you about the Grand Inn?

24 A It tells me there is no prostitution going on
25 there.

26 Q Is that unusual or usual?

1 A It's unusual for a motel -- well, probably a
2 motel and a hotel, because, from my experience and my
3 training, there's usually some going on at even the best
4 hotels.

5 Q And would your answer -- how would you modify
6 your answer if I told you that there was no arrest for
7 prostitution at the Grand Inn in the six years despite an
8 active police presence?

9 A I'd say it's a pretty amazing record.

10 Q Okay. Thank you. Now, the city -- you were
11 here for the earlier witnesses this morning, right?

12 A Yes.

13 Q So, as I explained I think to the chief, the
14 city's presentation is really focused on the year 2015.
15 Almost all of the crimes that it has presented occurred in
16 that year.

17 Now, if I told you that in that year of 2015
18 there was no sexual assault, no domestic violence, no child
19 abuse, no child endangerment, no firearm use, no firearm
20 threats, no other violent crime at the Grand Inn. What does
21 that tell you about the Grand Inn, if anything?

22 A You're saying for the year 2015?

23 Q Yes.

24 A I'd say that they're doing a great job of
25 keeping people out of there that would do those things.
26 Those are the crimes that actually do occur at hotels, the

1 ones you just named. Those are the ones you usually do see.
2 If there's an absence of those going on there, I think
3 that's -- again, from my experience, that's way better than
4 any hotel or motel I've ever seen or worked with.

5 Q Now, compared to what the city has referred to
6 as budget motels in general?

7 A Sorry, one more time.

8 Q This record I just gave you, no arrests for
9 prostitution, sexual assault, domestic violence, child abuse,
10 child endangerment, firearm use, firearm threats, other
11 violent crime, despite a heavy police presence, how does that
12 compare to other facilities in the budget motel category?

13 A Well, it's excellent. Again, budget motels
14 tend to have more prostitution because they're also the ones
15 that tend to generally rent by the hour, so you have more of
16 the lower class street hookers going in and out of there a
17 lot. So, from my experience working vice, a lot more
18 prostitution in budget-type motels. If you are comparing the
19 Grand Inn to that, and they don't have any arrests for that
20 year, I would say that's absolutely phenomenal for them.

21 Q Thank you. Do you think it's helpful for a
22 hotel to have a no-rent list to prevent known troublemakers
23 from renting rooms there?

24 A I think it's a good policy because it's one of
25 the few things that an owner or manager of a hotel can do
26 progressively to try to limit the amount of bad apples that

1 might come in. You're limited. I don't really agree what
2 the chief testified to earlier about having to run everybody
3 for warrants that come in. You can't do that.

4 Q Let's just digress. Why not?

5 A Because, first of all, you'd have to -- I think
6 there might be privacy issues there. Everyone who comes in
7 and says, "I'd like a room." Are you going to take a
8 thumbprint? Are you going to ask them their name, ID, date
9 of birth, CIA number, enter the system in the Sheriff's
10 Department? Assuming it was an Orange County warrant anyway.
11 Warrants come from all kinds of counties, from out of state,
12 anywhere. I don't think customers are going to like that.
13 Probably a bad customer service policy. And then there are
14 probably a lot of violations there as far as their rights are
15 concerned. Then you're going to have the issue of who it is.
16 They probably would be pretty upset with the fact that
17 they're being run for wants and warrants just because they're
18 trying to check into a motel. I think there would probably
19 be some discrimination there, too.

20 Q Let me tell you two things that have come up in
21 prior testimony. One is that the Grand Inn does look at
22 drivers' licenses.

23 A Um-hmm.

24 Q Okay. Second, the city is concerned not just
25 with Orange County warrants but national warrants, a warrant
26 from some other state, too. So, given that, how feasible is

1 it for the hotel to know that people have warrants?

2 A It's not feasible. I mean, if you're trying to
3 run a business, take any other business, and try -- any
4 customer that comes into your business, whether it be car
5 repair or whatever, and you're going to automatically run
6 them to see if they have warrants. It's just not feasible to
7 do. Plus the Orange County website happens to be down an
8 awful lot, and it's not that user friendly.

9 Q I'm sorry, it's not what?

10 A It doesn't work very often. I've been on it
11 quite a lot. I don't think it's practical, and I think you
12 might have some legal issues with doing that.

13 Q Okay. Now, let us suppose that we have a
14 police department that is -- has a substantial presence at a
15 particular hotel and it thinks that there's a substantial
16 amount of crime there and it wants the management of the
17 hotel to do what it can to reduce crime.

18 Would you anticipate that that department would
19 tell hotel management of the identity of people it arrests
20 on-site for matters such as drug possession, paraphernalia
21 possession, outstanding warrants, and so on, so it can put
22 those people on a no-rent list?

23 A Your question is should the police department
24 tell the management of the Grand Inn about these people?

25 Q That is my question.

26 A Okay. Well, yeah, it's called community-based

1 policing.

2 Q Community-based policing?

3 A Yes. I was there at ground zero for Rodney
4 King, and I saw what not working with the public and
5 community can do. One of the things that came out of that
6 were SARA projects in which the community, whether it's
7 residential or commercial properties, the police normally
8 have a liaison or a senior lead officer. So the officer
9 themselves who may stop somebody in the parking lot with a
10 warrant may not be the one contacting the Grand Inn, but
11 there should be someone, probably a senior lead officer or a
12 sergeant, a liaison with the community, that should be
13 working with them hand to hand. This goes all the way back
14 to Robert Peel 200 years ago working with the community with
15 this concept.

16 Q You mentioned SARA project. What's that?

17 A Scanning, analysis, resource and advancements.
18 It came out of comstat which was brought by Chief Bratton up
19 to LAPD, along with the CAD unit. I've seen printouts of the
20 CAD unit today. We had printouts somewhere around here of
21 the CADs. The CAD unit came with comstat, which also came
22 out the same time the SARA project came out.

23 It's a tool to be used by the police when there
24 is a problem in an area. I'll give you one example I did.
25 We used to have gang members should out the streetlights with
26 BB guns so they could deal methamphetamine and cocaine in the

1855

1 darkness. So I wrote SARA project on it, and I got street
2 maintenance to come out and put screen mesh over the light so
3 they could no longer shoot it out.

4 I would write up a SARA project, and it might
5 go to wherever the appropriate resource is, in-house, out of
6 house, but it gets done. It is generated from the officers
7 that became aware of the problem, and it is passed up the
8 chain of command and it goes to the various resource it needs
9 to go to to fix the problem.

10 Part of policing is thinking outside the box.
11 You have all these agencies out in the city that are there to
12 help you, traffic control, street maintenance. You can use
13 all those resources to help.

14 If you've got a situation like this with the
15 Grand Inn where if there is even a perceived problem, the
16 police must work with them. It's their duty to do it. I
17 imagine according to the mission statement, the core values
18 of Fullerton PD, it is probably in their somewhere, working
19 in partnership with the community.

20 Q So what would it tell you about the Fullerton
21 Police Department if it almost never tells the Grand Inn
22 management about troublesome people on the property?

23 A Tells me two things. Either they're negligent
24 or they're just not doing it for a specific reason, because
25 they don't want them to know.

26 Q Okay. Now, if a person with an outstanding

1 warrant is on Grand Inn property, did that person have an
2 outstanding warrant before arriving at the Grand Inn?

3 A They would have to because warrants come from
4 the court, and they are generated, and they take time to be
5 sent. So, yeah, up to 24, 48 hours they would have had the
6 warrant before they even stepped foot on the property.

7 Q When they leave the Grand Inn, they still have
8 the warrant, right?

9 A Unless they're arrested.

10 Q Right. Or if they've got meth in their
11 pockets?

12 A Yeah. They have it regardless of the location.

13 Q Right. So if this person goes to -- this
14 person with a warrant goes to McDonald's, is McDonald's at
15 fault for having a person on-site with a warrant?

16 A No.

17 Q Okay. Whose job is it to ensure that there are
18 not many people in Fullerton with outstanding warrants?

19 A I think it's a combination. It's usually the
20 police. I think that the court system would take a little
21 bit of responsibility, since they are the ones who issue the
22 warrants. I think once the warrants are issued and people
23 are coming into the city with those warrants, then, you know,
24 it's up to the police. They can't read minds, but aggressive
25 policing, you're stopping people and interviewing them. And
26 if you have probable cause, you run them for warrants. You

1 find them. You take them to jail. I would say probably 90
2 percent police department and ten percent the court system.

3 Q Thank you. You ever heard the term call for
4 service?

5 A Yes.

6 Q Okay. Now, here's how it's been defined at
7 this hearing. I'm not asking you if you agree with this
8 definition, but I just want to know if you understand it,
9 okay?

10 "A call for service is," quote, 'any police
11 activity,' unquote, including an officer-initiated
12 activity" -- I'm sorry. "Including an officer-initiated
13 inquiry of a person who it turns out has no record and has
14 committed no crime." Do you understand?

15 A I understand.

16 Q Okay. Now, with this definition. Are calls
17 for service a valid criterion for determining if one location
18 is more of a problem than another from a policing and crime
19 oriented point of view?

20 A Absolutely not.

21 Q Okay. Why not?

22 A Calls for service in themselves really mean
23 nothing. It just means a police officer may have gone there
24 and gotten on the radio went code six and met at the
25 location. Departments can saturate a location.

26 I'll give you an example. After 9-11 I was

1 tasked with going through my division at LAPD and finding
2 critical infrastructures and places that terrorists might
3 attack. Identified a half a dozen of them, including a
4 couple of synagogues, bridges. Those went on extra patrol
5 list, and then those areas were saturated by the police for
6 the next couple of years. I mean, thousands of patrol checks
7 on this.

8 So here you have a location. There's no
9 criminal activity going on, but they all have thousands of
10 calls for service at the location. So, if you look at that,
11 it's a total misnomer.

12 Q I see. Thank you. So I want you to assume in
13 the next question that all the crimes are the same. We're
14 not looking at, well, are they felonies or misdemeanors?
15 Whatever they are. They're all, let's say, misdemeanors.

16 With the definition of calls for service I gave
17 you, which is worse, a location with many calls for service
18 but few crimes or a location with few calls for service but
19 many crimes?

20 A Did you say which one is worse?

21 Q Yes.

22 A The one with more crimes than calls for
23 service.

24 Q Why?

25 A Because crimes are crimes. I mean, whether
26 it's misdemeanor or felony, they generally take up resources.

1 They're blights on communities. And it can range anything
2 from narcotics to murder. But calls for service, again,
3 oftentimes just mean an officer was flagged down by a citizen
4 maybe wanting directions, just stopped there for a moment and
5 talked to somebody. So calls for service are not a good
6 variable to measure what's going on at that location.

7 Crimes, however, are much more because
8 people -- we don't want people to be victim of crimes. If we
9 have a location where there is a lot of criminal activity
10 going on, then we have to analyze that. But calls for
11 service I would say are not a good measure or barometer of
12 what's going on at a location.

13 Q Now, I'm going to ask you a question that has
14 some complexity to it.

15 A I think I can handle it.

16 Q I think you can, too. That's for the benefit
17 of the rest of us.

18 Now, do you see any significance -- I'm going
19 to give you an example. Do you see any significance in the
20 following measurement: The number of criminal incidents at a
21 place divided by the number of calls for service? So, for
22 example, at location a you have eight criminal incidents and
23 ten calls for service. So crimes divided by calls for
24 service is point eight.

25 At location b there are four criminal incidents
26 and 20 calls for service. So there's four divided by 20

1 gives us a --

2 A Point two.

3 Q Point two. Thank you.

4 Do you see any significance in looking at that
5 kind of measurement?

6 A Well, the significance is on the first -- a was
7 your first hypothesis.

8 Q Eight to ten.

9 A Yes. You have eight criminal activities out of
10 ten calls for service. That's a very high correlation. It's
11 almost a one-to-one correlation. So that would be more
12 concerting to me, that being a location that's more apt to
13 have criminal activity take place on it.

14 The second one, b, was --

15 Q Four to 20.

16 A Four to 20 ratio.

17 Q Point two.

18 A Point two, or 20 percent of the time calls for
19 service, one out of five, you would have criminal activity
20 going on. That is a much better statistic of less crime
21 going on at that location than a.

22 Q Okay. Thank you. Have you done any analysis
23 of calls for service by the Fullerton Police Department at
24 the Grand Inn?

25 A Yes.

26 Q Now, would you take a look, please, at Exhibit

1 Number 259. What is this, 259?

2 A That's a document that was authored by me.

3 Q What is it?

4 A Okay. It's a statistical analysis of call
5 loads or calls for service and dispositions that went on at
6 the Grand Inn also known as 1000 Euclid Avenue.

7 Q Okay. And what was your purpose in doing this?

8 A Well, the contention is by the city that this
9 is a place, an establishment that is a nuisance, so I wanted
10 to establish one way or another statistically if that was
11 beared out by the facts. So I developed a hypothesis which
12 was the Grand Inn is a nuisance and can be verified
13 statistically. I also developed another hypothesis which is
14 the Grand Inn essentially is not a nuisance beared out by the
15 statistics that were given to me.

16 The important part here in the methodology is I
17 used a random analysis. So I didn't want to have any
18 cognitive bias in the selection of calls. Okay. So there
19 can't be anybody saying you only picked a certain time or
20 date when there's less. So I used randomness. I went to the
21 city. I went to the CAD officer at the city.

22 Q What is CAD?

23 A Crime analysis detail. They track all crimes.

24 I thought about -- I said I want something
25 that's rather -- this is June, I believe, or July of last
26 year. And I want something rather recent, and I want a

1 90-day period. I felt 90 days was long enough to establish a
2 pattern. 30 days I didn't think was enough because you have
3 anomalies, things that happen on patrol. So I asked him for
4 a 90-day period of all calls to that address, 1000 South
5 Euclid. I received that in about a week. Then I went to
6 work examining them, breaking them down into variables and
7 into independent and nondependent variables, and then I
8 looked at the cause and effect relationship.

9 Q What period did you end up focusing on?

10 A Again, I left this in the hands of the
11 Fullerton Police Department, but what they gave me, the
12 inclusive dates were June 14th, 2016 to September 6th, 2016.

13 Q And that --

14 A That is 84 days all together. I asked him for
15 90. I got 84. I'm happy.

16 Q Okay. And what did you find out about calls
17 for service?

18 A The calls -- in what context?

19 Q How many were there?

20 A The total calls for service I believe were 57.

21 Q Okay. Now, how many of those, if any, seemed
22 to have occurred off-site?

23 A Hang on. I wrote this almost a year ago.

24 Q Of course. You might want to refer to the
25 bottom of the third page.

26 A 17 calls for service, listed as --

1 THE REPORTER: I'm sorry, you have to slow down a
2 little bit.

3 THE WITNESS: I apologize.

4 MR. MILLER: A little louder, too.

5 THE WITNESS: I'm sorry, I was looking down when I was
6 reading. This is a little hard for me to read. It should be
7 like 12 font or 14 font.

8 Let me go back. I'm reading from the bottom
9 here. It says -- this is my writing. 17, which means 17 of
10 the calls for service, are listed as traffic stops, ped
11 stops, or bike stops. And then further I wrote, "It is
12 statistically likely that many of these calls for service
13 were not on the actual property of the Grand Inn, but
14 occurred on a sidewalk or an adjacent street or easement of
15 the Grand Inn."

16 Q BY MR. MILLER: Leaving 40, right?

17 A Leaving a total of 40.

18 Q Which is --

19 A Out of the original 57.

20 Q 40 out of 84 days would be a little less than
21 one every two days, right?

22 A One call for service, correct.

23 Q Okay. Let's go back -- explain to me now what
24 did you discover about these calls for service? And if
25 you're not sure where I am, you might want to look at the
26 next page, fourth paragraph starting with the word

1 "moreover."

2 A And your question was, I'm sorry?

3 Q What else did you discover in your analysis
4 with regard to the nature of these calls for service?

5 A Well, just to briefly summarize. When calls
6 for service go out, whether it's initiated by a police
7 officer or citizen or dispatch, they eventually have to be
8 cleared. In other words, the officer that gets to the scene
9 has to say an arrest. It has to be dispositioned at some
10 point in time.

11 Here we have 57 calls for service, but the
12 important part is what happened? What did the officer find?
13 And that comes under the list in the CAD of clear, which is
14 another word for disposition of the call, what happened.

15 So, when I looked at that, I said, for example,
16 "The aforementioned cleared by disposition of calls for
17 service indicates 32 dispositions by the police officers on
18 the scene at the Grand Inn." That's a big number. 32 out of
19 the 57 calls would be cleared other, which means nothing
20 going on here. No crime, nothing, you know, occurred. It
21 also would lead to the conclusion that there is a lot of
22 selective policing going on at the location.

23 Q Please explain what you mean by that.

24 A It's not unusual if there's a location that the
25 powers that be, the command staff, the higher-ups have deemed
26 to be either selected for specific extra let's say attention

1 by the police. Motivations do vary from political to simply
2 other motivations.

3 So, when that happens, an order comes down.
4 This is generally a common procedure across law enforcement.
5 It can come from politicians, can come from the mayor, can
6 come from the chief, but the order comes down to patrol and
7 then goes out to all the watches where they give an order and
8 they give a location. And they say, this watch, day watch,
9 night watch, grave watch, we want you to go out there and hit
10 this location for whatever reason. Those officers, when they
11 hit that location and they go by there -- the individuals
12 drive the parking lot, they write on the log extra patrol,
13 and they write that they were there and then they log it. It
14 goes to the computer through the MBC's and it comes up as an
15 actual disposition, even though they were just driving
16 through the parking lot and doing extra control.

17 Q So that's a call for service?

18 A It's a call for service. As long as it is
19 communicated to dispatch or the officer uses his computer
20 button to hit at scene.

21 Q Now, what proportion of calls for service
22 were -- first, before I get to that. Let's suppose there is
23 a traffic accident on Euclid Street. Two cars coming the
24 opposite direction collide with each other right in front of
25 the Grand Inn. What address would typically be recorded as
26 the location of that call for service when the officer

1 arrives?

2 A Well, there's three ways they can do it.
3 Normally the officer would give the hundred block where they
4 are. "I'm at 1000 block South Euclid." Sometimes they'll
5 use two cross streets. "I'm at Euclid" and whatever the next
6 closest main street is. Or they might use the location. For
7 example, if it's a very well known location, code six at the
8 police station or the substation. They may actually use, you
9 know, the actual building, or whatever it may be. But
10 normally you give the actual block where you are on that
11 street. So if an accident occurred out in front of 1000
12 South Euclid, say, "Show me at traffic investigation at 1000
13 South Euclid." And that would generate the call which would
14 show another call for service at that location.

15 Q Now, do you perceive a distinction between
16 calls for service that result from a communication from, for
17 lack of a better word, headquarters on one hand --

18 A Communications division.

19 Q -- and an officer-initiated incident on the
20 other?

21 A Do I distinguish those?

22 Q Yes.

23 A Yes.

24 Q Okay. And what, if anything, did you discover
25 in your study at the Grand Inn regarding the relative
26 proportion of those two types of calls for service?

1 A Well, statistically, when I looked at
2 everything, 86 percent of the calls for service were officer
3 initiated.

4 Q Okay. And if we look at figure one, which is
5 on page six, we have a pie graph, and officer-initiated calls
6 are 49 and dispatch or citizen calls are eight, right?

7 A I see it.

8 Q And what does this relative proportion of calls
9 tell you, if anything?

10 A Well, it's unusual in that most locations --
11 it's unusual to have a higher rate of officer-initiated calls
12 to a location than you would from a dispatch or from a
13 citizen flag down.

14 The overwhelming statistic here is that 86
15 percent of calls are initiated by the officer are basically
16 telling me that officers have been given the order to go by,
17 go through, stop at this location whenever and however
18 possible.

19 Q And how unusual would it be for this type of
20 distribution to occur naturally without having had such an
21 order?

22 A Well, from my experience, locations like this
23 generally range in the 15 to 20 percent officer initiated,
24 and that's kind of high, actually. So it's way out of
25 correlation with the normal statistics for a location.

26 Q So your conclusion is?

1 A My conclusion is that somebody gave the order
2 for these officers to go and saturate the area. Now, I can't
3 speak as to the motive of it, but it looks to me like, you
4 know, someone -- officers don't do this on their own. They
5 don't wake up one day and go, "Hey, I think I'm going to
6 spend every single day of the shift at the Grand Inn because
7 the food is great," whatever. Even watch to watch.

8 One thing I noticed, too, was that whatever
9 watch it was, day watch, night watch, there was systematic
10 calls for service going on. So it wasn't just like night
11 watch had a problem with it. Day watch was. So this is
12 systemic through all of patrol that was going on. This is
13 not something officers generally do on their own. They're
14 given instructions to do this. I've seen it before. I've
15 done it, okay?

16 As far as when you get an order, you don't
17 question it. They tell you to go to this location. You may
18 not know what the motive is behind it, but you follow orders.

19 Q Okay. Thank you. Now, if a police department
20 wants to maximize the number of calls for service at a
21 particular location, how hard or easy is it to do that?

22 A It's easy. As I said, as we see in this pie
23 graph here, most calls are initiated by an officer. This is
24 when officers are in between calls, not handling anything
25 else. They generally have free time to throw at areas that
26 need extra patrol. So the fact that it got this much

1 attention -- in fact, the one time I went to visit it, there
2 was a police officer in a car sitting in the parking lot just
3 watching people come and go, stopping people that were
4 walking through the parking lot or just going in to rent a
5 room. So it seemed like there's police presence there all
6 the time. To me, that's -- you know, that's something that
7 is not done by accident.

8 Q Okay. Thank you. If you could turn back to
9 the second page of the report, the first page after the
10 cover. You list a series of dependent variables. Then on
11 the next page you have a list of independent variables.
12 Would you lead us through these and explain what they mean,
13 please.

14 A Independent variables and dependent variables
15 are cause and effect essentially. They affect each other.
16 Without a call for service, a dispatch call, you can't have a
17 disposition of the call. So, in themselves, they are cause
18 and effect.

19 The categories I took off the CAD sheet were
20 the independent variables. So this is what happened.
21 Reports were taken. This was other agency, checked okay,
22 citation. Assisted NRD, I'm assuming no report or something.
23 I'm not sure what that is.

24 Q NRD stands for no report -- what does it stand
25 for?

26 A We have NRP -- no report taken, NRT. NRD I'm

1 assuming would be the same thing. I'm not sure.

2 Q Okay.

3 A Driver warned, unable to locate, and
4 supplemental report. So these are all the categories that
5 were listed on the CAD sheet for that 84-day period.

6 Q So those are the dispositions?

7 A Those are the dispositions.

8 Q What about on the preceding page you have
9 dependent variables?

10 A These are the types of calls for service. On
11 the previous page, right?

12 Q Yes.

13 A Okay. Dependent variables. These are the call
14 type original files, which was how the calls originated from
15 either the dispatch or from the police officer. For example,
16 if someone calls the police and says hey, you know, there
17 might be -- I don't know. I hear yelling and screaming,
18 domestic violence going on at the location. They respond.
19 they go out, and it's disposed as keeping the peace. No
20 arrest was taken. Just kept the peace at a DV call.

21 Welfare check, all these things. This is just
22 codes that are used and generated by the CAD sheet. The CAD
23 department has to have categories to track crime.

24 Q Okay. Now, if you skip ahead you'll come to
25 figure two. "Eight typologies given for each category of
26 call." At the top it says, "Disposition of Calls for Service

1 Grand Inn." Do you see?

2 A Yes.

3 Q Would you explain this chart to us, please.

4 A Yes. So, after an officer either initiates a
5 call for service or is dispatched to a call for service, the
6 officer gets there and does his investigation, and he has to
7 dispo the call. So, in other words, this is what his final
8 investigation resulted in. And so we had several categories
9 here, report taken, other agency, checked okay, citation,
10 assisted NRD, driver warned, unable to locate, and suspect
11 report. I'm sorry, unable to locate suspect and then report.
12 So these are all the categories during that 84-day period
13 that were dispoed.

14 Q Does this include all 57?

15 A Yes.

16 Q Which ones are crimes?

17 A There are none.

18 Q Okay.

19 HEARING OFFICER SILVER: Before we go further, a point
20 of clarification. I don't know, Mr. Palmer, if your side
21 knows. What is NRD? We have determined over here we don't
22 know what that is.

23 MR. PALMER: No report desired is what I'm going to
24 guess.

25 HEARING OFFICER SILVER: No report desired. Okay.

26 Thank you. Mr. Miller proceed.

1 MR. MILLER: It's the same thing. Thank you.

2 Q Then you have three pages called "CAD Call
3 Print Synopsis." Do you see?

4 A Yes.

5 Q They look like -- these are like the records
6 that they gave you; is that correct?

7 A Yes. They were given to me by, like, the crime
8 analysis detail department at the Fullerton Police
9 Department.

10 Q Let's start at the first page.

11 A Okay.

12 Q Would you just explain to us what each of these
13 entries mean so we can understand how to read these
14 ourselves.

15 A Yeah. The columns?

16 Q Yeah.

17 A The call date is obviously, you know, generated
18 call. Time is also self-explanatory. Call number is an
19 incident number that's generated from dispatch so eventually
20 it can always be tracked back to that day. Every call for
21 service is given an incident generated number.

22 Call type just tells you, the officer, what it
23 is, or if the officer initiated it, he just either goes over
24 the air with it, "Stopping a pedestrian," or "I am" -- or is
25 disposed from communications or dispatch division as someone
26 complaining of a pedestrian maybe passed out on the sidewalk,

1 something like that, and they do a ped check.

2 Q Of those, how would I tell which ones are sent
3 from some dispatching agency as opposed to officer initiated
4 or would I not see it here?

5 A On these?

6 Q Yes.

7 A You couldn't.

8 Q How did you figure that out that there were
9 57 -- there were 40 versus 17?

10 A The columns for service is by the -- wait a
11 minute. Sorry. Because when I went over and spoke with the
12 CAD unit regarding some of this -- I've been over there
13 twice -- the ped checks, patrol checks and certain other
14 categories they told me were all officer initiated. They
15 don't generate -- a ped check is a common term police
16 officers use for I'm stopping a pedestrian. I'm stopping a
17 bicycle for a bike stop. And that's how I broke it down,
18 from the information they gave me on their own categories.

19 Q Okay. I see. And then we have location. Now,
20 some of these locations are curious, like there's one for
21 2047 - 1000 South Euclid. Do you have any idea what that
22 means?

23 A No. 2047, I mean, it could be a code they use.

24 Q Okay.

25 A Internal code that I'm not aware of.

26 Q There's I think two of those.

1 ^CROSS-EXAMINATION

2 BY MR. COLLINS:

3 Q Mr. Brooks, hello.

4 A Hello.

5 Q Based on your experience as listed in your
6 resume, you have a lot of experience with larger police
7 departments; is that correct?

8 A Yes.

9 Q Such as Los Angeles Police Department?

10 A Yes.

11 Q Have you had any experience working with
12 smaller agencies similar to the same size as Fullerton's
13 police department?

14 A In patrol?

15 Q Throughout your career.

16 A Essex County Sheriff's Department was small,
17 but, again, that was mainly transporting prisoners and
18 corrections, not exactly the same as a police department.
19 But military bases, military police. Bases are kind of like
20 small communities, but that would probably be the closest I
21 can say.

22 HEARING OFFICER SILVER: Mr. Brooks, I'm sorry, would
23 you mind moving the microphone.

24 THE WITNESS: I'm sorry, I have this monstrosity in
25 front of me.

26 HEARING OFFICER SILVER: That's okay. Just move it a

1 little bit. Thank you.

2 Q BY MR. COLLINS: You also testified to the amount of
3 experience you've had with child trafficking in hotels.

4 A I did.

5 Q Are there ways that hotels can curb this
6 practice?

7 A Yes.

8 Q What are those?

9 A Well, they can liaison with law enforcement,
10 for one thing. They can establish certain patterns and
11 practices, policies from the management down to identify
12 things that contribute to it and then eliminate those.

13 Q Are you aware of the number of narcotics
14 arrests that have occurred at the Grand Inn in the last five
15 to ten years?

16 A No. My study was only for an 84-day period.

17 Q So did you look at any evidence of criminal
18 activity at the Grand Inn outside of that 90-day scope?

19 A No.

20 Q If there were, let's say, five to ten narcotics
21 arrests at a particular location within a month, would you
22 consider that location, that hotel, as doing a great job or
23 an excellent job or a phenomenal job at operating their
24 business?

25 A Are we comparing it to other motels or what are
26 we using for context?

1 Q Any motel that has five to ten narcotics
2 arrests per month, would you describe that motel as operating
3 in a phenomenal or an excellent or doing a great job at
4 operating its business?

5 A It really depends on the location. I mean, if
6 it's in a high crime area, that's probably about average.

7 Q You also testified about community-based
8 policing techniques.

9 A Correct.

10 Q Would a component of community-based teaching
11 include a member of the police department working directly
12 with a business owner to suggest and make recommendations as
13 to certain business practices that could limit the amount of
14 crime that's occurring there?

15 A Yes.

16 Q Are you aware that the City of Fullerton did
17 that on a number of occasions with respect to the Grand Inn?

18 A No, I'm not aware of it, either way.

19 Q Okay. Are you aware of when the city gathered
20 its data that makes up its case-in-chief against the Grand
21 Inn in terms of the date range within which the city's
22 arrests and contacts are part of this nuisance action?

23 A I'm not sure exact dates. My understanding is
24 a nuisance is something that's ongoing, so I wanted to try to
25 get something relevant. So, when I went in June, I wanted
26 something that was close in time, a 90-day period. So I

1 think it went up to 2015 maybe? I'm not sure of the exact
2 dates you guys were looking at, but it seems to be old data.

3 Q Okay. Would it surprise you to learn that the
4 city is no longer -- the city is not putting on evidence of
5 crimes that occurred in the summer of 2016 as part of its
6 case-in-chief?

7 A Would it surprise me?

8 Q Would it surprise you to learn that, that the
9 time when you did your study the city was no longer
10 collecting data on the Grand Inn as part of its nuisance
11 action?

12 A No, it would not surprise me, no.

13 Q Okay. You also mentioned that you've seen
14 several police departments give orders to saturate an area.

15 A Correct.

16 Q Have you ever seen a police department or its
17 decision makers give that type of order in order to create a
18 nuisance out of whole cloth?

19 A Create a nuisance?

20 Q By saturating an area.

21 MR. MILLER: I'll object as vague. I don't understand
22 it. He doesn't understand it either.

23 HEARING OFFICER SILVER: I don't think it's vague, but
24 I think it's potentially argumentative. Mr. Collins, could
25 you rephrase that question, please.

26 Q BY MR. COLLINS: Yes. You've testified that you've

1 seen officers and police departments give orders to saturate
2 an area in order to create a high police presence and to
3 inflate numbers. Is that an accurate characterization?

4 A Yes, that's accurate.

5 Q Have you ever seen a department do that --

6 A Yes.

7 Q -- in order to create a public nuisance?

8 A Not to recreate a public nuisance, no.

9 MR. COLLINS: Okay. Thank you.

10 MR. MILLER: Wait. That's, again, a vague question.
11 In order to be a public nuisance themselves or are we talking
12 to create a public nuisance case?

13 MR. COLLINS: To create a public nuisance case.

14 HEARING OFFICER SILVER: That's how I understood it.

15 MR. MILLER: Okay. Let's just clarify.

16 THE WITNESS: Could you please restate.

17 Q BY MR. COLLINS: Have you ever seen a police
18 department or its decision makers, the managing personnel,
19 order its police officers to go to a certain area to make a
20 lot of contacts in order to create a public nuisance case?

21 A No.

22 Q Do police officers tend to go and police and
23 patrol where crime occurs?

24 A Of course.

25 Q And would police presence in a parking lot in a
26 high crime area be an effective method of community-based

1 policing?

2 A As far as its deterrent rate -- deterrent
3 effect.

4 MR. COLLINS: Thank you. Nothing further.

5 MR. MILLER: Briefly.

6 HEARING OFFICER SILVER: Just one second, please.

7 MR. PALMER: Actually, if I could follow up with a
8 couple of questions.

9 HEARING OFFICER SILVER: Mr. Palmer.

10 MR. MILLER: That's kind of double teaming, isn't it?

11 MR. PALMER: Yes.

12 HEARING OFFICER SILVER: That's the benefit to having,
13 I guess, two attorneys on each side in that respect. Go
14 ahead, Mr. Palmer.

15 MR. MILLER: Okay. You obliged me when I needed to
16 reopen my direct, so I will not make an objection to that.

17 HEARING OFFICER SILVER: Mr. Palmer.

18 MR. PALMER: Thank you.

19 ^CROSS-EXAMINATION

20 BY MR. PALMER:

21 Q Is it Dr. Brooks or Mr. Brooks?

22 A It's whatever you want, sir.

23 Q Good afternoon, Mr. Brooks. My name is Greg
24 Palmer. I'll be asking just a couple of questions to
25 supplement what Mr. Collins did.

26 You gave us a definition of what you thought

1 founded meant.

2 A The location, founded? You mean on the CAD
3 sheet?

4 Q Yes.

5 A Yes.

6 Q What was that again?

7 A Typically the designation founded means when
8 the police officer's dispatched to a call or initiated, they
9 find the party they're looking for.

10 Q Okay.

11 A Some of them are dispoed not found, so that's
12 how I interpret it.

13 Q Are you getting that interpretation from your
14 experience or did you speak to somebody at the Fullerton
15 Police Department?

16 A Both. When I first was looking through it and
17 didn't quite understand -- some of your codes are a little
18 different than the ones I'm used to. So I went down and
19 clarified, and I asked that question, what NRD meant and a
20 few other things like that.

21 Q Okay. Who did you speak to?

22 A A woman at the front desk, kind of heavysset.
23 I'm sure there's video of me being there, videotape of me in
24 the lobby talking to her. This is back in June.

25 Q Again, forgive me. Mr. Collins was here and I
26 was not, but there was some discussion in direct about

1 saturated patrol?

2 A Yes.

3 Q Okay. I'm not trying to be repetitive. What
4 is your impression of what saturated patrol means?

5 A Well, saturated patrol is when you designate an
6 area within a city or a division to put extra police presence
7 in there for the purposes of trying to lower the crime rate.

8 Q Okay. Does saturated patrol occur just because
9 a police department decides that a particular area needs
10 saturated patrol?

11 A Not always. It depends on resources.

12 MR. MILLER: Objection. That's a tautological
13 question. It's meaningless.

14 HEARING OFFICER SILVER: I'm sorry, what was the
15 objection, Mr. Miller?

16 MR. MILLER: It's a tautology. It's a meaningless
17 question.

18 HEARING OFFICER SILVER: I think we had an answer, did
19 we not? Could you please repeat the answer. I didn't hear
20 it.

21 THE WITNESS: I said it may depend on resources.

22 Q BY MR. PALMER: Does saturated patrol usually
23 trigger from -- is there a reason for saturated patrol?

24 A There are reasons.

25 Q Is one of them the existence or diagnosis of
26 criminal activity occurring at a particular area?

1 A Yes.

2 Q So the criminal activity typically, in your
3 experience, comes first before saturated patrol occurs?

4 A Yes. The chicken and egg routine, right?

5 Q There you go. We've been talking about the
6 chicken and egg thing a lot in this case.

7 So which do you think it is here? Do you think
8 the crime existed at Grand Inn before police started going
9 there or police started going there to create the crime?

10 A You want me to answer that based upon my
11 statistical analysis or other information that I have?

12 Q I want you to answer it if you can. If you
13 can't, tell me.

14 A Are you asking me if I have an opinion?

15 Q Sure. You're an expert I understand, right?

16 A Yes. My opinion is when I see something like
17 this -- and I'm going by my analysis. When I see such a high
18 concentration of law enforcement, not in a block, not in a
19 two-block area, but in one single location at all hours, and
20 going on for what I understand for quite a while, it's
21 generally motivated by somebody high up who has been given an
22 order to go to the location.

23 Now, I've seen it done before where they were
24 trying to -- at a bar, a restaurant, and they were trying to
25 establish there was a lot of crime going on there so they
26 saturated it and used the calls for service as a strawman

1 argument to correlate that with it being a place of high
2 crime.

3 Q And you're basing this on your three-month
4 study?

5 A No. I'm basing it on 32 years overall. You
6 asked me my opinion, and I'm including other things in there
7 as well as the study. I said not including the study. The
8 study, again, was limited. It was a snapshot of three
9 months. It was more common closer to this date than what
10 we're dealing with before. Apparently, you guys were looking
11 at 2011, 2015, something like that.

12 Again, just looking at that data alone, where
13 you have a concentration of calls there and almost -- very
14 little crime being found. I also am aware of some saturation
15 that had gone on there by law enforcement in the past by
16 Fullerton PD. I think that's an anomaly. I think that's
17 specifically targeted, possibly disparaging, law enforcement,
18 and probably a violation of 42 US 1983.

19 Q Did you read any of these two books? And, for
20 the record, I'm holding up the city's exhibit books.

21 A Have I read those?

22 Q Yes, sir.

23 A No. I just got called to be here today.

24 MR. PALMER: Nothing further.

25 HEARING OFFICER SILVER: Mr. Miller.

26 MR. MILLER: Yes. Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

^REDIRECT EXAMINATION

BY MR. MILLER:

Q Now, you testified in response to Mr. Collins' -- I think it was Mr. Collins' question that you've never seen the police department send officers to a location to create a public nuisance case, right?

A Correct.

Q Okay. Suppose a police department wants to bring a public nuisance case against a particular business. How hard would it be for the police department to send officers there a lot so it can say look how many calls for service this place requires?

A I understand that. The police are just a tool. It usually comes from somewhere else.

Q How easy or hard is it to do that?

A It's very easy.

Q Okay. Now, was the saturated patrol, as you called it, justified by the amount of crime that that saturated patrol discovered?

A Not from what I read and what I researched.

Q Was it close?

A No.

Q Was it far off?

A In 84 days there was not one arrest out of the location.

Q Okay. Now, we talked on direct about the ratio

1 of crime to calls for service, right? Remember that?

2 A Yes.

3 Q We talked about the score of point eight would
4 be better than the score of point two.

5 A Correct.

6 Q If there's no crime in 84 calls for service,
7 you have a score of zero, right?

8 A Again.

9 Q It's crimes over calls for service.

10 A Right.

11 Q Zero crimes divided by 84 calls for service is
12 what?

13 A Zero crimes divided by -- zero.

14 Q Zero, right?

15 So, does this look like it's justified to have
16 that many calls for service for that many crimes?

17 A No. What I looked at, no.

18 Q No. And you said calls for service can be a
19 strawman argument. Please explain what you meant.

20 A Well, if you wanted to, okay? I'm not saying
21 it was. If you wanted to make any establishment look like
22 they were a nuisance or some type of blight in the community,
23 it's very easy to get -- you send the word down to your
24 patrol officers out there. They can swing by three, four
25 times a night, make a stop, talk. It doesn't matter what,
26 because every call for service -- many of them are not even

1 crimes, just stopping, asking for directions, talking to
2 somebody. On paper it generates a huge amount of calls for
3 service to a location, and there is no correlation between
4 criminal activity going on there.

5 MR. MILLER: Okay. Thank you. Nothing further.
6 Thank you very much for coming.

7 HEARING OFFICER SILVER: Thank you. Mr. Brooks, thank
8 you very much.

9 THE WITNESS: You're welcome.

10 MR. MILLER: It was my hope that we could finish
11 today.

12 HEARING OFFICER SILVER: We are in a bit of a short
13 remainder here.

14 MR. MILLER: I'm just recalling Lieutenant Goodrich
15 for a brief period of time and I'm done.

16 HEARING OFFICER SILVER: How long do you think you'll
17 need?

18 MR. MILLER: Five, ten.

19 HEARING OFFICER SILVER: Okay. Let's give it a go.
20 Lieutenant Goodrich, please come up. Please keep your right
21 hand up. I'm going to swear you in all over again.

22 ^Andrew Goodrich,
23 called as a witness under 776 of the Evidence Code by the
24 Grand Inn, having been duly sworn, was examined and testified
25 as follows:

26 HEARING OFFICER SILVER: Thank you. Please have a

1 seat.

2 Mr. Bullard, I think you've already got his
3 name in the record.

4 THE REPORTER: Yes.

5 ^CROSS-EXAMINATION

6 BY MR. MILLER:

7 Q Hello again, lieutenant. Thanks for coming
8 back.

9 A Hello.

10 Q For this line of questioning, I just want to
11 clean up some of the stuff that we talked about in your
12 earlier testimony.

13 A Okay.

14 Q Everyone agrees that all crime is bad. So, for
15 example, if there was one murder in California last year,
16 that's bad, but from a policing point of view, murder is not
17 a serious problem in California. Can we accept -- can we
18 interpret it that way?

19 A That murder is not a serious problem?

20 Q If there was only one in a year.

21 A Oh.

22 Q Can we have that understanding?

23 A If we can go a whole year and only have one
24 murder, I would probably agree that yes, it is not a serious
25 problem.

26 Q Okay. Good. Have you ever heard the word

1 litotes, l-i-t-o-t-e-s?

2 A No.

3 Q This is the lost benefit of a classical
4 education. Litotes is a figure of speech in which one gives
5 an ironic understatement -- so you're giving -- you're making
6 an affirmative statement by negating an exaggeration of the
7 opposite. So, for example, is John short? Well, he's no
8 giant. That's a litotes, okay?

9 A Okay.

10 Q I take the opposite, exaggerate it and deny it.

11 A Okay.

12 Q I found quite a few litotes in your testimony.
13 I just want to nail them down to yes's and no's, okay?

14 A Okay.

15 Q Two things you said about prostitution, two
16 things you said about domestic violence. I just want to
17 clarify where we are on this.

18 A Okay.

19 MR. MILLER: These two excerpts are on 1611,
20 Mr. Silver.

21 "QUESTION: Domestic violence, is that a
22 problem at the Grand Inn, as far as you know?

23 "ANSWER: I heard a number of officers talking
24 about those sorts of things, but I don't know that it was
25 rampant."

26 Q That's a litotes.

1 A If you say so.

2 Q Yeah, it is.

3 Or "There's not a lot, right? It's not a real
4 problem, as you said, at the Grand Inn?

5 "ANSWER: Domestic violence at the Grand Inn?
6 Again, we're depending on people calling us for that. That's
7 not something we generally run across on officer-initiated
8 activity. If there are two, and I'll take your word from
9 it," at least from the book, "that would not seem to be an
10 extreme number."

11 That's a litotes, okay?

12 A Okay. If you say so.

13 Q Now, when you say it's not rampant and that's
14 not an extreme number, you mean it's not a problem and it's a
15 very low number, right?

16 A Yes.

17 Q Okay. Thanks. Halfway there.

18 A Not a problem.

19 Q Okay. Now, prostitution. We're now on page
20 1613 and then second excerpt 1618.

21 "QUESTION: Apart from that," meaning the one
22 instance of child trafficking, "I have seen no arrest for
23 prostitution at the Grand Inn. There was one that the
24 hearing officer struck because the act of prostitution
25 occurred at the Marriott, but, otherwise, it hasn't been a
26 problem at the Grand Inn, right?

1 "ANSWER: I don't think it's been a
2 particularly big problem, no." That's a litotes.

3 A Again, if you say so.

4 Q Next. "These oddball things that happened once
5 are not really what the issue is in this hearing, right?

6 "ANSWER: Again, the issue is the total, the
7 aggregate. If you're talking about specific instance, you're
8 right. To the best of my knowledge, the Grand Inn is not a
9 hotbed of prostitution or sexual traffic activity."

10 So, when you say prostitution has not been a
11 particularly big problem and the Grand Inn is not a hotbed of
12 prostitution or sexual traffic activity, you mean it's not a
13 location where prostitution or sexual trafficking, apart from
14 that one incident, is a recurring or ongoing problem at all,
15 right?

16 A Not that I'm aware of.

17 Q Right? Right? As far as you know, right?

18 A As far as I know, yes.

19 Q Okay. Now, final thing. Do you know Officer
20 Miguel Siliceo?

21 A Yes.

22 Q Do you know that he is now facing felony
23 charges for giving one account of an encounter and his
24 recorder showed something else?

25 A I've read the article in the Register, yes.

26 Q Have you heard anything in the department about

1 that?

2 MR. PALMER: Objection; irrelevant.

3 MR. MILLER: It's a yes or no question.

4 HEARING OFFICER SILVER: Overruled.

5 THE WITNESS: Yeah, it's general knowledge in the
6 department because he's on administrative leave and it's a
7 media story.

8 Q BY MR. MILLER: Do you know of any other officers
9 ever disciplined or prosecuted because of their account of an
10 incident differing from a recording? And we're leaving out
11 of this the Kelly Thomas event.

12 MR. PALMER: Objection; relevance, privilege.
13 Riverside County Sheriff's Department vs. Superior Court
14 requires a Pitchess motion in an administrative case if
15 you're going to go into the contents of an officer's
16 personnel file.

17 MR. MILLER: I'm not doing that. It's a yes or no
18 question. Do you know of any?

19 MR. PALMER: It doesn't matter. A yes or no question
20 discloses a privilege.

21 HEARING OFFICER SILVER: Hang on. Yes or no would
22 fall within the privilege. I'm not entirely sure, please
23 convince me if I'm wrong in the law here, both of you, but
24 I'm not sure that this falls within a Pitchess requirement.
25 Are you asking for the content of the investigatory
26 proceeding --

1 MR. MILLER: I'm asking --

2 HEARING OFFICER SILVER: -- or his personnel file?

3 MR. MILLER: -- do you know of any others besides
4 those two cases in which an officer had some criminal or
5 administrative issue because he gave one account of the event
6 and the recorder showed something else? Do you know --

7 HEARING OFFICER SILVER: This isn't specific to an
8 officer.

9 MR. MILLER: Correct.

10 HEARING OFFICER SILVER: This is a general question.

11 MR. MILLER: This is in general.

12 HEARING OFFICER SILVER: Please proceed.

13 Q BY MR. MILLER: Do you know of any such thing?

14 A None that I can think of at the moment.

15 MR. MILLER: Okay. Nothing further.

16 HEARING OFFICER SILVER: Thank you. Mr. Palmer,
17 Mr. Collins, anything?

18 MR. COLLINS: Yes.

19 ^REDIRECT EXAMINATION

20 BY MR. COLLINS:

21 Q Mr. Goodrich, how does the Fullerton Police
22 Department use the term founded with respect to its crime
23 statistics?

24 A About whether the incident occurred or not.
25 Many times we'll get reports of calls. And unfounded would
26 mean that it hadn't occurred after all versus founded meaning

1 it occurred.

2 MR. COLLINS: Thank you. Nothing further.

3 HEARING OFFICER SILVER: Lieutenant, thank you again.

4 THE WITNESS: Thank you, sir.

5 MR. MILLER: Thank you. Mr. Silver, I did remember to
6 do this. I will renew my motion to submit all of our
7 evidence.

8 MR. PALMER: I didn't hear a lot of direct evidence
9 about all their exhibits. I see lots of exhibits. I see
10 dozens of exhibits. I don't know which witness testified to
11 these exhibits. So, to the extent that a witness did not
12 come in and authenticate these exhibits, I would object to
13 their coming in.

14 HEARING OFFICER SILVER: Now, a few of these -- I've
15 taken a glance at your table of contents, Mr. Miller. Some
16 of these are ones that I think you put together, right? So
17 as to those --

18 MR. MILLER: Me or my assistants.

19 HEARING OFFICER SILVER: All right. As to those, they
20 are true and correct copies of whatever source you obtained
21 them from.

22 MR. MILLER: That's right.

23 HEARING OFFICER SILVER: Okay. Here's what we're
24 going to do, because we have a lot of items submitted by
25 Grand Inn today, which is fine. The table of contents is
26 pretty long. To the extent that there are objections to each

1 one, then I would invite -- I would presume the city won't be
2 objecting to their own submittals, to submit those.

3 MR. PALMER: Okay.

4 HEARING OFFICER SILVER: I am not in a position to be
5 able to rule on each and every one of these, having received
6 these three binders today. Anyway, you can do that, if you
7 like. Otherwise, is the Grand Inn closing its case-in-chief?

8 MR. MILLER: Wait one second.

9 Some clarification. There are things in there
10 that I got from the internet or my assistant did. A lot of
11 it is from the Fullerton PD website which we have already
12 talked about. Those we are not having objections to, right?

13 MR. PALMER: Like the example is the body worn camera,
14 I assume that policy is accurate. I assume you got it from
15 the website because I know it's on the website. As to those
16 things on which I see no anomaly, there's not going to be an
17 objection.

18 MR. MILLER: Okay. Or, for example -- what I'm
19 talking about really is -- the word is escaping me at this
20 hour. Like the validity of them, that this is what it
21 purports to be.

22 MR. PALMER: If it purports to be from the internet
23 and it's got an html thing at the bottom that I can look up,
24 then I'm fine with that.

25 MR. MILLER: We have records from the -- what is it
26 called? Crime map that we downloaded, those kind of things.

1 It's all on your website. I understand -- there are certain
2 things that are obvious, which is -- there are a lot of stuff
3 on Joe Felz. Some of that material the hearing officer has
4 ruled on. So we can probably just prepare a stipulation on
5 that.

6 MR. PALMER: Was I out of the room when that came in?

7 MR. MILLER: In light of that, we won't withdraw them,
8 but we will stipulate that the hearing officer has ruled on
9 them.

10 MR. PALMER: If it is a rejected exhibit, it still has
11 to stay in the administrative record.

12 MR. MILLER: That is my point. So I'm not going to
13 withdraw it. I'm just not going to waste the time of going
14 over it.

15 MR. PALMER: That's fine.

16 MR. MILLER: All right. I think that there is going
17 to be very little that we cannot resolve on our own.

18 MR. PALMER: Okay.

19 HEARING OFFICER SILVER: Fantastic. Let's go off for
20 one moment, Jay.

21 (Discussion off the record)

22 HEARING OFFICER SILVER: We're going to go back on
23 briefly. We're back on. During the break we discussed
24 scheduling for the next two days. Scheduling will be as
25 follows:

26 We will return on June 19th, 2017 at 9:00 a.m.

1 for the city's rebuttal and closing statement. We will then
2 return two days later, on June 21st, 2017 at 9:00 a.m. for
3 the closing statement by the Grand Inn.

4 I will look into my alleged previous ruling
5 regarding simply one closing for each side. Thank you.
6 We're off.

7 (Adjournment)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Jay M. Bullard, CSR No. 3455, Official Court Reporter Pro Tempore, do hereby certify that the within and foregoing reporter's transcript, is a full, true, and correct transcript of my shorthand notes thereof, and a full, true, and correct statement of the testimony and proceedings had in said cause.

Dated: 4-29-17

Jay M. Bullard, CSR #3455

Official Court Reporter

Pro Tempore