

A P P E A R A N C E S

ON BEHALF OF THE PETITIONER:

Philip R. Isley, Esquire
Philip R. Miller III, Esquire
Blanchard, Miller, Lewis & Isley, P.A.
1117 Hillsborough Street
Raleigh, North Carolina 27603
(919) 755-3993
pisley@bmlilaw.com
pmiller@bmlilaw.com

ON BEHALF OF THE RESPONDENTS:

Roy A. Cooper III, Esquire
Attorney General
By: Charles G. Whitehead
Special Deputy Attorney General
North Carolina Department of Justice
114 West Edenton Street
Post Office Box 629
Raleigh, North Carolina 27602-0629
(919) 716-6842
cwhitehead@ncdoj.gov

T A B L E O F C O N T E N T S

WITNESSDIRECTPETER DUANE DEAVER

By Mr. Whitehead

6-180

EXHIBITSNUMBERDESCRIPTIONMARKEDRespondents

1	<i>Deaver v. NCSBI and NCDOJ</i> , Notice of Deposition, 9/17/13	22
2	curriculum vitae, Peter Duane Deaver	22
3	2011 federal and state income tax return, Peter D. and Karen B. Deaver	82
4	2012 federal and state income tax return, Peter D. and Karen B. Deaver	86
5	memorandum, Tucker to Deaver, 1/4/11, subject: Notice of Pre-Disciplinary Conference	111
6	memorandum, Tucker to Deaver, 1/7/11, with attached NCDOJ Grievance Policy and Procedures, revised 8/2010	130

S T I P U L A T I O N S

Prior to examination of the witness, counsel for the parties stipulated and agreed as follows:

1. Said deposition shall be taken for the purpose of discovery or for use as evidence in the above-entitled action or for both purposes, as permitted by the applicable rules of civil procedure;

2. Any objections of any party hereto as to notice of the taking of said deposition or as to the time and place thereof or as to the competency of the person before whom the same shall be taken are hereby waived;

3. Objections to questions and motions to strike answers need not be made during the taking of this deposition, but may be made for the first time during the progress of the trial of this case or any pre-trial hearing held before the judge for the purpose of ruling thereon or at any other hearing of said case at which said deposition might be used, except an objection as to the form of a question must be made at the time such question is asked or objection is waived as to the form of the question;

4. That all formalities and requirements of the statute with respect to any formalities not herein expressly waived are hereby waived, especially including the right to move for the rejection of this deposition before trial for any irregularities in the taking of the same, either in whole or in

part or for any other cause;

5. That the undersigned notary-reporter shall personally deliver or mail by first class mail the transcript of this deposition to the party taking the deposition or its attorney, who shall preserve it as the court's copy.

1 the deposition to make sure that we get through it cleaner
2 and clearer today, okay?

3 A That will be fine.

4 Q You have been sworn in by the court reporter, and that
5 would be taking the same oath you take in a court of law and
6 it carries the same penalties of perjury. Do you understand
7 that?

8 A Yes, I do.

9 Q I know one of the--either the videographer or the
10 court reporter asked you about verbal responses. And I'll
11 just again remind you if you shrug your shoulders or shake
12 your head, I may ask you is that a yes. I'm not trying to be
13 rude. I'm just trying to get clarity on the record.

14 Also only--the court reporter can only take down one
15 of us talking at a time, so it's very important that you let
16 me finish my question before you begin your answer. And I'll
17 try to pay you the same courtesy and let you finish your
18 answer completely before I begin my next question, okay?

19 A Yes, sir.

20 Q If you do not understand one of my questions--I have a
21 tendency to speak very quickly, and I have apologized to the
22 court reporter already. If I said something you just don't
23 understand or you don't understand what I'm getting at,
24 please let me know and I'll try to rephrase my question so we
25 can get a clear and clean answer to that question, okay?

1 A Yes, sir.

2 Q If at any time you want to take a break, use the
3 restroom, get some water, speak with your attorneys, whatever
4 reason, I'll be happy to take a break at any time, okay?

5 A Thank you.

6 Q Is there any reason you cannot give your best testi-
7 mony today at your deposition?

8 A No, sir.

9 Q You're not taking any prescription medication or
10 anything else that may affect your ability to testify here
11 today?

12 A No, I'm not.

13 Q Do you have any questions of me about the deposition
14 process before we get started?

15 A No, sir, I do not.

16 Q How many--how many prior depositions do you think
17 you've given?

18 A Two.

19 Q I know one may have been in the Taylor case. What
20 other deposition have you done?

21 A I gave a deposition in a Mecklenburg County or City of
22 Charlotte case some years ago.

23 Q That was before your termination?

24 A Yes, that's correct.

25 Q Do you recall when that was?

1 A I do not.

2 Q Prior to today's deposition, did you meet with anyone
3 other than your attorneys to prepare for today's deposition?

4 A No, I did not.

5 Q Did you consult--or did you review any documents prior
6 to today's deposition to help you testify today?

7 A Yes, sir, I did.

8 Q What did you review?

9 A I reviewed a set of documents that were given to me by
10 Mr. Isley that he told me came from the Department of
11 Justice. I reviewed the deposition of Kristi Hyman.

12 Q The packet of documents--I'm sorry. Were you done?

13 A No. And I reviewed a file that I produced for myself
14 for my Grievance Committee hearing. And I don't remember
15 when the date was for that, but I can compiled some documents
16 for that.

17 Q The documents that were provided to you to review--I
18 believe you called it a packet of documents--do you recall
19 what was in there?

20 A This is it (indicating).

21 Q Do you recall as you sit here right now what you might
22 have looked at?

23 A There were some--some interviews on the internal
24 investigations done on me. I remember Tom Ford, Casey Drake,
25 some of the members of the Innocence Commission at the time

1 that I testified. That's all I remember specifically.

2 Q The internal affairs interviews, do you recall
3 specifically what issues they were related to?

4 A They were related to the South Carolina issue.

5 Q Would that be the ICIAF. Is that--am I close with
6 that?

7 A Yes, sir, ICIAF. For whatever reason, that's the only
8 issue that comes to my mind.

9 Q And the documents that you indicate you've produced
10 yourself for the grievance hearing, what was in that packet
11 of documents?

12 A In that packet of documents was a bound--a bound
13 response by me to the Department of Justice on the firing
14 issues and some attachments that were--that I had included in
15 that. And that's pretty much it. There are--there were
16 copies of the same thing over and over again in that. That's
17 basically it, though.

18 Q When you say copies of the same thing over and over
19 again, what sorts of things were in there?

20 A The--well, the letter to me about the grievance
21 hearing, the letters that dealt with my firing, and then my
22 responses to those issues. There were also in that responses
23 to the original issues. I believe there were six issues at
24 first, and so all of those responses were in that file.

25 Mr. Whitehead: Mr. Isley, would it be possible for

1 us to get a copy of the documents he reviewed to prepare for
2 today's depo?

3 Mr. Isley: It's all your stuff. But I'm not
4 going to let you have anything that he prepared himself. I
5 mean, you know, I think that's work product for sure.

6 Mr. Whitehead: Well, I think he said he put it
7 together for the grievance hearing, so if---

8 Mr. Isley: (interposing) At our direction,
9 but it's all stuff that you have. It's his grievance. I
10 mean this is y'all's--I mean you can have this. This is what
11 the DOJ produced in response to the grievance hearing.
12 That's straight from Mary Marsh. That's the package that he
13 reviewed in addition to his own grievance materials, which I
14 think is what he testified to.

15 Mr. Whitehead: Within that--I'm sorry; go ahead.

16 The Witness: Yes. The other packet of stuff, to
17 my knowledge, you have all of that. I--that's all the things
18 that I gave to various people, and I just reviewed those
19 things.

20 Mr. Isley: It's basically what's been filed to
21 date related to his grievance, so it's his petition, and then
22 that's y'all's response.

23 By Mr. Whitehead:

24 Q And I believe in that grievance package there were
25 some notes addressing each issue particularly. Did you put

1 those notes together?

2 A I don't know what notes you're referring to.

3 Q Well, there's--there's three or four pages that talk
4 about each issue specifically and then thoughts and concerns
5 about why those issues aren't valid for terminating your
6 employment. Do you recall putting that document together?
7 And I think a very similar document was filed with your
8 prehearing statement also.

9 A Yes, sir. I put that together, yes.

10 Q Is that part--is that part of the packet you're
11 talking about, the Grievance Committee packet?

12 A I believe so.

13 Mr. Whitehead: And then--Phil, I don't have this
14 with me, but you're saying this is what we produced---

15 Mr. Isley: (interposing) Yes.

16 Mr. Whitehead: ---to the Grievance Committee?

17 Mr. Isley: Correct.

18 Mr. Whitehead: I should have that somewhere in one
19 of the boxes.

20 By Mr. Whitehead:

21 Q Any other documents you recall looking at or reviewing
22 to prepare for today's depo?

23 A No, sir.

24 Q The deposition that you talked about earlier, not the
25 *Taylor* deposition but the previous one, what was the purpose

1 of your testifying or giving deposition testimony in that
2 case?

3 A It was a--it was a murder--it was a homicide case.
4 And as I remember, the City of Charlotte was involved and
5 had--a detective there had asked me to come and do some work
6 on the crime scene for them. And my deposition was in
7 response to a lawsuit against the city by the--by the
8 defendant in that case, and I was asked to go over my
9 evidence and what I had done in the case, as I remember.

10 Q Do you recall the name of the defendant that was
11 bringing the lawsuit?

12 A I do not.

13 Q Did--and this is going to be kind of important during
14 the deposition, but did you testify as a blood splatter
15 expert, a---

16 A (interposing) Blood---

17 Q ---serology---

18 A (interposing) Blood spatter---

19 Q (interposing) Blood spatter.

20 A ---expert; I did.

21 Q And while we're here, explain to me the difference
22 between a serology expert, a blood spatter expert, a
23 bloodstain analysis expert. What are the differences?

24 A A serology expert, at least during the time that I was
25 doing serology, was one who looks at blood and other body

1 fluids and characterizes them by--by the type of body fluid,
2 and then as far as possible to determine characteristics that
3 could be compared to individuals in a criminal case, either
4 suspects or victims.

5 For instance, blood found on a suspect's shirt, for
6 instance, we would do analysis on that to determine the
7 substance, to be able to characterize the substance, and then
8 to be able to determine if that substance could be compared
9 to the person wearing the shirt or other individuals that
10 were listed for us in the case; saliva, semen, or other body
11 fluids that we routinely tested in that manner.

12 A blood spatter person is a person who looks at blood-
13 stains and determines the characteristics of that stain for
14 the purpose of force that was applied to that stain, how that
15 stain came to be produced, is a fairly simple definition for
16 that.

17 There are a lot of terms that are interchangeable.
18 Bloodstain pattern interpretation is--is a term that's used
19 for the same thing as blood spatter. Sometimes I have just
20 shored it up and said blood spatter analysis. But the
21 official term, I believe, in the--in the field and in the
22 science today is bloodstain pattern analysis.

23 Q So serology would be finding a stain, determining what
24 it is, and then if possible determining the type of stain,
25 the blood type or DNA testing, something like that?

1 A Yes, sir. DNA later--I actually started to train for
2 DNA but left the lab at that time, but now DNA is just
3 another method for typing the stains.

4 Q And then anytime we see blood spatter or bloodstain
5 pattern analysis, we're talking about the force applied to
6 the blood that created the stain?

7 A Yes.

8 Q Would that be fair?

9 A That would be fair. Let me--let me just finish with
10 that.

11 Q Sure.

12 A The two things are not--are not together. All serolo-
13 gists didn't do blood spatter. All blood spatter experts are
14 not serologists. I gave testimony during my career in both
15 areas, so sometimes that's been confusing to people who have
16 looked at my testimony as to what I actually was testifying
17 to.

18 Q Okay. How many times do you believe that you've
19 testified in court as an expert witness?

20 A I don't even remember.

21 Q Well, was it ten times, 50 times, 100 times? I'm not
22 trying to be rude. I'm just trying to get a general sense.

23 A I really couldn't say. I lost count many years ago.
24 Sometimes I testified twice in a day in court, and we--when I
25 was in the laboratory, we were getting called to court so

1 often I just really can't--I can't even--I can't even say.

2 Q Do you have any range? I mean--and I--again, I mean
3 I'm just trying to button down--are we talking about teen
4 times or 100 times or several thousand times? Is there a
5 range you'd put it in?

6 A Maybe--maybe 50 to 100, but it would just be a--just a
7 tremendous guess because I really can't guess.

8 Q Saying the word "guess" makes every attorney nervous.
9 You can call it an estimate. You can call it your best
10 approximation, but when you say guess, everybody gets a
11 little antsy.

12 A Well, it would just be a really best estimate. I
13 really promise I cannot tell you. And over the years I've--
14 it has even become--I just--I can't even---

15 Q (interposing) Well, and again, I don't--I'm just
16 trying to get it into a range. It doesn't have to be exact,
17 but you don't think it was 500 times?

18 A No, I don't think so.

19 Q You don't think it was 250 times?

20 A No, I wouldn't think so.

21 Q You think it's somewhere near between 50 and 100?
22 That's fair and---

23 A (interposing) An estimate.

24 Q Okay. And that's--as an expert, could you break out
25 what percentage might have been for serology or blood spatter

1 or both?

2 A No, I couldn't, because I've been on the stand for one
3 and done the other. I've been on the stand for one and
4 testified for the other. I've been on the stand for one and
5 a different attorney start talking about the other, and I
6 looked at the judge and he said, "I'm going to allow it."
7 And I started talking about the other. So that's--there is
8 no way for me to make an estimate for that.

9 Q Before you take the stand, you have to do your testing
10 and experimentation; right?

11 A For?

12 Q For whatever. If you're asked to be a serology expert
13 or a bloodstain spatter expert, you have to do some work to
14 be able then to testify either at a hearing or a deposition
15 about the case. Is that--would that be fair?

16 A No, that wouldn't be completely fair because I've been
17 on the stand before and had the district attorney hold up a
18 sock with a bloodstain on it and ask me if I can give an
19 opinion about how that came to be. I've never seen that
20 before.

21 Q Okay. Well---

22 A (interposing) And---

23 Q ---before you--I'm sorry.

24 A And if the judge allowed it, then--and I felt
25 comfortable to say something about it, then within certain

1 parameters I would testify to it, yes.

2 Q But before you took the stand, would you have done
3 work then in that particular instance as a serology expert
4 maybe to determine that it was in fact blood on the sock?

5 A Well, for some reason I was on the stand in the case,
6 so yes.

7 Q Okay.

8 A Some kind of work was done.

9 Q And it may then morph into more than that work while
10 you're giving your testimony?

11 A That's correct.

12 Q Do you have any estimate for me out of the 50 or 100
13 times you've been on the witness stand how many times that
14 that might have happened?

15 A No, I can't.

16 Q Do you recall the last time you gave testimony in open
17 court as an expert, either---

18 A (interposing) No.

19 Q ---either the case or the year or maybe it was about
20 seven years ago or about two years ago, any estimate like
21 that?

22 A I sure can't.

23 Q Would there be situations where there might be more
24 than one SBI agent testifying in a particular case?

25 A Yes.

1 Q And let me clarify my question. That was a bad
2 question--more than one blood expert, maybe one doing the
3 serology part and then another doing the blood spatter
4 testimony?

5 A Yes.

6 Q Do you recall if that ever happened during your
7 career, where you may be giving testimony on bloodstain
8 spatter and someone else may be giving testimony on serology?

9 A Well, yes, that did happen. The one that comes to
10 mind is the Goode case, is the George Goode case.

11 Q And what happened in that case, just with regards to
12 the testimony? I mean I know a lot happened in that case,
13 but just with regard to how the testimony came to be.

14 A As I remember, Brenda Bisette was the serologist in
15 the case. And it was a Johnston County double homicide case.
16 The court--the trial was in progress, and I was called
17 to--to go down to the courtroom. And I don't remember who
18 called me or what circumstances that were, but the evidence
19 was actually passed from the courtroom to a conference room
20 behind, and I started looking at evidence. I was asked to
21 look at it for bloodstains or blood spatter. And then I
22 testified in the case as a blood spatter expert. And that's
23 about all I remember about the case.

24 Q Any other case you can remember where there may have
25 been two blood experts from the SBI testifying for a single

1 case?

2 A I remember--and this is a little bit different, but I
3 remember an occasion up in the mountains where David Spittle
4 was giving testimony as a blood spatter expert. I believe
5 that's correct. And I was asked to give testimony as a blood
6 spatter expert also. I remember that, that situation.

7 Q And Mr. Spittle worked for the SBI?

8 A Yes.

9 Q Why would it be necessary to have two experts, if you
10 recall, to give blood spatter testimony?

11 A I don't know how that came to be.

12 Q Do you recall---

13 A (interposing) I---

14 Q (interposing) I'm sorry, Go ahead.

15 A I really don't remember. I don't remember how that
16 happened, but that was not a very comfortable situation.

17 Q Did you and Mr. Spittle have conflicting testimony in
18 that case?

19 A I don't remember.

20 Q Do you recall that happening more than once, where you
21 may have---

22 A (interposing) No.

23 Q ---testified along with another blood spatter analysis
24 expert from the SBI in a particular case?

25 A No, I don't remember that happening another time. I

1 just remember that that was--I just remember that situation.

2 Q And I apologize if I've asked this. I'm sure that I
3 did. But you don't recall ever giving a deposition as a
4 blood analysis expert either for serology or bloodstain
5 pattern? I think you testified in the one deposition where
6 someone was suing the state, but do you recall in any
7 criminal case ever giving a deposition?

8 A No, sir, I don't.

9 Q For today's deposition, I sent a notice out to your
10 attorneys setting the deposition for today in their office.
11 It says 10 o'clock. We were agreeable to start at 9:00. And
12 it also asked you to bring particular documents with you,
13 specifically documents regarding your employment history and
14 pay from January 2011 to the present. Do you recall seeing
15 that notice of deposition?

16 A Yes, sir, I do.

17 Q And I know that your attorney gave me some documents,
18 and we'll go through them during one of the breaks and
19 possibly attach them. Do you recall what documents you
20 turned over to your attorneys to respond to this notice of
21 deposition request?

22 A Yes, sir.

23 Q What did you turn over?

24 A I gave him a résumé, my most recent résumé, and I gave
25 him my tax returns from I believe 2011 and 2012.

1 Mr. Whitehead: What I'd like to do--the notice of
2 deposition. I'm sorry. Mr. Deaver, here is the notice---

3 The Reporter: (interposing) Do you want to mark
4 this?

5 Mr. Whitehead: Yeah, we'll mark it and attach it
6 as Exhibit 1.

7 The Reporter: Respondents Exhibit 1 okay?

8 Mr. Whitehead: Please.

9 (Respondents Exhibit 1 was
10 marked for identification.)

11 Mr. Whitehead: Do you need another one?

12 The Reporter: He needs to look at the one that
13 was marked.

14 (Document handed to witness.)

15 By Mr. Whitehead:

16 Q And I believe you said that you provided a CV or a
17 résumé for today's deposition; is that correct?

18 A Yes, sir.

19 Q And I believe I've been handed a copy of that
20 deposition, and we'll attach this as Respondent's Exhibit 2,
21 and I'll give you a copy of that.

22 (Respondents Exhibit 2 was
23 marked for identification.)

24 Mr. Whitehead: Do you need me to write a 1 and 2
25 on those for you?

1 The Reporter: Only if you want to; I'm going to
2 take these, the originals.

3 By Mr. Whitehead:

4 Q Is this a copy of your most current CV?

5 A Yes, sir.

6 Q Before we start going through that, and I do want to
7 go through it with regards to your work history, what is your
8 date of birth, sir?

9 A May 19, 1959.

10 Q Are you currently married?

11 A Yes, I am.

12 Q And the address on the CV of 3319 Peachstone Place in
13 Spring, Texas, is that your current address?

14 A Yes, it is.

15 Q How long have you lived at that address?

16 A Since May of last year.

17 Q And the CV--I'm trying to read it real quick, but the
18 CV in the back has your work history and your education--I'm
19 sorry; your education history, a B.S. in zoology from N.C.
20 State; is that correct?

21 A That's correct.

22 Q In December of 1994 (sic)?

23 A Yes.

24 Q And it also says "Additional Graduate Level Courses
25 (16 hours), DNA analysis and Public Administration." When

1 did you receive those additional hours?

2 A The DNA hours were required for DNA training in the
3 laboratory, 1992 or 1993, I believe. And then the public
4 administration was a law enforcement course that I went to.
5 I have here--I think it's the president of AOMP. It's the
6 AOMP program that I went to. And I don't remember when that
7 was.

8 Q I'm sorry. You mentioned AMOP (sic), and I'm not
9 finding that in your CV. Which page are you looking at?

10 A Let's see.

11 (Witness peruses document.)

12 It's in the summary at the top, "Presided as President
13 of the North Carolina State University Administrative
14 Officer"--"Officer Program's 43rd class."

15 Q Do you have here in your CV any memberships in any
16 associations or publications, anything like that?

17 A No, I don't.

18 Q When you testified as an expert witness, did you have
19 a CV or a statement of qualifications that included either
20 additional training or publications or association in certain
21 societies or anything like that?

22 A I don't remember.

23 Q Do you belong to any governing societies or boards for
24 the type of work that you were doing with the SBI?

25 A No.

1 Q Did you ever gain admittance in ICIAF?

2 A No, I did not.

3 Q Is that correct? Am I saying it right?

4 A ICIAF, International Criminal Investigative Analysis
5 Fellowship.

6 Q Is there any particular reason you didn't gain
7 admittance with ICIAF?

8 A I was fired.

9 Q Are there--for the type of work you were doing with
10 the SBI, serology and bloodstain pattern analysis, are there
11 particular associations that govern those sorts of functions?

12 A For which one?

13 Q Well, let's start with serology.

14 A There are associations. I was a member of the
15 Midwestern Association of Forensic Science for some period of
16 years.

17 Q When was that?

18 A I don't remember.

19 Q Do you recall--was it early, mid-'80s, '90s, mid-'90s?

20 A It was when I was working in the lab, so sometime
21 between 1985 and 1993.

22 Q Any other serology societies or associations that
23 govern that sort of work?

24 A Are there others?

25 Q Yes.

1 A Yes.

2 Q What would they be?

3 A I don't remember. I just know that there were. We
4 had--the laboratory was divided up so that the serologists--
5 we were sent to different ones so that we could get the
6 information from--at the time the bureau paid for us to go
7 and be members of those, and then at some point they stopped
8 paying for it.

9 But at the time there were members who were going to
10 the west coast and to the east and I was sent to the midwest.

11 And then we brought back the information that we--during the
12 conferences and things and shared them with the rest of the
13 group.

14 Q How about for blood spatter analysis? Any
15 associations or societies that govern that sort of work?

16 A There are.

17 Q And who would they be?

18 A I don't--I don't know.

19 Q Did you ever belong to any societies with regards to
20 that sort of work?

21 A No, I did not.

22 Q And the ICIAF, that's for criminal analysis; correct?

23 A Criminal investigative analysis, right.

24 Q You would do--help me out on the word. I'm losing
25 the--not analysis, but you would profile. You would do a

1 criminal profile; is that right?

2 A Profiling is the--is kind of the old term, and I guess
3 they--they changed the title of it, but--it includes a whole
4 lot more than profiling, but--but it is--it's an umbrella for
5 a lot of different analyses that occur.

6 Q Other than profiling, what falls in that umbrella?

7 A I'm going to refer to my--I think there are some of
8 those in here, and I just can't remember at the moment.
9 There's a list on page 2 pretty much. Threat assessment,
10 equivocal death evaluation, statement analysis, crime scene
11 analysis, investigative strategies were things that we
12 provided from that, indirect personality assessment. These
13 are all different things that were done under the umbrella of
14 criminal investigative analysis.

15 Q Did you ever complete any specific training outside of
16 the SBI for criminal analysis?

17 A I had completed all of my training as I remember
18 except I needed to go and do my internship and take my test.

19 Q Where did you complete your training?

20 A It was all over the country. They send you to
21 courses. I was in California, as I remember. I took courses
22 in Virginia. I took courses here. I took some--I took some
23 college courses here that were required.

24 Q Where did you take those? Do you recall?

25 A Psychology.

1 Q Where did you take them?

2 A It was Wake--Wake Tech.

3 Q Do you recall the time frame we're talking about, if
4 it's 2000, 2003, or any time frame?

5 A It was approximately--approximately the last four
6 years of my career.

7 Q So it was 2007 to 2011, approximately?

8 A I believe so.

9 Q Have you ever been arrested?

10 A No, I have not.

11 Q Other than the--well, have you ever received any
12 postgraduate level work other than the 16 hours identified in
13 your CV?

14 A I don't believe so.

15 Q Now, what I'd like to do, Mr. Deaver, is to go through
16 your work history with the SBI. And we can do that using
17 your CV and some other information, if that's okay with you.
18 All right?

19 A Sure.

20 Q You started with the SBI in 1985?

21 A December 1st.

22 Q And what was your job when you started?

23 A I was hired as a serologist.

24 Q And I don't mean to be flippant, but does a degree in
25 sociology allow you to go to the SBI and work as a

1 serologist? Did you have the proper credentialing at that
2 time?

3 A Well, my degree was in zoology, which is---

4 Q (interposing) Zoology, I'm sorry.

5 A ---which is pre--is basically the premed curriculum at
6 the SBI, very heavy in science and chemistry, and it did
7 qualify me to do the job in serology.

8 Q And in 1985, you're in the laboratory division for the
9 Serology Section?

10 A That's correct.

11 Q And who were you working with at that time?

12 A Working with?

13 Q Yes.

14 A My coworkers?

15 Q Yes. Who was working in lab in the Serology Section?

16 A Mark Nelson was my supervisor, Jed Taub was my
17 assistant supervisor, David Spittle, Brenda Bissette, Lucy
18 Milks. Mike Budzynski was hired the same day I was; Jonah
19 (phonetic) Medlin.

20 The Reporter: I'm sorry; the first name again?

21 The Witness: Jona, J-o-n-a.

22 A And I believe that's all that were working in the
23 Serology Section when I was hired.

24 Q And according to your CV, you worked there until
25 January of 1994, so about nine years. Does that sound right?

1 A I think it's eight years.

2 Q Eight.

3 A Eight years complete.

4 Q And during that eight year time period--well, let's--
5 when you first started out, what sort of work were you doing
6 at that time?

7 A The first thing? We started--we started a serology--
8 serology had a training program, specific things that had to
9 be done. And I started--started on December the 1st, started
10 the training program, and then in the spring of '86, we
11 stopped that and went to the SBI agent academy. And I
12 graduated that roughly July the 1st and then went back to the
13 serology training.

14 Q When you started in '85 with the serology training,
15 who was providing the training at that time?

16 A Mark Nelson was responsible for it, but various
17 members of the unit did different portions of the training.

18 Q What sort of training were you receiving?

19 A Well, it was divided into sections called body fluid,
20 electrophoresis. I can't remember all those.

21 Q And after you---

22 A (interposing) Body fluid identification, excuse me.
23 I think that was part of it. So there were building blocks.
24 And just like our testing, we were taught to do the first
25 steps and then we built on that.

1 And I talked about characterizing these stains and
2 eventually ended up with electrophoresis, which at the time
3 was a method for using proteins and enzymes to do typing.
4 DNA took all of that--the place of all of those things
5 because it was a much more powerful tool, but that's--and our
6 training just built on each step. And then when we did our
7 testing, when we did cases there, it was basically the same
8 as the order that our training was.

9 Q And after you returned from the '86 SBI agent
10 training, did you continue receiving training in the lab?

11 A Yes, I did.

12 Q And who particularly provided that training after
13 returning from the '86 SBI training?

14 A Again, various members of the unit.

15 Q Do you recall specifically who may have been training
16 you during that time?

17 A Well, Mark Nelson, Jed Taub, and then beyond that I
18 remember working with others, but not specifically.

19 Q And during that time period, '85 to '94, were part of
20 your job duties also testifying in court about your findings?

21 A Not until we were released for--we were released to do
22 casework.

23 Q When were you released to do casework?

24 A I don't remember.

25 Q Any estimate for me? Was it like '86 or '90 or '91, I

1 mean any--any time frame? It doesn't have to be exact.

2 A 1987 maybe. It took about a year to do the training.

3 Q And then after 1987 approximately you were cleared to
4 go ahead and start testifying in court?

5 A That's correct.

6 Q Prior to your being cleared to go testify, did you
7 receive any training in how to testify?

8 A Yes.

9 Q Who provided you that training?

10 A The section did as a whole, but Mark Nelson was
11 responsible for it.

12 Q And what did that training consist of?

13 (Mr. Miller exits at 9:44 a.m.)

14 A We were given a case, or when we did a case--I don't
15 remember. We had a case, and we--we reviewed the analysis on
16 the case, and then we were--they chose--it was moot court or
17 mock court, and they chose a judge and a prosecutor, a
18 defense attorney, and then we went through testimony. We
19 were given questions that I assume were typical questions
20 that--that the members of the unit had been given in court in
21 the past, and we went through that.

22 As I remember, the entire unit was there. People had
23 input. And then when it was over, then there was a
24 discussion about how you had done, what you might want to
25 work on for presentation purposes, especially how you present

1 the evidence, those kinds of things.

2 Q So it wasn't that your testimony was correct, because
3 they gave you all the analysis and what you were supposed to
4 testify to. It was more how you did presenting the evidence.
5 Would that be fair?

6 A Yes, sir.

7 Q Okay. And you indicated there was kind of a
8 debriefing or a question and answer session afterwards that
9 gave you some feedback; is that right?

10 A That's correct.

11 Q Do you recall what the--what the feedback was for
12 your--and I'll call it mock court or a mock trial. Do you
13 recall what the feedback was for your mock trial?

14 A Not specifically, no, sir.

15 Q Do you recall any of the feedback that you received
16 prior to being cleared to testify in court?

17 A I remember something that I believe came up during the
18 Peterson--I believe that it came up during the Peterson
19 hearing that--that I had been prosecution oriented or that
20 they had said something about that during my mock court. And
21 so they kind of refreshed my memory on that, yes.

22 Q How many mock trials did you go through?

23 A I don't remember.

24 Q Was it--again, was it one or two or ten or 20 or 100?
25 Do you have any estimate for me?

1 A No, I don't. I think it was more than one, but I
2 don't remember.

3 Q Okay, so it might have been two or three?

4 A A couple.

5 Q Okay.

6 A Perhaps.

7 Q And when you were then cleared to testify in 1987, do
8 you recall the first case you testified in?

9 A No. No, I don't.

10 Q You don't remember?

11 A No. I remember a case--I remember my first blood
12 spatter case.

13 Q Okay.

14 A But I don't remember my first serology case. And my
15 first blood spatter case would not have been the first case
16 that I've testified to, because I had done serology for a
17 period of time prior to being finished with training and
18 things in blood spatter.

19 Q When was the--what was the first blood spatter case
20 you testified in?

21 A It was in Alexander County. I don't remember the--it
22 was snowing. I remember that. And I just remember that the
23 DA took me to the bathroom with him, and while he used the
24 bathroom I stood beside him and gave him the information for
25 the--for the report that he had not read previously. So it

1 was pretty scary.

2 Q And you took the stand in open court and testified in
3 that matter?

4 A As soon as he got through using the bathroom.

5 Q And you don't recall the name of the case?

6 A No. I don't even recall the--I don't even recall what
7 the case was about.

8 Q Do you recall when that was?

9 A No.

10 Q Was it before 1994, when you went to the Training
11 Section?

12 A Oh, absolutely.

13 Q Okay, so sometime between '87 and '94 when you were
14 cleared to testify, and then you went into the Training
15 Section? Would that be fair?

16 A Yes. If I might explain, when I--while I was a
17 serologist I was asked if I wanted to--if I would train to be
18 a blood spatter expert, which again is a totally separate
19 thing. It was not part of serology duties. And they were
20 going to send me to a school, and I said, "Sure, I'll go do
21 that." And so while I was doing serology work, I was also
22 training and then began to do cases in bloodstain pattern
23 analysis. And so---

24 Q (interposing) And how much--sorry.

25 A So not only did--so not only is there a serology

1 training period and working serology cases, then comes online
2 blood spatter, which is a totally separate thing. I do the
3 training for that and then start testifying to that, sometime
4 during--in all of that period of time.

5 Q And for the blood spatter training, what specifically
6 were you asked to do?

7 A Go to--go to classes on that and then--there was no
8 prescribed training program as there was for serology. And
9 so I would take the information that I got from classes and
10 do experiments and look at all the cases that were coming in
11 that had blood on them and--for my own personal, you know,
12 edification and experience.

13 Q Was there anyone in the lab providing you training on
14 blood spatter during this time frame?

15 A Not--not an organized training, but David Spittle had
16 gone to the classes and was doing cases. And so I would go
17 into his--we all had separate laboratory areas, and so I
18 would go in with him and look at what he was doing and what
19 he was saying about it. And so he would talk about how he
20 was going to testify and received some--some experience from
21 David.

22 Q How long had Mr. Spittle been doing these cases before
23 you started training for the blood spatter work?

24 A I don't know for sure, but the first day that I was
25 hired, David Spittle called me into his office and showed me

1 a blood spatter case, the very first day, December the 1st.
2 And it made me so physically sick I went home and told my
3 wife "I can't do that job." I remember that.

4 Q And from the time you finished this training until you
5 moved into the Training Section in 1994, do you recall how
6 many cases you might have testified on as a blood spatter
7 expert?

8 A No.

9 Q Any estimate for me at all? Was it, again, one or
10 two, ten or 20, 50?

11 A Perhaps 50, and that would be an estimate.

12 Q That's fine. Other than testifying in open court to a
13 judge and a jury, did you ever give testimony in any grand
14 jury hearings on blood spatter or serology?

15 A The only time was--that I remember was the Peterson
16 case.

17 Q Anything else about your--the time period from 1985 to
18 1994 while you were working in the lab division of the
19 Serology Section or any other type of outside training you
20 may have received during that time?

21 A Other than blood spatter?

22 Q Yes.

23 A Yes. I went to a school by Henry Lee in Connecticut
24 for bone typing.

25 Q Was there a--and I may be confusing blood spatter with

1 the criminal analysis, but was there a course in Minnesota
2 that you took?

3 A That was my first course in blood spatter.

4 Q And do you think that might have been in 1987-ish?

5 A Perhaps.

6 Q How long was that course?

7 A It was a week.

8 Q Any other outside courses that you recall taking for
9 blood spatter?

10 A I went to Florida to Valencia College and took a--an
11 advanced course in bloodstain pattern analysis.

12 Q And how long was that course?

13 A It was a week.

14 Q Any others?

15 A The people from Valencia College actually came up to
16 North Carolina on my request and taught a combination basic
17 and advanced course, as I remember. And even though I was
18 the requester, I went through that course again and was given
19 credit for that class.

20 Q Did anyone from SBI go with you to the Minnesota
21 training?

22 A No.

23 Q How about to Florida?

24 A No.

25 Q How about when the Valencia College came up? Did

1 anyone else receive training from them at that time?

2 A It was for all SBI agents. I mean not--it was for SBI
3 agents. Not all the SBI agents came to it.

4 Q Did it deal with anything other than blood spatter?

5 A I don't think so.

6 Q And was that just a one day or a half day seminar?

7 A It was a week, if I remember correctly.

8 Q It says on your CV that you developed the SBI blood-
9 stain pattern analysis training program. What does that
10 mean?

11 A I was asked by administration to teach other people
12 blood spatter. And so I actually received permission from
13 the Minnesota people to use their materials and teach their
14 course. And I taught their course several times during my
15 career to SBI agents.

16 (Mr. Miller enters at 9:55 a.m.)

17 Q Do you recall who you might have trained during that
18 time period, particularly which SBI agents?

19 A No. It's a long list of people.

20 Q How many people do you think?

21 A I couldn't guess.

22 Q 10 or 20, 100, 200, 1,000, any estimate?

23 A No.

24 Q How many times did you teach the course?

25 A I don't remember.

1 Q Over what time period did you teach it?

2 A Do you mean for a period of a week or---

3 Q During--like from '97 to 2000 or any time period like
4 that?

5 A I believe the first time I was still in the lab and I
6 taught the course.

7 Q Do you recall the last time?

8 A No, but it was--while I had other duties I did--I
9 continued to do it.

10 Q And then in January of 1994, you moved on to the
11 Training Section; is that right?

12 A Yes.

13 Q And what does that mean?

14 A I became a training officer with the State Bureau of
15 Investigation responsible for--I had responsibilities for the
16 academy, for in-service training. I was a firearms
17 instructor, a surveillance instructor, physical fitness
18 instructor, taught Spanish classes, taught blood spatter
19 classes, taught homicide--was responsible for the homicide
20 instruction for agents, new agents.

21 Q What does that mean, homicide instruction?

22 A How to investigate homicides.

23 Q Anything in particular about that?

24 A No, I--just all kinds of things. I brought--I brought
25 all kinds of people with expertise to come and improve the

1 knowledge of homicide investigators for the SBI. The Body
2 Farm, Dr.--I can't remember his name--I contacted him and had
3 him come, things like that.

4 Q Would that include how to block off a crime scene, how
5 to gather evidence, that sort of thing?

6 A A lot of that was basic training, which occurred in
7 the academy. But yes, I was involved in that kind of
8 training too, so---

9 Q Well, beyond that basic training, what other training
10 would you give for a homicide investigation?

11 A I just talked about Dr.--I cannot remember his name,
12 but from The Body Farm, you know, the book that was written
13 about the guy that lays the bodies in Knoxville on the
14 ground, he came.

15 I brought an entomologist who dealt with forensic
16 entomology to talk--to teach our investigators how to use
17 insects. We taught our--we taught our homicide investigators
18 some basic information about blood spatter, how that would
19 help them determine things in a crime scene or about the
20 homicide very quickly to help them get the information they
21 needed to start--at least start looking somewhere.

22 Q And you worked in the Training Section from '94 to
23 January of 2000?

24 A I believe that's correct.

25 Q During that time period, 1994 to January 2000, did you

1 continue to testify in court?

2 A I did.

3 Q As a blood spatter expert?

4 A As a blood spatter expert and also serology; the cases
5 continued to come up, but--and so---

6 Q How would--how would you receive a case during that
7 time? I know that sounds like a silly question, but were you
8 assigned cases? Did they come in and be doled out next in
9 line alphabetically? How were you assigned a particular
10 case?

11 A When I was in the lab?

12 Q Let's--let's go from '94 to 2000, while you were in
13 the Training Section.

14 A The way I received a case would be a request to the
15 supervisor of the Training Section for--for additional help
16 in some manner. At the same time I was doing cases in--I was
17 doing drug cases. I was working on homicide cases. Most of
18 those times were either providing technical expertise at a
19 scene or Spanish investigation, Spanish language investiga-
20 tions.

21 Q So would it be fair to say that during the time period
22 January 1994 to January 2000 you were only involved in cases
23 if you were asked to come in and provide extra help or
24 support?

25 A No. You know, I'll give you an example. One time I

1 was on my way to Salemburg, which is where we did our
2 academy, and I got a call from one of the agents over the
3 radio, "Hey, are you nearby?" I said, "Yeah." He said,
4 "Come over; we've got a crime scene right off the road here."

5 And so I went over and there was a--they wanted to
6 talk to me immediately about some blood spatter stuff. They
7 had the suspect sitting in the car, the body still in a--in
8 there, and so I gave them assistance like that. And it
9 wasn't an official request. It was--I got the call over the
10 radio, as I remember.

11 Q Did you ever testify in court as an expert other than
12 in serology or blood spatter?

13 A I did.

14 Q On how many occasions?

15 A I remember one specific occasion I was in court, and--
16 kind of just like blood spatter, they hand you a piece of
17 evidence that you might not have ever seen before--he hands
18 me a gun and says, "Are you familiar with this type of
19 firearm?" "Yes, sir." "Why?" And I told him that because I
20 worked on the range. It was a very similar type firearm that
21 we saw on the range.

22 And the district attorney asked me if--if I was
23 familiar with the functioning of the weapon, and I said very
24 familiar. And so he asked me to be tendered as a firearms
25 functioning expert, I believe is what was said, and the judge

1 allowed it. And I gave an opinion on how the--how the weapon
2 functioned.

3 Q Were you initially there to testify as a serology
4 expert?

5 A I don't remember. It could have been blood spatter.

6 Q Could have been blood--one or the other?

7 A Right.

8 Q And then, again, it changed and morphed into a
9 firearms expert. Were you ever called specifically as a
10 witness for something other than serology or blood spatter?

11 A Yes.

12 Q And when was that? What were the circumstances?

13 A I mean I've been--I've been called as a witness for
14 Spanish crimes for the statements that I took, just as a
15 general investigator, you know, what statements I took. I
16 also worked as a diversion agent for a period of time until I
17 was called to give testimony on arrests that were made or
18 investigations on diversion.

19 Q Going back to your time in the lab from '85 to '94,
20 how were you assigned cases during that time?

21 A On a rotating basis. The serology cases, they came in
22 and they were given pretty much just on a rotating basis, as
23 I remember. If an agent had a--if an agent had a backlog and
24 he was really bogged down, then they would skip him for a
25 couple of rotations and give it to the others.

1 For blood spatter, most of the cases came to me.
2 David Spittle came to the point where he didn't want to do it
3 anymore, and so I was the person who was doing almost all the
4 blood spatter.

5 Q When did that occur?

6 A I don't remember.

7 Q Do you have any estimate for me? Was it just before
8 you left the lab or sometime like the middle of your time at
9 the lab, any estimate for me?

10 A It was early.

11 Q So between '85 and '87, something like that?

12 A I couldn't say for sure.

13 Q And when you got an assignment to do a blood spatter
14 analysis, typically walk me through the steps of what that
15 meant.

16 A I don't understand the question.

17 Q Well, did you go out to the scene, take photographs,
18 meet with the investigating officers? I mean what did you do
19 if a call came in and said, you know, "Mr. Deaver, we have a
20 homicide and we'd like you to do a blood spatter analysis"?

21 A There were a myriad of different ways you could become
22 involved. Most of the time I didn't get involved until later
23 in the case because they just didn't think about it, and then
24 it came up.

25 There were--there were--there were occasions where the

1 case was already in trial and the district attorney would
2 say, "Uh-oh, this is something that we want to take a look
3 at." And so I would get called in when the case was already
4 in progress and there was already testimony being given.

5 There were occasions where--and blood spatter just
6 didn't have to do with homicide either. There were cases
7 where it was an assault or a rape. Even a rape where blood
8 is involved I have on occasion given opinion how the blood
9 came to be on the suspect's, or even on the victim's,
10 clothing.

11 And so I could have a serology case that came in and
12 the officer would call me and say, "Hey, I really need you to
13 look at that sock and tell me how blood came to be on the
14 suspect's sock." And so it could be just one thing, one
15 little thing.

16 There were other occasions, as you said, where
17 somebody finds a body and they call me and say, "Hey, we need
18 you to get here." I've been flown to the western part of the
19 state. I've driven blue lights to other places in the state
20 to get there before they touch anything and go in and do it
21 from the beginning to the end, from the crime scene and every
22 stain that's in the crime scene and all of the evidence that
23 was done.

24 That was rare. It was rare that people would think of
25 it early on. The Peterson case is an example, a very rare

1 situation where you got into it from the beginning. I
2 remember there was a triple homicide in Fayetteville where
3 they just closed it up and I went there. There was a
4 homicide in the mountains that I said I got--I was flown up
5 there where they just closed it up until I could get there
6 and start the investigation. But those were rare cases.

7 Many more cases were just small pieces of evidence. You
8 know, even tissue that was wadded up with blood on it, they'd
9 want to know "Can you tell us anything about that?" That's
10 considered a blood spatter case.

11 Q When you say rare, how many times do you think you
12 were at the scene of the instant crime to do a blood spatter
13 analysis?

14 A I really can't remember. I've had--I've had agents
15 call me in the last year or two and say, "Do you remember
16 helping me with this case," and I don't remember anything
17 about that case.

18 Q Fair enough. I'm just trying to get, again, a sense
19 or an estimate. Is it one or two times, 50 times, 100 times,
20 150 times? How many times do you think you were out at the
21 scene to do a blood spatter analysis?

22 A Oh, I--I would estimate less than 100 times.

23 Q Less than 50 times?

24 A I couldn't--really beyond that I can't say.

25 Q And again, maybe I asked this, sir, and I apologize,

1 but during that time period in December of 1985 to January of
2 1994, do you have an estimate of how many blood spatter cases
3 you worked on?

4 A I don't.

5 Q I'm going to ask you again just because I feel I must.
6 Do you think it's 50 to 100, 150 to 200, any range you can
7 give me, an approximation?

8 A No. Did you say from the period I was in the lab?

9 Q Yes, sir.

10 A No, because I took--I mean for a period of years I
11 took every case that I got that had blood on it and made it
12 into a blood spatter case to give myself--to give myself
13 experience and to--to help me understand when the--when the
14 facts were made known what actually was happening.

15 And so I was working approximately 300 cases a year,
16 and I was looking at the majority of those for blood spatter.

17 And so I really would take a lot of time to do that, and--
18 and that's how I--I'm very methodical. There were--there
19 really was no one else to help me particularly gain the
20 experience that I needed to gain. I asked to go to every
21 crime scene I could go to.

22 And for a long period of time, I wrote no reports on
23 any of these things because I wasn't--I wasn't to the point
24 where I really could give opinions. And so--and then even
25 after I started--even after I started writing reports, I was

1 very cautions and continued to use the cases for--for my
2 experience purposes. Even late in my career before I was
3 fired, every chance I got I looked at stuff from other
4 agents. And then my profiling, a big part of that was blood
5 spatter.

6 I helped--I helped other states. When other--when
7 other agencies in ICIAF found out that I was a blood spatter
8 expert, they sent things to me for me to look at and to help
9 them with in the--in the area. So I just cannot give a
10 number. It's--it's a lot.

11 Q When you say that you worked up these cases for blood
12 spatter, is that even on cases you were not asked to do that?

13 A Oh, absolutely, yeah, because they didn't know to ask
14 me because I wasn't--early on I wasn't testifying yet. And
15 then even after that, most people didn't know anything about
16 it, so---

17 Q Would the blood spatter be germane to the investiga-
18 tion, or was it just something you were doing to hone your
19 skills?

20 A To hone my skills.

21 Q And you did that even after you were testifying in
22 blood spatter cases?

23 A Absolutely. When we taught schools, I continued to--
24 the schools were--there was a cadre of us who worked together
25 as blood spatter experts after I had been in it awhile.

1 There were others who went to the schools and became every
2 bit as expert as I was. And then we worked together as the
3 class instructors.

4 And we would bring cases together and look at things
5 and do testing in our schools because we had all the blood
6 and everything there. The place was already a mess, so we--
7 and we continued to build our expertise even to the end, when
8 I was fired.

9 Q Who was in that cadre you talked about of blood
10 spatter experts?

11 A Dennis Honeycutt and Paula Carson. The three of us
12 were the main ones, and we were developing--Gerald Thomas was
13 very good, and we were developing him as a member of the--of
14 the instructors also, as I remember.

15 Q And these are all SBI agents?

16 A Yes.

17 Q And is this--we're talking about a time frame now
18 after '94 when you went to the Training Section?

19 A No, that was beginning before that. Dennis Honeycutt
20 went to the school shortly after I did. And so we--we went
21 through our things kind of parallel. After--after he went to
22 the school and became an expert, then he and I would check
23 all of our work as peer review and, you know, go over things,
24 trade cases, those kinds of things.

25 Q Was there anyone particularly that you worked with in

1 the Training Section, any agent that you worked closely with?

2 A For?

3 Q For the Training Section from '94 to 2000?

4 A Just work in the Training Section?

5 Q Yes.

6 A Steve Carpenter and I were extremely close, very, very
7 close friends, and did--we were partnered together to do a
8 lot of the training that was going on.

9 Q And again, that training--I think you listed a long
10 list of things--dealt with functions an SBI agent well beyond
11 blood spatter experts?

12 A Yes.

13 Q Handgun training, physical fitness training, I think
14 you said you taught Spanish?

15 A I was a defensive tactics instructor. I think I
16 forgot to say that. We--and our year was basically--our year
17 was made up of the academy. Almost every year we produced an
18 academy which ran 18 to 20 weeks.

19 We had in-service that started every year about the
20 first weekend of September and ran until the end of the year.

21 That's required training for the state. And so all the
22 agents had to come through that. So we had to produce that
23 course work.

24 And then after January the 1st, we would have what we
25 call specialized training where we did all these courses on

1 homicide, on blood spatter, Spanish, all the other things
2 that we wanted to use to add expertise to SBI agents.

3 Q During that time frame in the Serology Section
4 December 1985 to January 1994, did you ever receive any
5 reprimands or censures because of your work?

6 A From when?

7 Q Serology Section, '85 to '94.

8 A No, I did not.

9 Q How about any counseling sessions, oral counseling
10 sessions, during that time regarding your work product?

11 A The--I did receive a counseling session. Mark
12 Nelson--he and I had words over the way we were doing on call
13 for holidays. It was not being rotated, as I remember. And
14 I had words with Mark, and then he counseled me about--about
15 my attitude about the decision that he was making for that.
16 And---

17 Q (interposing) Would you consider that more personal
18 conduct rather than your job work product?

19 A I would.

20 Q How about any others that you can recall during that
21 same time period, '85 to '94?

22 A No, sir.

23 Q How about while you were in the Training Section, 1994
24 to January 2000? Any written reprimands or censures of your
25 work product or your personal conduct?

1 A I don't remember any written thing, but the supervisor
2 there, she--there was something going on that I didn't know
3 anything about. She was having some kind of conflict with
4 some other agents, and she called me into her office and
5 reprimanded me for association with other agents that--and I
6 didn't know--I really didn't know what was going on with
7 that, but she had some--some harsh things to say to me
8 about--and I still don't know what that was all about, but I
9 think she thought I was--if I remember correctly, she thought
10 that I was in a group of people that were critical of her.
11 And I was not, but she thought I was and gave me a reprimand
12 for--for that.

13 Q Do you recall that supervisor's name?

14 A Boy, I should. I'm sorry.

15 (Pause.)

16 It'll come to me. Can I come back to it? It was a
17 female.

18 Q Any other oral counseling sessions or reprimands that
19 you recall during that same time period, January '94 to
20 January 2000?

21 A No, sir.

22 Q And again, that--that sounds more like a personal
23 conduct reprimand than a critique of your work product.
24 Would you agree with that?

25 A I--throughout my career, I was always told by my

1 supervisors that I had an excellent work product and that--as
2 a matter of fact, when the next supervisor came into the
3 Training Section and when he looked through the records, he
4 said that I had carried the unit for the years that I was
5 there with the most output and everything. And I was told
6 when I was in the Serology Section that I had done always
7 more cases than anyone else, had been available for extra
8 duty. And that's--that's the kind of career that I tried to
9 have.

10 I took a--if I might just kind of say that I--I took
11 my job as that I was responsible to the state of North
12 Carolina law enforcement to provide them whatever they needed
13 as a--as an assisting agency, and I tried to provide new
14 techniques, new things that were coming into vogue. The
15 bureau tended to come to me and say, "Hey, there's this new
16 thing. We'd really like for you to go and investigate what
17 it's all about and see if it would be useful."

18 Blood spatter was one of those. I was teaching
19 Spanish to officers all over the state because we were
20 beginning to have a great influx in the '90s, and I was--at
21 one time I believe I was the only fluent officer in the
22 state. And I--profiling was another one where they came to
23 me and said, "Hey, this is going on in other parts of the
24 country. Would you do research and see if it would be useful
25 to us?" And I did that.

1 And another one was meth labs. They came to me and
2 said, "Hey, we need to train people around the state about
3 meth labs," and I said, "Okay, I'll do it." And I went and,
4 you know, took the classes, did the learning, set up the
5 training. And so my work product, as I was told by everyone,
6 and I haven't seen any evidence to the contrary, was
7 exceptional all the years I worked.

8 Q The third supervisor that you just mentioned that came
9 in--came into the Training Section, do you recall who that
10 was?

11 A That's Kevin West.

12 Q Kevin West?

13 A Yes.

14 Mr. Whitehead: I know it's a little early, but
15 would you mind if we take a quick five minute---

16 Mr. Isley: (interposing) Sure.

17 Mr. Whitehead: ---bathroom break?

18 The Videographer: This concludes Tape 1. The time is
19 10:19.

20 (A brief recess was taken.)

21 The Videographer: This is Tape 2. The time is 10:37.

22 By Mr. Whitehead:

23 Q Mr. Deaver, I believe just before we went off the
24 record we were talking about your time with the SBI from '94
25 to 2000 in the Training Section, and you had mentioned that

1 your third manager or supervisor to come in was Kevin West.

2 Do you recall that?

3 A Yes, but he was the second.

4 Q The second?

5 A The second supervisor. The--my first supervisor was

6 Kay Broos.

7 Q She's the one that gave the oral counseling session?

8 A Yes, sir.

9 Q From '94 to 2000, any other oral counseling sessions
10 you can recall about your job performance or your personal
11 conduct?

12 A Not that I can remember.

13 Q Okay. And you left the Training Section in January of
14 2000 and moved to the Diversion and Environmental Crime Unit;
15 is that correct?

16 A That's correct.

17 Q And what were your job duties and responsibilities
18 after you moved jobs?

19 A I continued to have responsibility for training. I
20 was still firearms and all the other instructors, so I still
21 assisted with the--with the Training Section in those areas.

22 I still continued to provide blood spatter assistance. I
23 continued to do the blood spatter schools and help with the
24 training of SBI agents in blood spatter.

25 And then I took on the additional responsibilities for

1 the Diversion and Environmental Crimes Unit, which included
2 investigating diversion of legal drugs, usually by health
3 care professionals, and also environmental crimes where
4 someone had violated the environmental laws of North Carolina
5 or the United States.

6 Q Did you continue to testify in court as a blood
7 spatter expert while you were working for the Diversion and
8 Environmental Crime Unit?

9 A Yes, sir, I did.

10 Q Do you recall how many times you might have testified
11 as--I have in your CV that you worked for that particular
12 unit from January of 2000 to November of 2003. Does that
13 sound right?

14 A Yes, sir, to the best of my memory.

15 Q Do you recall how many times you might have testified
16 as a blood spatter expert during that time period?

17 A No, I don't.

18 Q Do you have any estimate for me? Was it one or two
19 times or 100 times?

20 A No.

21 Q How about as a serology expert? Were you continuing
22 to testify as a serology expert during that time?

23 A I believe so, but again, I don't remember.

24 Q Were you also doing lab work during that time also?

25 A No, sir.

1 Q So when you would testify as a blood spatter expert or
2 as a serology expert, what would be the circumstances of your
3 testifying? Why would they call you?

4 A For serology cases, it would--it would have generally
5 been old cases, cases that I had already worked that were
6 coming to trial by that time. Blood spatter cases could be
7 old cases or new cases. I continued to work cases.

8 Q Did you work them in the lab?

9 A It depended on the circumstances. I would do them--a
10 lot of times they were scenes, but I could--I would go to the
11 lab sometimes. They would have evidence over there and call
12 me over to look at evidence in the lab for blood spatter.
13 And so yes, I would work it there. And then sometimes I
14 would have people bring evidence to the lab since I didn't
15 have a work space and work on it there.

16 Q It's my understanding that at the SBI you may wear
17 several different hats at once. Was that your understanding
18 of your time while you worked there?

19 A Yes, sir.

20 Q And not just you, but other agents may also wear
21 several different hats while they were working there---

22 A (interposing) Yes, sir.

23 Q ---meaning they may be working doing training, they
24 may be working doing lab work, they may be testifying, all
25 those sorts of things?

1 A Yes, sir.

2 Q Okay. And while you were working for the Diversion
3 and Environmental Crime Unit, you were still doing some
4 training, you were still doing some lab work, although you
5 didn't have a space at the lab, and you were also still
6 testifying; isn't that right?

7 A Yes, sir.

8 Q Anything else you were doing with the SBI during that
9 time period, January 2000 to November 2003?

10 A I was still doing Spanish investigations. That's
11 about all that I can remember.

12 Q Who was your supervisor during that time?

13 A Loy Ingold.

14 Q And what was Mr. Ingold's title, if you know?

15 A Special agent in charge of diversion and environmental
16 crimes.

17 Q During that time period, 2000 to 2003, did you receive
18 any written reprimands or censures of your work product or
19 personal conduct?

20 A Not that I remember.

21 Q Any oral counselings during that time about your
22 personal conduct or your work product?

23 A No, I don't remember any.

24 Q Besides you and Mr. Ingold, did anyone else work in
25 the Diversion and Environmental Crime Unit?

1 A Yes, they did.

2 Q Who else were you working with at that time?

3 A Jerry Ratley was in there, Rob Ennis, Ken Raper.

4 There were some others, but we were spread out really far, so
5 I don't remember.

6 Q Were--what was the hierarchy within the unit? Mr.
7 Ingold was the special agent in charge. These other
8 individuals you listed, were they your contemporaries or did
9 they report to you? And how was---

10 A (interposing) No.

11 Q How was it set up?

12 A There was a special agent in charge and an assistant
13 special agent in charge, and then we were all equal after
14 that, pretty much peers.

15 Q And you reported directly to Mr. Ingold?

16 A I did, but then I reported to the--to the assistant
17 special agent in charge for a period of time also. And I
18 don't remember his name.

19 Q Any censures or reprimand you--reprimands you received
20 from the assistant special agent in charge during that time
21 period?

22 A Not that I remember.

23 Q Either written or oral?

24 A Not that I remember.

25 Q And you also indicated that you were doing training

1 during this time, blood spatter training, training Spanish--
2 or teaching Spanish to the SBI agents, that sort of thing.

3 How did you set your schedule? How did you know it
4 was going to be a training session as opposed to being--to
5 doing work in the Diversion and Environmental Crime Unit?
6 How did you determine what work you were going to do that
7 day?

8 A Some things were requested through the chain of
9 command. And then we had a lot of--we had a lot of--I guess
10 for lack of a better word, leeway, to determine just so we
11 got our work done. We were just cautioned don't let
12 additional things keep you from doing your casework. And so
13 we--we pretty much set our own schedules.

14 Also during that time, I was--during that period of
15 time in Diversion and Environmental Crimes, I was changed--my
16 assignment was changed by the administration. I was still in
17 that same unit, but I went to the meth team, meth lab team.

18 Q And what percentage of your work--I'm just trying to
19 get a general understanding--would you say was doing
20 diversion and environmental work unit--crime unit work, as
21 opposed to doing training or all the other things you talked
22 about?

23 A I can't remember specifics enough to say.

24 Q Do you think it was about 50/50 or was it a lot more
25 work for the Diversion and Environmental Crime Unit?

1 A It was some more work than 50/50, but how much more I
2 don't remember.

3 Q And then November of 2003 you left there and started
4 working with the Clandestine Laboratory Unit; is that
5 correct?

6 A I think that's correct.

7 Q And what were your job duties and responsibilities
8 there?

9 A To--to respond to meth labs. And I was the safety--
10 site safety coordinator and supervisor on the site. And I
11 coordinated the response by our SRT team, or SWAT team,
12 response by local officers, response by DEA agents and our
13 lab. And so I--my responsibility was from about Burlington
14 east, but I responded to a lot of labs in the west, far west
15 of the state, just because there were so many there.

16 Q The response to meth labs and things like that, did
17 any of that involve blood spatter work?

18 A The meth labs?

19 Q Yes.

20 A No.

21 Q Okay. Were you still doing blood spatter work at that
22 time?

23 A Yes, sir.

24 Q Were you still doing serology work?

25 A No, I was not.

1 Q When do you think you stopped doing the serology work
2 altogether? You may have been called to testify some years
3 later when the case went to trial, but when do you think you
4 stopped doing serology work in the lab?

5 A Oh, I couldn't remember.

6 Q Any estimate for me at all?

7 A No.

8 Q Was it in the '80s or '90s?

9 A I can't--I can't remember.

10 Q Okay. But you continued to do blood spatter work even
11 in this new Clandestine Laboratory Unit coordinator job. How
12 much blood spatter work were you doing during that time?

13 A I don't remember.

14 Q Were you continuing to testify in court as a blood
15 spatter expert?

16 A I was.

17 Q Do you recall during that two year time period
18 approximately, actually even less than two years, how many
19 times you might have testified in court as a blood spatter
20 expert?

21 A No, I don't remember. 2003 I did the Peterson case
22 testimony. I remember I had a case almost immediately after
23 that in blood spatter only because I just remember that it
24 was very contentious. The attorney was very---

25 Q (interposing) Peterson was contentious or the other

1 one was---

2 A (interposing) No.

3 Q --contentious?

4 A Well---

5 Q (interposing) I'm sorry.

6 A ---Peterson was very contentious, and then--and then
7 the one right after that. And I hadn't had that experience
8 much after that, but I just remember those two cases during
9 that period.

10 Q Do you recall the name of that second case you
11 testified in after Peterson?

12 A No, but I believe it was in Cumberland County.

13 Q Since that second case, have you testified in any
14 other case as a blood spatter expert?

15 A I don't remember.

16 Q That could have been your last one?

17 A I don't remember. I just remember those two because
18 of the---

19 Q (interposing) But you don't recall as you sit here
20 today testifying in any other cases in open court as a blood
21 spatter expert?

22 A I don't remember any others.

23 Q Who was your supervisor in the Clandestine Laboratory
24 Unit?

25 A Van Shaw.

1 Q And who else did you work with in that unit?

2 A Van Shaw and I were the only two for some period of
3 time, and then some others were--were brought into the unit,
4 but I don't really remember the names of those people.

5 Q And I guess the same series of questions I've asked
6 you before, but any written reprimands or censures of your
7 work product or personal conduct that you recall while you
8 were working in the Clandestine Laboratory Unit?

9 A No, I don't remember any.

10 Q How about oral counseling sessions, either through Mr.
11 Shaw or anyone else, while you were working through the
12 Clandestine Laboratory Unit?

13 A No, sir, I don't remember any. And Van Shaw was
14 actually assistant special agent in charge under Loy Ingold.
15 So we were--then we became a unit of DECU, if that makes
16 sense, as per organization.

17 Q So initially you were under Mr. Ingold's umbrella but
18 you reported to Van Shaw, or did that happen later?

19 A That happened later.

20 Q Do you know who Joel Resh (phonetic) is?

21 A Joel Rosch?

22 Q Rosch, I'm sorry, yes.

23 A Yes, sir, I do.

24 Q Who is he?

25 A He was an employee in the SBI Training Section when I

1 first went to the Training Section. And I believe his
2 responsibility was research.

3 Q Was does that mean, research? He didn't do---

4 A (interposing) I don't know.

5 Q ---experiments and things like that or testing?

6 A I don't know. I don't know what he did. He and I
7 became speaking friends because we all shared an office
8 together, but what he specifically did I don't remember.

9 Now, he did--I will say this. He did help me--I was
10 tasked with writing the governor's basically community
11 policing policy. That was given to me as an assignment when
12 I first went into the Training Section. And Joel helped me
13 do that.

14 Q Do you recall having any other interaction with Mr.
15 Rosch on any particular projects during that same time
16 period?

17 A No, sir.

18 Q And then after the Clandestine Lab Unit you went to
19 the Human Resources Department; is that right?

20 A Yes, sir.

21 Q And what were your job duties and responsibilities
22 there?

23 A I was responsible for all the things that I'd been
24 responsible previously except I no longer went to meth labs
25 or did diversion. I still was doing Training Section

1 functions, as I recall, some Spanish things. And then I was
2 responsible for the human resource function of the--of the
3 State Bureau of Investigation only.

4 Q What does that mean, you were responsible for the
5 function of the human resources of SBI?

6 A We--we were responsible for the hiring process of SBI
7 agents. We were responsible for the background process of
8 SBI agents. We were responsible for research in policy and
9 procedure for law enforcement. I routinely called other
10 agencies to determine what they were doing in specific
11 matters.

12 We helped supervisors with training in human resource
13 matters. We helped them determine policy and procedure for
14 discipline and helped them organize their discipline matters.
15 I don't remember exactly what else.

16 Q Would you review applications?

17 A Yes, we did.

18 Q Did you determine that certain individuals were not
19 material--or persons that the SBI would like to employ?

20 A We made recommendations. The decisions for those
21 things were made by--by--I call it the command staff, but it
22 was the assistant director and above.

23 Q What sorts of recommendations would you make? I mean
24 what sorts of things would red flag an applicant for you to
25 make a recommendation not to employ them?

1 A Drug use, sometimes criminal activity, sometimes
2 experience. Those are the main things.

3 Q Were these applicants all the way from agents them-
4 selves to staff personnel to lower level jobs, or did you
5 just review SBI agents' applications?

6 A We were only responsible--we were not responsible for
7 promotion, for job changes, internal job applications. We
8 had nothing to do with that. We were just responsible for
9 new agent applications, people who wanted to become an SBI
10 agent.

11 Q So these were just agents. You wouldn't review an
12 application of someone that wanted to be---

13 A (interposing) A supervisor.

14 Q ---a secretary or---

15 A (interposing) Well, I'm sorry. I'm sorry. I
16 apologize for that. Yes, we did--we did do secretaries and
17 those kinds of things too. But generally there was a very--
18 if I remember correctly, we would look at their basic
19 requirement and then the supervisor of those units took care
20 of that.

21 So again, mostly it was special--new special agents.
22 We would take in the applications, go through them, make sure
23 they met the basic requirements, and then send them to the
24 unit to go through.

25 Q And you would do background checks, run credit history

1 checks, things like that?

2 A We did.

3 Q Did you do that personally?

4 A Sometimes I did, but my--I had a staff of individuals
5 who did the financial checks. And then we primarily sent the
6 backgrounds out to be done by agents or by retired agents.
7 We also developed a group of retired agents who were--worked
8 for us on contract and did the backgrounds, but sometimes I
9 would go do a background or do a background interview myself
10 because we needed to get it done quickly or for whatever
11 reason.

12 Q Did you make any recommendations during that time
13 period to the supervisors or the reviewing board that someone
14 not be hired as an SBI agent?

15 A I think I did, yes.

16 Q Do you recall how many times you might have done that?

17 A No.

18 Q Who was your supervisor during that time in human
19 resources?

20 A I had several. At first it was Lee Allen. He's the
21 one who hired me into the unit. And then I believe it was
22 Bill Rice (phonetic).

23 The Reporter: The last name again?

24 The Witness: Weis.

25 The Reporter: Weis.

1 A And then I believe it was Pam Tulley. And lastly it
2 was Marshall Tucker.

3 Q And this was February 2005 to October 2009. Does that
4 sound about right?

5 A That sounds about right.

6 Q And during that time period, did you receive any
7 written reprimands or censures of your work product or your
8 personal conduct?

9 A I received a verbal censure--I guess you could say
10 that--from Bill Weis, and so it would have been--and I don't
11 know what time period that was, but it did come from Bill
12 Weis--in reference to--I was asked by the sheriff to come
13 look at a blood spatter case.

14 I don't remember how I received--I don't remember how
15 I received the request, but I went over there straight from
16 my house one morning. It was local to my--to my house where
17 I lived. And I walked in and talked to the sheriff's depart-
18 ment people and the agents there and then gave them some
19 advice on the crime scene and walked out and forgot to write
20 a report.

21 And the district attorney--an assistant district
22 attorney at some point called me and asked me where my report
23 was, and I had completely forgotten to write a report. And
24 so I called Mr. Weis and told him immediately. I called the
25 assistant DA back and apologized and wrote the report. And I

1 was reprimanded because that is against policy.

2 Q Without jumping ahead too much, was that one of the
3 six reasons initially in the predisciplinary hearing?

4 A I believe so, yes.

5 Q That's the 11A form issue?

6 A I believe so, yes.

7 Q Okay. And did Mr. Weis--I think you said he gave you
8 a verbal counseling. Was there any written--as far as you
9 know, any written reprimand or censure?

10 A I don't think so because I don't remember receiving a
11 copy of anything written.

12 Q Any other--from the three other supervisors you had
13 during that time, any other oral counselings or reprimands
14 that you recall receiving?

15 A Not that I remember, until Marshall Tucker, and then I
16 began to receive all kinds of written things, yes.

17 Q When did Mr. Tucker become your supervisor?

18 A I don't remember.

19 Q Well, according to your CV, you left Human Resources
20 in October of 2009. Do you recall how long he had been your
21 supervisor before you left?

22 A Not a long period of time. And the reason for that is
23 that there was a very--I had a structured process for how I
24 was going to move into becoming the profiler for the SBI. I
25 was doing my training while I was still in the--human

1 resource person, director, or whatever the title was.

2 And so Bill Weis had said, "Okay, you're going to do
3 your training, continue to do that job, and at some point we
4 will move you over to becoming the profiler." That was
5 continued by Pam Tulley.

6 And then when Marshall Tucker came in, the very first
7 day that he was the supervisor, I was downstairs working and
8 he called me up to his office along with the other assistant
9 director who had just come in also. And they both told me
10 they didn't know what they were going to do with me; they
11 didn't like what I was doing, the very first day that I
12 was--that they had become my supervisor. I hadn't even had a
13 word with them yet, said hello or anything, and I was very
14 shocked by what they had to say to me, the two of them.

15 And then from that time there--what I was supposed to
16 do wavered back and forth. Nobody ever understood, but then
17 shortly after that I was moved to the Training Section again
18 and put under the special agent in charge of the Training
19 Section to do at least what I thought was profiling.

20 Q So--and I'm just going to go back a little bit about
21 what you just talked about. So Mr. Tucker, and then you said
22 the other director. Do you recall the person---

23 A (interposing) An assistant director; it was--it will
24 come to me in a minute.

25 Q Was it a man or a woman?

1 A It was a man. He was over the field.

2 Q Was it Mr. Hooks or Hicks?

3 A No. Mr. Hooks had been involved in all of this
4 profiling thing, and he was a part of the discussions and
5 part of the systematic process.

6 Q When you say systematic process, of getting the
7 profiling---

8 A (interposing) Program up and running and me moving
9 over to that position.

10 Q And you indicated that Mr. Tucker had been your
11 supervisor for a short period of time while you were in the
12 HR slot?

13 A Right.

14 Q But do you recall how long he had been there, had
15 been---

16 A (interposing) No, that's what--I was trying to answer
17 the question. I only knew that almost immediately there
18 started to be kind of problems with what I had been doing,
19 but then shortly after that I got moved to Training.

20 Q When you say problems with what you had been doing,
21 did you receive any written reprimands at that time?

22 A No.

23 Q Did you receive any oral counselings at that time?

24 A Not that I remember. It was just his problem with why
25 I had been assigned to do that. He didn't like it. He

1 didn't--he acted like he didn't want me to be doing those
2 kinds of things.

3 Q I don't mean to interrupt you, but when you say doing
4 those kinds of---

5 A (interposing) The profiling training, developing a
6 profiling program. And I remember telling him, "That's fine.
7 I'm just doing what I've been requested to do. You'll have
8 to take that up with the director because these are direct
9 things that she has told me to do."

10 Q Who was the director at that time?

11 A Robin Pendergraft.

12 Q And Ms. Pendergraft told you that she wanted you to
13 become the criminal profiler for the SBI?

14 A She was involved in the discussions along with Bill
15 Weis and Erik Hooks, yes, and signed--actually signed the
16 contract for me to become a fellow or a trainee in the
17 program.

18 Q Do you recall when that contract was signed?

19 A No, sir, I don't. I have a copy of it.

20 Q Was it in 2009 or 2010?

21 A I don't remember.

22 Q Now, when you say signed a contract for you to become
23 a member, that's with the ICIAF?

24 A That's correct.

25 Q And what are the requirements to become a member of

1 the ICIAF?

2 A I don't remember specifically, but I remember my part
3 was to--that--the SBI had to agree that they would follow
4 through with the training program. They had to agree that I
5 would be assigned as a profiler if they began the training
6 program with me.

7 They had to--they had to allow me the time to do the
8 training and provide the funds for me to go around the
9 country and do the training. There was a requirement for me
10 to be in an internship for 30 days, so they had to allow me
11 to go to even Canada. I was slated to go to Canada and do
12 my--do my internship.

13 They had to agree to abide by the ethics and rules of
14 the--of the ICIAF. And they also had to agree to exchanges
15 of reports, in other words allowing other people, trainees,
16 to look at our cases for their training purposes and me to be
17 able to work on other jurisdictions' reports.

18 For instance, I worked a rape case in Kansas City. I
19 worked a homicide in eastern Virginia. So, you know, there
20 had to be some jurisdictional issues to deal with. And then
21 agents--agents from Virginia came and worked on cases here in
22 North Carolina, and also an ATF agent came and worked on
23 cases in North Carolina. So those things were agreed to in
24 the contract.

25 Q And according to your CV provided today, that--that

1 occurred like in October 2009?

2 A That seems about right, but I don't know--I don't
3 remember exactly.

4 Q Let's just say in late 2009. From late 2009 until
5 January 2011, what were your job duties and responsibilities
6 during that time?

7 A At the beginning of that I was still a human resource
8 person. I was doing both. I was managing the human resource
9 section, and then I was training. And then at some point--I
10 don't remember when that was--I got sent over to the Training
11 Section. And my human resource duties were--I was still
12 doing some of them like you always do in the bureau, and--but
13 more of my things were finishing up my training.

14 And I was also beginning to at that point work
15 cases--profiling cases. I had to work a certain number of
16 cases as part of my training. And I was receiving cases from
17 around the state in other places, and they were becoming
18 my--my experience.

19 And I was being supervised in that work by one of the
20 people from the ICIAF. My cases would have to be sent to
21 him. I would work them. He would review them. He would
22 review the reports. And then he would say, "That's fine,"
23 "That's okay." And then I would--it would become--it would
24 go to the SBI and become an official report.

25 Q Is that Jon Perry?

1 A Jon Perry.

2 Q When did you first start--well, let me back up. I
3 apologize, because I need to ask you a few questions about
4 your HR work. During that time period you talked about,
5 February 2005 to late 2009, were you still testifying in open
6 court as a blood spatter expert?

7 A I don't remember specific cases, but I was apt to be
8 at any time, yes.

9 Q Well, were you? I know you may have been available
10 to, but did you testify during that time---

11 A (interposing) I don't remember.

12 Q ---if you recall? I guess same question for serology:
13 did any cases come up that you recall that you had to go and
14 testify at or for from February 2005 to late 2009?

15 A I don't remember.

16 Q Were you still doing work in the lab? I believe you
17 said you quit the serology stuff sometime back, but were you
18 still doing work in the lab from February 2005 to late 2009
19 as a blood spatter expert?

20 A I would have to say that I was, because it's a fairly
21 regular thing for me to meet agents as part of their training
22 over at the lab and help them. Well, the Turner case is a
23 prime example, me helping Gerald Thomas get the materials
24 together to do--to work on his blood spatter case and then
25 sometimes to videotape it, depending on if we thought that

1 was a good thing to do, so yes.

2 Q Would it be fair to say that--well, is it accurate to
3 say you were still doing training at the SBI as a blood
4 spatter expert while you were doing the HR work?

5 A Yes, sir.

6 Q And did--were you still receiving new assignments as a
7 blood spatter expert during the time you were working at HR?

8 A I don't remember any specifics, but I would say
9 probably so.

10 Q Okay. Do you recall receiving--or helping because of
11 the training you were doing other agents with their blood
12 spatter work like in the Turner case during the HR work?

13 A Yes, sir, I mean specifics I don't. but I mean the
14 Turner case is an example that comes to mind, but yes, I
15 would go to the lab--I would call and get the blood. I was
16 a--I'd go to the Red Cross and get blood from people. You
17 had to use human blood. That was a requirement of ours
18 always.

19 We would go to the range, shoot stuff if it had to do
20 with a shooting. There's a range behind the lab. We would
21 go to the lab and I'd put stuff together for agents and help
22 them in their cases. And that wasn't even just training.
23 That was for other agents too. If they had a reconstruction
24 they needed to do or whatever, they'd call me because I was
25 there, had access to all the materials, and get that stuff

1 together for people.

2 Q Do you recall how many times you might have done that
3 in conjunction with your training with other SBI agents
4 during that time you were working at HR?

5 A I sure don't.

6 Q Do you have any estimate for me at all?

7 A No. I couldn't even estimate.

8 Q When you left employment with the SBI in January of
9 2011, you were an assistant special agent in charge?

10 A Yes, sir.

11 Q And how much were you earning at that time?

12 A I don't know exactly. I would estimate \$70,000.

13 Q If I told you that I've been told that it was \$72,400
14 roughly, would that sound about right?

15 A I wouldn't argue with that, because I don't look at my
16 check stubs. I don't even know how much I make now.

17 Q Okay. Well, that's too bad because that's going to be
18 my next line of questioning for you. In addition to your
19 salary, did you receive any other financial benefits while
20 you were working at the SBI? And I'll give you an example,
21 like a clothing allowance or a dry cleaning allowance if you
22 were doing work in the lab, anything like that?

23 A We received a clothing allowance usually annually. I
24 don't remember when the last time was that I received one,
25 but yes, and I remember that that was about \$400 before taxes

1 were taken out every year.

2 Q Okay. Do you think you received that all the--for all
3 the years that you worked at SBI including through HR and
4 through the criminal analysis work?

5 A I think there were a couple of years that we didn't
6 receive it because of budget cuts or something, but for the
7 most part, yes.

8 Q How about any other monetary benefits, any allowance
9 for handguns or anything that you would have to buy for your
10 work?

11 A No.

12 Q Did you carry a handgun?

13 A Yes, I did.

14 Q For your entire time that you worked at SBI?

15 A Yes, sir, I did.

16 Q Did you also carry a badge?

17 A Yes, sir, I did.

18 Q Were you authorized to make arrests, things like that?

19 A Yes, sir, I made arrests. Going back to the
20 financial, I also received a benefit in 401(k). The state
21 puts--in law enforcement they put an amount of money into a
22 401(k) for retirement.

23 Q And that--that's taken out pretax?

24 A I don't know how that works.

25 Q Okay, but that would--that's not in addition to the

1 \$72,000 that you earned, or it is in addition?

2 A It is in addition. I could--I could take money and
3 add to it, but they did--if I didn't put anything in it, it
4 got--it got added to as a law enforcement benefit.

5 Q Do you know what percentage they did?

6 A No, sir.

7 Q If I said 6 percent, would that sound about right to
8 you?

9 A I have no clue.

10 Q Any other financial benefits you can think about?

11 A No, sir.

12 Q How about any other benefits in general? You talked
13 about the 401(k). You were also receiving medical through
14 the state?

15 A Yes, I was.

16 Q And you paid that out through your check like all of
17 us do?

18 A Yes, sir.

19 Q Any car allowance or--gas, car, anything like that
20 that you were provided?

21 A I had a car, yes.

22 Q Did they--but it was a state car. You didn't--you
23 weren't--didn't receive any per diem or stipend for mileage
24 on your own car or the use of your own car or anything like
25 that?

1 A No, sir, I did not.

2 Q Prior to today's deposition, you provided us with tax
3 returns for 2011 and 2012. And I am going to attach this as
4 an exhibit to the deposition next in line. I believe it's
5 Number 3.

6 (Respondents Exhibit 3 was
7 marked for identification.)

8 Q And I'm going to go through at length or a little as
9 best I can the work you did through January 2011. But for
10 the 2011 tax return on page 1 it says your adjusted gross
11 income is approximately \$_____. Do you see that?

12 A Yes, sir, I do.

13 Q Is that what you're claiming you earned in 2011 as
14 income?

15 A Sir, I couldn't answer that question. I don't know
16 anything about finances. My wife handles every bit of it.
17 And what I would tell you is that we--it's a joint return,
18 and I would assume that this includes her business income.

19 Q The business income from your wife, did she have any
20 business income while you lived here in North Carolina?

21 A Yes, she did.

22 Q And has that business income remained steady in the
23 last two years?

24 A No. We lost the business when I had to move.

25 Q Has she started a business now that you're in Texas?

1 A No, sir. It doesn't appear possible to us to be able
2 to accomplish that.

3 Q Okay, so I may be getting ahead of myself again, but
4 the 2011 tax return--you were still living in North Carolina
5 during the year 2011?

6 A Yes. I moved in May of--what is it, 2009? I moved in
7 May of 2012.

8 Q Okay. And do you recall what your wife's business
9 income might have been in say the years 2009 or 2010?

10 A I don't.

11 Q How about in 2011?

12 A I don't.

13 Q Do you think it was pretty consistent between 2009 and
14 2010 and 2011 or it did fluctuate?

15 A I hate to even guess. She didn't tell me.

16 Q What sort of business did she do?

17 A She had an embroidery business.

18 Q How long had she had that business?

19 A I want to say since--it's an estimate, since 1998.

20 Q And from 1998 to 2011, do you recall during any of
21 those years what her income might have been?

22 A In my mind, I want to say--estimate \$_____ is a--is
23 a--is a--is a figure that she said one time.

24 Q Do you recall when she might have said that?

25 A No.

1 Q And for the 2011 tax return, you were receiving a
2 retirement benefit at that time; correct?

3 A I applied for--I applied for my retirement benefits
4 in--after being fired, and I don't know when I started
5 receiving them, but sometime during 2011, yes.

6 Q If I told you March of 2011, would that sound about
7 right?

8 A That would sound about right.

9 Q About a month, a month and a half after you were
10 fired?

11 A Yes, sir.

12 Q And you've continued to receive that retirement
13 benefit through today?

14 A Yes, sir.

15 Q And my records indicate that retirement benefit is
16 about \$_____. Does that sound---

17 A (interposing) Yes, sir.

18 Q ---about right?

19 A That does sound about right.

20 Q And when you left work with the SBI, did you meet with
21 anyone in the HR department to talk about your retirement
22 benefit and the medical benefits and things like that? I'm
23 sorry. It doesn't have to be particularly in HR. Did you
24 meet with anyone to talk about your retirement benefits or
25 medical benefits?

1 A I did.

2 Q Who did you meet with?

3 A I don't remember. I don't remember her name. She's
4 tall, seems like redheaded, in the HR department.

5 Q You had worked in HR for some years. Did you feel
6 comfortable understanding what benefits were available to you
7 and what you could and could not do after you left work at
8 the SBI?

9 A I did. And the reason for that is the Highway Patrol
10 immediately--when the Patrol heard my situation, they
11 provided me good assistance on what I should do and how I
12 should do it.

13 Q How did they provide you assistance?

14 A They--their--one of their HR people--the law enforce-
15 ment community is very close. One of their HR people got up
16 with me and said, "You need to"--"This is what we think you
17 might want to do."

18 Q Do you recall what they advised that you do?

19 A No.

20 Q Did you take their advice?

21 A I don't remember. I think the issues that they were
22 discussing haven't come up, so---

23 Q It's my understanding that the retirement benefit--you
24 took a surviving spouse benefit for your wife. Does that
25 sound about right?

1 A I don't know. We made a decision based on my
2 insurance guy--and my insurance is somehow connected with the
3 way I do my benefit, but I don't remember the specifics.

4 Q And you also have the 2012 tax return, which we'll
5 attach as Exhibit 4.

6 (Respondents Exhibit 4 was
7 marked for identification.)

8 Q And I'm assuming that you have just as little
9 information and knowledge about this tax return as the last
10 one?

11 A Almost as much---

12 Q (interposing) Okay.

13 A ---or little.

14 Q I will just point out that I think under Part I,
15 section 1, adjusted gross income, it lists \$_____. Does
16 that sound about right to you, what you--what you and your
17 wife earned in 2012?

18 A I have no clue. That's the first time I've seen that
19 number.

20 Q And you indicated that you moved to Texas in May of
21 2012?

22 A Yes, sir. I had--I actually had left--I actually left
23 home May of 2011, and then she moved to Texas in May of 2012.
24 So she continued her business through that period.

25 Q Any other sources of income either for 2011 or 2012

1 other than your salary, your wife's embroidery work, and the
2 retirement benefit?

3 A The only thing I can think of, and I don't know how
4 that works, but I received a lot of people who gave me money
5 to help me with my lawyer fees. And so I don't know if we
6 claimed those. I don't know how that works.

7 Q When you say a lot of people gave you money, what do
8 you mean?

9 A I mean a lot of people.

10 Q About how--why would they give you money?

11 A Because they believed that this was wrong and they
12 wanted to help me.

13 Q Okay. When did they start giving you money?

14 A Immediately.

15 Q Do you recall specifically who might have given you
16 money for your attorneys' fees?

17 A I have a list of it. And I'll just say I wrote over
18 100 Christmas cards to those people at Christmas to tell them
19 how things were going, and also it's a lot of people.

20 Q Okay. Anyone in particular that you can recall---

21 A (interposing) My mom---

22 Q ---that gave you---

23 A (interposing) My mom and dad in particular.

24 Q Anybody besides your mom and dad?

25 A I don't know. I mean it's a long list.

1 Q Have you kept--have you kept track of how much money
2 you've been---

3 A (interposing) Yes, sir.

4 Q ---given? How much to date?

5 A I don't know. I mean I've got a record of it but the
6 total I don't know.

7 Q Do you have any estimate for me? Is it \$1,000,
8 \$10,000, \$100,000, any estimate?

9 A No.

10 Q So you don't know if it's \$1,000 or---

11 A (interposing) Oh, no.

12 Q ---\$100,000?

13 A It's a lot more than \$1,000, but after that I don't
14 know. I mean it's a couple thousand a month, so---

15 Q (interposing) You're still getting the money?

16 A Yes, I am.

17 Q From people other than your parents?

18 A Yes.

19 Q Anyone that--did you receive any money from anyone
20 that worked at SBI?

21 A Yes, I have.

22 Q Do you recall their names?

23 A No.

24 Q How about anyone that worked for the Highway Patrol?

25 A No.

1 Q Did you---

2 A (interposing) Well, now, I can't say that because I
3 received anonymous amounts from law enforcement officers.

4 Q Did you solicit money for your attorneys' fees?

5 A My father did, from family.

6 Q How would he do that?

7 A He just wrote a letter to the members of the family
8 and--my uncles and aunts and cousins and told them "This is
9 the situation," you know, "We think this is wrong, and we'd
10 be glad to have some assistance."

11 Q Has there been any web site set up to---

12 A (interposing) No.

13 Q ---solicit donations?

14 A No.

15 Q Any mailers that have gone out?

16 A Not that I'm aware of. I didn't send any out.

17 Q You indicated that at Christmastime at least you might
18 have given an update to people that may have provided you
19 money for your defense?

20 A Yes, sir.

21 Q Do you recall what you told those people in your
22 Christmas card?

23 A I just told them we're doing well and thank you very
24 much and I plan to pay everyone back.

25 Q The money that you've received for the attorneys'

1 fees, I understand there may be several different legal
2 issues going on right now. Do you recall what that money was
3 spent for, what legal issues?

4 A No, it wasn't specified.

5 Q Other than the attorneys that are here representing
6 you today, are you currently employing any other attorneys in
7 North Carolina defending you on any issue that may have
8 received some of this donated money?

9 A No, sir.

10 Q Any other sources of income you can think of for 2011
11 or 2012?

12 A No, sir.

13 Q Let's--let's talk about after you left employment with
14 SBI. And we'll talk about the reasons later, but you left in
15 January of 2011; is that right?

16 A Yes, sir.

17 Q And I believe it was one of the depositions--it may
18 have been in the Taylor case--you talked about getting a job
19 in Garner almost immediately after; is that right?

20 A Yes, sir, that same day, I believe.

21 Q Do you recall what that job was?

22 A Yes.

23 Q What were you doing?

24 A I was working at a phone center for Agri Supply. I
25 was basically a phone salesman.

1 Q And how was it that you came to get that job?

2 A I have a high school buddy who owns Agri Supply.

3 We're very close friends.

4 Q And how much were you earning?

5 A I don't remember. I think it was \$9 an hour.

6 Q Were you working a 40 hour workweek?

7 A It may have been a little less. They didn't really
8 have--but it was around 40.

9 Q In addition to the \$9 per hour, did you receive any
10 bonuses or percentages of any sales you might have made over
11 the phone?

12 A No, sir.

13 Q So there was no commission involved?

14 A No, sir.

15 Q How about any other benefits, health benefit, car
16 allowance, anything like that?

17 A No, sir.

18 Q And what's your buddy's name that got you the job?

19 (Pause.)

20 A It'll come to me.

21 Q We'll move on to the next one. How long did you work
22 there?

23 A Until I got the next job, a couple--a couple of
24 months, as I remember. Barry Partlo; he's the owner of Agri
25 Supply.

1 Q And you think you might have worked there for two or
2 three months?

3 (Witness peruses document.)

4 A It says January to March of 2011, and I think that's
5 correct.

6 Q I'm sorry. What--you're looking at page 4 of your CV?
7 I see.

8 A Yes, sir.

9 Q Okay. And then you went to work for Legalese
10 (phonetic)?

11 A Legalis.

12 Q Legalis? Okay. And you started with Legalis in March
13 of 2011?

14 A Yes.

15 Q And what were you doing there?

16 A Scanning documents.

17 Q How did you get that job?

18 A The owner--the two owners of Legalis are personal
19 friends of mine. And they asked me one day, "How much are
20 you making?" I said, "\$9." He said, "Well, we can at least
21 double that," so I went to making \$18 an hour.

22 Q Working 40 hours a week?

23 A I believe so.

24 Q Any other benefits?

25 A No, sir.

1 Q How long did you work there?

2 A Till approximately May, I think.

3 (Witness peruses document.)

4 Yes.

5 Q And then you started at Aramark?

6 A Yes.

7 Q Any time off between Agri Supply, Legalis--is that
8 right?

9 A Legalis.

10 Q Legalis, and Aramark?

11 A I don't believe so.

12 Q And when you started in May of 2011 at Aramark, what
13 were you doing at that time?

14 A I was in their manager's training program.

15 Q And how did you get the job at Aramark?

16 A My cousin was a vice president of Aramark Corporation
17 and arranged for me to have an interview with them.

18 Q Did you interview here in North Carolina or in Texas?

19 A Dallas, Texas.

20 Q Are they home based in Dallas?

21 A No, Philadelphia.

22 Q And you started working with them in May of 2011.

23 What was your--what were your job duties and responsibilities
24 then?

25 A Well, my job duties were to learn what they required

1 their managers to know, processes, systems. I was sent
2 to--to an on-the-job training program in Little Rock,
3 Arkansas, and I don't remember how long I was there, a couple
4 of months maybe.

5 And then I was sent out to start working, and
6 basically right away to work, and that was to help in the
7 hospitals that were having difficulties. I did management
8 stuff at night and cleaned--I mean management stuff during
9 the day and cleaned toilets at night.

10 Q When you say management stuff, what does that mean?

11 A I was helping the manager at the specific site train
12 employees, supervise employees, improve processes and things,
13 and cleaning hospitals.

14 Q And from May 2011 to May 2012, that was roughly your
15 job?

16 A I went from--I was in New Orleans for three or four
17 months. Then I went to Houston, Texas and worked there
18 temporarily, and then I went to Tucson, Arizona. And while I
19 was in Tucson, approximately January of 2012, I received a
20 call to go back to Houston, Texas and to interview for a
21 permanent job position. And then I took that job in
22 February, I think, of 2012.

23 Q While you were doing the job training program from May
24 2011 till February 2012, what was your income?

25 A I don't know.

1 Q Were you paid hourly or did you have a salary?

2 A I was paid a salary.

3 Q Do you recall what it was?

4 A It was, I believe, a little less than what I had been
5 making at the SBI, but I don't know.

6 Q Would 60-ish thousand, \$65,000, any---

7 A (interposing) I don't know. I would say \$_____
8 maybe, \$_____. All I know is I was getting money into the
9 house as fast as I could get it. How much it was my wife was
10 paying attention to.

11 Q And then in February 2012, you took the position in
12 Houston at St. Luke's Hospital?

13 A St. Luke's The Woodlands. There are six St. Luke's
14 hospitals there.

15 Q And do you still currently work at St. Luke's The
16 Woodlands?

17 A Yes, I do.

18 Q And what's your current salary?

19 A I don't know. It's approximately what I was making at
20 the SBI. I believe \$_____.

21 Q Do you also have a 401(k) program?

22 A I do.

23 Q Is St. Luke's Woodlands contributing to the 401(k)?

24 A No. Aramark does.

25 Q Aramark; I'm sorry.

1 A But I was only eligible for it a couple of months ago,
2 and I have not--well, I'm sorry. I am not yet eligible for
3 matching funds. A couple of months ago I actually started it
4 up and put a couple hundred dollars in it, and so that's all
5 that's in it.

6 Q When are you eligible for matching funds?

7 A I think January 1st of this year, but I don't know for
8 sure.

9 Q And who is your supervisor at St. Luke's Woodlands?

10 A Bryan with a y, Odey, O-d-e-y.

11 Q And is he a St. Luke's employee or an Aramark
12 employee?

13 A Aramark employee. And I also have a supervisor at the
14 hospital.

15 Q Who is that?

16 A Krystle, K-r-y-s-t-l-e, Riley, R-i-l-e-y.

17 Q And what are your job duties and responsibilities at
18 St. Luke's?

19 A I'm the director of environmental services. I'm
20 responsible for keeping the hospital clean.

21 Q Do you oversee a staff of people?

22 A I do.

23 Q How many?

24 A Approximately 50.

25 Q Are you--do you oversee a budget?

1 A I do.

2 Q What's your budget?

3 A I have two budgets. One is approximately \$1.8
4 million, and the other is approximately--I want to say
5 \$600,000.

6 Q Is one budget employee salaries, the other is---

7 A (interposing) No. One budget is I have management
8 responsibilities for a hospital budget, and then I have an
9 Aramark budget. My Aramark budget includes supplies and
10 labor. My hospital budget includes things that I have to buy
11 for the hospital and pay bills for them, hazardous waste
12 removal, other things.

13 Q Other than the job training you got with Aramark in
14 2011, had you had any other training to qualify as director
15 of environmental services at a hospital?

16 A I had worked for ServiceMaster when I was in college,
17 and ServiceMaster was bought out by Aramark. I had cleaned--
18 cleaned buildings and done that kind of work.

19 Q Did your work in the lab at SBI provide you any
20 training or assist you in any way with your job with Aramark?

21 A No.

22 Q Any other sources of income from May of 2011?

23 A No. I mean we lost the business, so--so we lost
24 income, but no.

25 Q And your wife moved to Houston---

1 A (interposing) Yes.

2 Q ---in May of 2012?

3 A Yes.

4 Q And your children also?

5 A Well, actually my youngest child went out there for a
6 visit and ended up getting two jobs and stayed. And then my
7 oldest child moved there about a month ago with her family,
8 husband and family.

9 Q How old is your youngest?

10 A My youngest just turned 25.

11 Q And then your daughter with the family, how old is
12 she?

13 A She's 31.

14 Q And---

15 A (interposing) And then I have a middle child, who
16 lives here with her family.

17 Q Okay. But they're all over 25?

18 A Yes.

19 Q They are adults?

20 A Right.

21 Q Okay. And two of them now live in Houston with you?

22 A Yes.

23 Q Do they live in your house?

24 A My youngest does.

25 Q Does he contribute to household income?

1 A No, she doesn't. And I never see her. She's always
2 on a date.

3 Q And your oldest moved her family to Houston also?

4 A Yes.

5 Q Did she do that because you moved there?

6 A Well, my son-in-law is in the chemical industry, and
7 he had always wanted to go to Houston because it's the center
8 of the chemical world. And my daughter--they lived in Salt
9 Lake City, and my daughter didn't want to go to Houston
10 because it didn't get them any closer to home, to North
11 Carolina. And then when we moved there, she told him, "Okay,
12 well, you can look for a job there," and so he got a job
13 there.

14 Q And your 25-year-old you said found two jobs there and
15 decided to stay?

16 A Yes.

17 Q Is she doing--this sounds awful. Is she doing
18 professional work or is she like bartending or something like
19 that or---

20 A (interposing) No, she's doing professional work.

21 Mr. Whitehead: I'm sorry, Philip. I asked that---

22 Mr. Isley: (interposing) Well, it's funny.

23 They're Mormon, so a bar---

24 Mr. Whitehead: (interposing) I didn't---

25 Mr. Isley: ---would be the--the last place you

1 would probably find his daughter. That's what I'm laughing
2 at.

3 By Mr. Whitehead:

4 Q I just--is she doing part-time work? That would have
5 been a much better---

6 A (interposing) No.

7 Q ---question.

8 A She is actually--she became very interested in the
9 things that I used to do, and she's actually an educator for
10 Montgomery County, Texas in domestic abuse, sexual assault.
11 She is a rape counselor. So yes, she's in a professional
12 job. And her second job was a--was--her degree is actually
13 in art history, and her second job is at a museum doing tours
14 of--in an art--in an art museum.

15 Q Has your wife looked for any employment since May of
16 2012?

17 A No, she has not.

18 Q Mr. Deaver, are you familiar with the term "back pay"?

19 A I am.

20 Q And what is your understanding of back pay?

21 A It's pay that's--that is returned to you for--for lots
22 of situations. I mean if we--in the job that I'm in now if
23 I--if I terminate someone and it was found to be not lawful,
24 then I have to give them back pay. I don't know how else to
25 explain it, but I understand that issue.

1 Q Is it your understanding that if--if you terminated
2 that someone from your job and they went and got a better
3 paying job that you wouldn't have to pay them back pay?

4 A I don't understand that. I mean I haven't had that
5 situation, so--I mean in this situation I do understand that.
6 Yes, I understand the rules of the state of North Carolina.

7 Q Okay. So it's your understanding as far as back pay
8 is concerned that if--if in fact you have earned more since
9 January of 2011 than you earned before January of 2011 that
10 you may not be entitled to back pay?

11 A Yes, and I was hoping you weren't going to say I owed
12 the state some money for this, but yeah.

13 Q We're just---

14 A (interposing) No.

15 Q ---calculating that up now. No, I'm just kidding,
16 sir. But that is your understanding of---

17 A (interposing) Yes.

18 Q ---back pay for North Carolina? Okay. And are you
19 familiar with the term "front pay"?

20 A No, I'm not familiar with that term.

21 Q And I believe in your prehearing statement that you
22 are seeking reinstatement with the state of North Carolina;
23 is that correct?

24 A Yes, I am.

25 Q And what would be your goal for reinstatement?

1 A My goal?

2 Q Yes.

3 A To be placed back in the job that I was in when I was
4 wrongfully terminated.

5 Q Are you familiar with the term "after acquired
6 information"?

7 A No, sir.

8 Q Did that ever come up while you were working as a
9 human resources person at the SBI?

10 A No, sir.

11 The Reporter: You said "after acquired"---

12 Mr. Whitehead: (interposing) Yes.

13 The Reporter: ---"information." Thank you.

14 Q As part of your claim at OAH are you also seeking
15 reinstatement of time missed from work with regards to
16 retirement benefits?

17 A Yes, sir.

18 Q And do you understand--what is your understanding of
19 how that would be calculated?

20 A I don't have any specifics on that.

21 Q Do you understand--is it your understanding that to be
22 eligible for that time that you would have to pay back the
23 retirement that you have received already?

24 A Oh, I do understand that, yes.

25 Q In addition to--it varies, but let's say approximately

1 6 percent of whatever salary you would have earned during
2 that time?

3 A No, I don't understand that.

4 Q Well, that would be your pay in for retirement
5 benefits during that time?

6 A Okay. Yes.

7 Q Okay.

8 A Sure.

9 Q It's roughly 6 percent. Some years it's zero and some
10 years it's more, but I'm using that number as an approxima-
11 tion.

12 A Sure, I understand that.

13 Q So you--we joked earlier just briefly about you having
14 to pay the state back, but in fact to receive that service
15 for time missed would--it would be roughly about \$_____ that
16 you received in retirement benefits. Do you understand that?

17 A Yes, sir.

18 Q And that that money would have to be paid back to
19 get--to get that time served?

20 A Yes, sir. That money has been very well taken care
21 of, so that that's possible.

22 Q All right. And with regards to the reinstatement
23 issue, I believe you said that you would want to be rein-
24 stated to the position that you had in December of 2010,
25 January of 2011; is that right?

1 A Yes, sir.

2 Q And without having gone through all the reasons for
3 your termination and things that may have happened since
4 then, as you sit here today do you believe that you could
5 fulfill your job as an SBI agent if you were to be rein-
6 stated?

7 A Absolutely.

8 Q You don't think that, rightfully or wrongfully, your
9 reputation in the community may keep you from doing that job?

10 A No, sir.

11 Q Would you--do you still think that you would be
12 available and able to testify in open court as an expert
13 based on what's happened over the last few years?

14 A I--if called upon, I can testify in open court now.

15 Q Well, I know you are physically able to testify in
16 open court and you would be physically able to give an
17 opinion, but do you think that the SBI based on what
18 information has come out could rely on you as an expert
19 witness in a case?

20 A I can't say what the SBI can do or couldn't do. I
21 can't say what a judge would say or wouldn't say, but my
22 conscience is clear, sir, and I can get on the stand and
23 testify.

24 Q And I absolutely understand that, Mr. Deaver, but my
25 question is from the perspective of your employer. Could

1 they employ someone who they couldn't put on the stand as an
2 expert witness based on his reputation in the community?

3 A Let me answer that this way. The SBI and the
4 Department of Justice knows very well that I have done
5 nothing wrong, and so they should be able to do that. Maybe
6 that's an answer.

7 Q Okay. And we're going to talk a little bit about
8 those issues at length more, but I just--for the purposes of
9 reinstatement, I just wanted to talk about that briefly.
10 Now, the issue that we're here today to talk about--you were
11 placed on administrative leave in August of 2010; is that
12 correct?

13 A Yes, sir.

14 Q Does that sound about right?

15 A Yes.

16 Q Okay. And when you were placed on administrative
17 leave, did anyone speak with you about why you were being
18 placed on administrative leave?

19 A I don't believe so.

20 Q How as it that you came to learn that you were being
21 placed on administrative leave?

22 A I was handed a letter by Marshall Tucker, as I
23 remember.

24 Q Do you recall what that letter said?

25 A I've read it many times, but not specifically.

1 Q Okay. Did it give you any factual information on why
2 you were being placed on leave?

3 A I don't believe so.

4 Q Did Mr. Tucker at the time he gave you the letter
5 provide you with any information on why you were being placed
6 on leave?

7 A I don't believe so. I asked Mr. Tucker what this is
8 all about. I said, "You know I haven't done anything wrong
9 because we've been through all this," and he didn't give me
10 anything.

11 Q When you said, "You know I haven't done anything wrong
12 because we've been through all this," what were you
13 referencing?

14 A Referencing a great deal of work that had been done by
15 assistant supervisors, laboratory personnel, and the director
16 at the time to determine what exactly had occurred during
17 hearings with the Taylor case.

18 Q Other than the Taylor case, did you believe that there
19 were any other issues going on at that time that may have led
20 to your being placed on administrative leave?

21 A No, sir.

22 Q And you mentioned the Taylor case specifically. Was
23 there an internal investigation going on at the SBI of the
24 Taylor case?

25 A I'm not sure when that began, but there was one at

1 some point.

2 Q Okay. And were you interviewed as part of that
3 internal investigation?

4 A Yes, sir, I was.

5 Q And during your interviews were you open and honest
6 with the personnel--SBI personnel interviewing you?

7 A Yes, sir, I was.

8 Q At some point--well, strike that. After you were
9 placed on administrative leave, was that to stay home or did
10 you--were you able to come into the office?

11 A Administrative leave---

12 Q (interposing) Yes.

13 A ---or the first letter that I received?

14 Q The first letter you received in August.

15 A The first letter that I received was not leave. It
16 was--I was there. I received the first letter on August the
17 14th, if I remember correctly. And I--it was kind of like
18 being confined to quarters or something. I don't know what
19 exactly I was told to do, but I was restricted in movement
20 but still at work. And then I received a letter on August
21 the 18th, and I was sent home.

22 Q Who gave you the letter on August 18th?

23 A Marshall Tucker and Pam Tulley.

24 Q Who is Ms. Tulley?

25 A She was an assistant director at the time. She had

1 been my supervisor but had at that point been moved over to
2 assistant director of some other division.

3 Q And the August 18th letter, that asked you not to come
4 into the office?

5 A Yes.

6 Q That placed you on administrative leave?

7 A Yes, sir.

8 Q How long did that leave last?

9 A I was on administrative leave until--and I received
10 several letters to continue that administrative leave, but
11 somewhere around August--I'm sorry; it was somewhere around
12 the end of October. Then I received a letter to go back to
13 work.

14 Q When you received the letter to come back to work, did
15 that have any restrictions on it?

16 A Total restrictions; all I did was sit at a desk.

17 Q So you understood when you returned back in August--
18 I'm sorry, in October of 2010 that you were still on some
19 sort of restricted duty or restricted leave?

20 A Something like that.

21 Q That was your understanding?

22 A Right.

23 Q And when you returned in October of 2010 until you
24 were terminated in January of 2011, what were your job duties
25 and responsibilities during that time?

1 A Well, let's go back. When I received my letter on
2 August the 14th, just to explain all this, I was told that I
3 was being relieved of duty as a profiler, that I would never
4 return to that. I was moved--I had to move my office back
5 to--from the Training Section to the administrative
6 building--administration building, and at that time,
7 basically it was only a couple of days anyway, just kind of
8 getting my stuff straightened up and cleaning up.

9 And then when I came back in October, been through all
10 the internal investigations, I assumed that I would be put
11 back to my job, but basically I was put down there. They had
12 me read the annual report to review for grammar, and that was
13 it. I sat there--I sat there all the day, just sitting
14 there.

15 Q When you say you had been put through all the internal
16 investigations, was there something other than Taylor going
17 on at that point?

18 A Yes. By that point, as I remember, there was a blood
19 spatter internal investigation being conducted also.

20 Q Just for blood spatter in general or any specific case
21 that you can recall?

22 A No, just blood spatter in general, the best I
23 remember.

24 Mr. Whitehead: Philip, I believe there's only a
25 few minutes left on the videotape if you want to take a quick

1 break.

2 Mr. Isley: Okay.

3 The Videographer: This concludes Tape 2. The time is
4 11:52.

5 (A brief recess was taken.)

6 The Videographer: This is Tape 3. The time is 12:09.

7 By Mr. Whitehead:

8 Q Mr. Deaver, before we went on our break, we were
9 talking about the--your time back at the SBI from October of
10 2010 to January of 2011. During that time period did you
11 meet with anyone to discuss what your job responsibilities
12 were?

13 A What's the time period again?

14 Q October 2010 to January 2011.

15 A Not that I remember.

16 Q Did you receive any new assignments during that time?

17 A Just to read the annual report. That's the only thing
18 I remember.

19 Q And I think we talked about this a little earlier, but
20 there were internal affairs investigations going on during
21 that period; correct? I think you had mentioned the Taylor
22 case.

23 A To my--to my memory, yes.

24 Q Were there any others that you knew were--any internal
25 affairs investigations that were happening during that time

1 period of say August 2010 to January 2011 that you were
2 involved in?

3 A That blood spatter.

4 Q Any others?

5 A Not that I'm aware of.

6 Mr. Whitehead: I have--the next exhibit in line,
7 which is Number 5, is the January 4th, 2011 notice of
8 predisiplinary conference.

9 (Respondents Exhibit 5 was
10 marked for identification.)

11 Mr. Whitehead: I'm sure--it's Number 5.

12 The Reporter: Yes, it is.

13 By Mr. Whitehead:

14 Q Mr. Deaver, do you recall receiving a copy of Exhibit
15 5 in January 2011?

16 A Yes, sir.

17 Q Do you recall who you received that from?

18 A I believe it was Marshall Tucker.

19 Q Prior to Mr. Tucker giving you this document had you
20 received any notification, either verbally or orally, that
21 there was going to be a disciplinary conference?

22 A No, I had not.

23 Q Had you received any word verbally or orally that your
24 job was in jeopardy?

25 A No, I had not.

1 Q Had you--strike that. In October of 2010 who was your
2 supervisor at that time?

3 A I was told to report directly to Marshall Tucker.

4 Q And what was Mr. Tucker's title?

5 A Assistant director of--Administrative Services I
6 believe is the division that he was over, but he was an
7 assistant director.

8 Q Was Ms. Pendergraft still there?

9 A No, she was not.

10 Q Where did she leave the SBI?

11 A She left approximately August the 9th or 10th, I
12 believe, and I received my first letter August the 14th.

13 Q And was Mr. McDougal the director at that time?

14 A McDougal?

15 Q Yeah, Greg--I'm sorry. Who was director in August of
16 2010?

17 A Greg McLeod.

18 Q Thank you. I said McDougal. I apologize. Greg would
19 be very angry, yeah. How long had Mr. McLeod been in that
20 position?

21 A At what point?

22 Q In August of 2009--2010.

23 A In August?

24 Q Yes.

25 A When I received my first letter?

1 Q Yes.

2 A About four days.

3 Q Had he had any positions previously with the SBI that
4 you're aware of?

5 A I don't think so.

6 Q The January 4th, 2011 notice of predisciplinary
7 conference lists six reasons for the conference; is that
8 correct?

9 (Witness peruses document.)

10 A I believe that's correct.

11 Q It indicates the conference would be held on
12 January 5th, 2011; is that right?

13 A Yes, sir, that's correct.

14 Q Did you have a conference on January 5th, 2011
15 regarding these six disciplinary issues?

16 A Yes, sir, I did.

17 Q Who did you meet with?

18 A I believe I met with Marshall Tucker and Frank Brown.
19 Frank Brown is the name I couldn't remember earlier. He was
20 the other assistant director who told me that day that they
21 didn't know what they were going to do with me, you know,
22 when they first--both of them had first--they'd come in
23 almost together, I think, as assistant directors.

24 Q Besides Mr. Brown and Mr. Tucker, was anyone else
25 present at the predisciplinary conference?

1 A I don't remember.

2 Q Was there any audiotape made of the hearing that
3 you're aware of?

4 A Not that I'm aware of.

5 Q Was there anyone there taking notes?

6 A Not that I'm aware of.

7 Q When you received this notice from Mr. Tucker, did you
8 ask him about it?

9 A I don't remember what our conversation was. And I was
10 very upset, but I don't remember what I said. And then I do
11 remember saying, "I've got less than 24 hours to do this and
12 this is the first notice I've had?"

13 Q Anything else, any other conversations or---

14 A (interposing) I don't remember anything else.

15 Q When you say that you were upset, was there any words
16 exchanged between you and Mr. Tucker at that time?

17 A I don't remember that there were.

18 Q At the predisciplinary conference on January 5th, how
19 was the meeting run? Did Mr. Tucker go through the issues
20 with you or did you address them first?

21 A I really don't remember that either. We went through
22 the issues one by one. I gave my explanations. I don't
23 really remember how the conversation went. It was just kind
24 of a matter of fact thing. We just went through them. And
25 at the end they both said thank you, and it was over.

1 Q At the January 5th conference did you think you were
2 going to be terminated?

3 A No, sir.

4 Q And if we look at the six issues--and they're not
5 numbered in the letter unfortunately, but I think we can
6 follow through. On the first page it talks about the 2008
7 murder investigation in Hendersonville, North Carolina. Do
8 you see that on page 1?

9 A Yes, sir.

10 Q Okay. And that dealt with the complaint regarding
11 Agent Bo Barton. Do you recall that?

12 A Yes, sir.

13 Q Okay. Did you discuss that first issue with Mr. Brown
14 and Mr. Tucker at the predisciplinary conference?

15 A I don't specifically remember, but I mean I believe we
16 discussed all six issues, yes.

17 Q Did they tell you that there was an ongoing internal
18 affairs investigation of that matter on January 5th, 2011?

19 A I don't remember that.

20 Q Do you recall ever speaking with any other SBI agents,
21 giving an interview by any other SBI agents, regarding that
22 first issue, the Bo Barton complaint issue?

23 A Did I speak to other agents about that?

24 Q Yeah. Were you interviewed regarding that prior to
25 January 5th, 2011?

1 A I believe I was interviewed, but I don't remember
2 when.

3 Q And then the second issue I believe starts at the
4 bottom. It talks about "Additionally...Crime [Lab] file
5 number R92005733." Do you see that?

6 A I'm sorry. Hold on.

7 Q The bottom of the first page---

8 A (interposing) Yes. Yes, I'm sorry.

9 Q That's okay. And that talks about the matter of *State*
10 *v. Carter*; is that right?

11 A Yes.

12 Q What is your recollection of the issue that related to
13 *State v. Carter*?

14 A I don't know. If you'll allow me to read this for a
15 second?

16 Q Take all the time you want.

17 (Witness peruses document.)

18 A I don't remember that specifically.

19 Q Do you remember discussing that with Mr. Tucker and
20 Mr. Brown on January 5th?

21 A Not specifically.

22 Q Do you recall providing any information to them at
23 that January 5th meeting that may have changed their mind on
24 relying on that issue for termination?

25 A I don't remember. I spent the night working on all

1 these issues and I had a pretty good amount of material, so
2 I'm sure I had---

3 Q But as you sit here today, you can't recall what you
4 may have said to them or presented to them?

5 A I sure don't.

6 Q Okay. Would it be accurate to say that at least the
7 allegation regarding *State v. Carter* was an incorrect
8 reporting on your part?

9 A I don't remember.

10 Q Okay. Does---

11 A (interposing) I'd have to look at it.

12 Q Does this predisciplinary conference notice refresh
13 your recollection in that regard?

14 A No, sir, it doesn't. There was a--generally I
15 remember something about the Swecker report, that something
16 had come out that I had misidentified something. And I would
17 say that maybe that's it, but I don't remember.

18 Q Do you have any independent recollection of working on
19 *State v. Carter*?

20 A No, I don't.

21 Q And at least the allegation--if you read the first
22 sentence at the bottom of page 1, it says, "in the matter of
23 *State v. Carter*, you incorrectly reported item number 8."
24 Would at least the allegation then be that you misreported an
25 issue in *State v. Carter*?

1 A Well, that's the allegation, sure.

2 Q I'm not saying it's true or not, but that would be the
3 allegation?

4 A Yes, sir.

5 Q And not getting ahead of ourselves, but in the January
6 7th termination letter, that issue is no longer relied on.
7 Do you know why?

8 A Not specifically; I would assume that I provided
9 sufficient information for them to take it off.

10 Q Do you think that it was--that the allegation that you
11 misreported was correct or do you think that some other
12 issue, as far as you know, caused the SBI to drop that as an
13 issue for your termination?

14 A I'm sorry, sir. I really can't say because there were
15 so many things that I was accused of from the Swecker report
16 that were absolutely incorrect. And I don't know if this is
17 one of them. There was one issue where I had--that I had
18 made a mistake, and I don't remember if this is it or if it's
19 another one. But I had made a mistake on one thing. It was
20 a transcription error or left something out. And so I don't
21 know if this was an absolute mistake by Swecker or what it
22 was.

23 Q And again, I think I may have asked a bad question
24 because I think--what I was trying to get at is do you recall
25 telling them anything or providing Mr. Tucker or Mr. Brown

1 anything---

2 A (interposing) I sure don't.

3 Q ---that would have negated their allegation in
4 paragraph--or in this second allegation?

5 A Okay. I'm sorry. I sure don't.

6 Q Okay.

7 A I don't remember any specific evidence that I gave
8 them on this issue.

9 Q And as far as the Swecker report, as far as you know
10 is the Swecker report mentioned anywhere in this predisci-
11 plinary conference letter?

12 A As far as I know, no.

13 Q Okay. On page 2 beginning "On October 9, 1991,"
14 that's the matter of analyzing evidence in *State v. Taylor*;
15 is that correct?

16 A Yes, that's correct.

17 Q And again, at least the allegation there is that you
18 misrecorded or did an incorrect analysis; is that correct?

19 A Well, let me read that, please.

20 Q Sure.

21 (Witness peruses document.)

22 A Okay. The question again?

23 Q Based on that paragraph beginning "On October 9,
24 1991," the allegation is at least that you improperly
25 analyzed and reported evidence; is that correct?

1 A Well, I would disagree with improperly analyzing. I
2 would perhaps agree that they are making the allegation that
3 I did not report properly.

4 Q And it appears from that paragraph at least that the--
5 in addition to the slides indicating no sperm or semen, there
6 was also an issue of--that the test you had performed was not
7 listed in your report on the blue panties; is that fair?

8 A Yes.

9 Q Is that allegation accurate?

10 A I don't remember specifics on that.

11 Q But you don't recall as you sit here today any
12 information that would indicate that that allegation in the
13 predisiplinary conference report is inaccurate?

14 Mr. Isley: Can you repeat that?

15 Mr. Whitehead: Sure. That was awful. I
16 apologize.

17 By Mr. Whitehead:

18 Q As you sit here today, do you have any information
19 that the allegation in the October 9, 1991 paragraph in this
20 predisiplinary conference was wrong?

21 A No, I don't have any information at this point.

22 Q And then the next paragraph down starting,
23 "Additionally, at the February 12, [2012] meeting of the
24 three judge panel of the Innocence...Commission," that
25 allegation in that paragraph also involves the *State v.*

1 Taylor case; is that right?

2 A Yes, sir, that's what it says.

3 Q Please read it, so take your time.

4 (Witness peruses document.)

5 Q And that allegation has to deal with testimony that
6 you gave in front of the--well, testimony regarding a phone
7 conversation, the Innocence Commission, and then a three
8 judge panel; is that right?

9 A That's correct.

10 Q And then the next one down starting--the paragraph,
11 "Additionally, in 2007, you were personally contacted by
12 Sheriff Donnie Harrison," that we've already talked about a
13 little bit. That was your not preparing an 11A form when you
14 were out at the scene; is that right?

15 A That's correct.

16 Q So at least the allegation in that paragraph, that is
17 accurate?

18 A Yes, sir. I remember not writing that report. That's
19 accurate.

20 Q And then the last allegation, "On May 13, 2009, [the]
21 re-construction test examining bloodstain on a t-shirt in the
22 matter of *State v. Turner*," do you see that paragraph?

23 A Yes, sir.

24 Q And that has to do with a video re-creation and some
25 words that were used during the re-creation; is that right?

1 A That's correct.

2 Q Have you reviewed the video re-creation in *State v.*
3 *Turner*?

4 A I did for the first time and the last time in the
5 hearing. That was the grievance hearing.

6 Q You haven't looked at it since then?

7 A I have not. I don't have a copy of it, can't find a
8 copy of it.

9 Q If the allegation here is that at the--near the
10 conclusion of the video re-creation, you are heard to state
11 the words "that's a wrap, baby"--do you see that allegation
12 in that paragraph?

13 A I do.

14 Q Is that accurate?

15 A Yes, sir, it is. Well, the fact that I said it is
16 accurate.

17 Q That's what I'm asking, if that allegation is correct?

18 A Yes, that's correct.

19 Q Do you recall being interviewed regarding an internal
20 investigation--internal affairs investigation regarding that
21 specific issue in *State v. Turner*?

22 A I don't. I was interviewed in what I was told was a
23 general blood spatter investigation about the whole program
24 and asked about--I was asked about the Peterson case and
25 about a bunch of stuff. And I may have been asked about this

1 then, but I don't recall it.

2 Q You don't recall there being a specific internal
3 affairs investigation into the *State v. Turner* matter and
4 more specifically the video re-creation?

5 A I don't remember that.

6 Q Okay. The last sentence of that paragraph states that
7 "This comment was unprofessional and adversely impacts on
8 your duties and credibility as a Special Agent." Did I read
9 that correctly?

10 A Yes, sir.

11 Q Do you agree with that allegation?

12 A I do not.

13 Q So your words at the end of the video re-creation,
14 "That's a wrap, baby," you don't believe that that affected
15 or unduly--was unduly unprofessional on a video re-creation?

16 A I believe, sir, that I shouldn't have said it. But it
17 was in reference to ending the tape and finishing our
18 experiments. And as far as having an inverse--or an adverse
19 impact on my duties and credibility as an SBI agent, I do not
20 think so.

21 Q That--*State v. Turner* was a capital murder case;
22 correct?

23 A I don't know.

24 Q Do you recall what you were trying to re-create on the
25 tape, on the video?

1 A No, sir. I was just running the tape. I got the
2 materials together for Gerald Thomas. And it was his--it was
3 his work to do. As I had said before, it was very common for
4 people to want to come and do a re-creation to show--for
5 court purposes, and if they wanted a videotape, that I would
6 get all the materials together, the blood, whatever they
7 needed. And he had some kind of thing to do with a T-shirt
8 and a knife, as I recall, and I just videotaped it.

9 Q Besides you and Mr. Thomas was anyone else present
10 during the videotaping?

11 A Not that I remember.

12 Q And you can't recall what type of case *Turner* was?

13 A Well, it's a homicide. Now, whether it was capital or
14 not, I don't know. I wasn't involved in any of the
15 specifics. I did talk to the district attorney or the
16 assistant who was doing it on one occasion. He had a concern
17 about Gerald Thomas, Gerald Thomas's limited experience in
18 blood spatter, and that there were going to be defense
19 experts who had a lot of experience.

20 And basically he wanted to know would I prepare him
21 for court, questioning, you know, that kind of thing, and I
22 told him I would.

23 Q Did you testify in open court in the *Turner* matter?

24 A No, sir.

25 Q Did Mr. Thomas?

1 A I don't know.

2 Q Do you know if that video along with the exclamation
3 at the end was shown to the jury?

4 A I was told that it was.

5 Q Are you aware of any other instance when another SBI
6 agent might have been re-creating a video or involved in
7 re-creating an experiment on video where they issued an
8 explanation or showed emotion or anything like that?

9 A The only other time that I know specifically was
10 during the Peterson case. We did a large number---

11 (Interruption by telephone ringing.)

12 Q Just a minute.

13 (Pause.)

14 Q Okay.

15 A We did a large number of re-creations and we were
16 videotaping a re-creation. And Suzi Barker, an agent from
17 the lab at the time who was also a blood spatter person, was
18 involved in working on that. And when--after the re-
19 creation, she kind of jumped up in the video. And there was
20 a lot of criticism during the Peterson trial about that,
21 about that situation, from commentators on television and
22 things.

23 Q Was Suzi Barker working on the Peterson case?

24 A I don't know. I don't remember who the serologist
25 was.

1 Q Who was performing the re-creation?

2 A I was responsible for it.

3 Q And what were you trying to re-create? What was the
4 experiment you were working on?

5 A Well, what you do for blood spatter is that you do an
6 analysis of the actual--of the actual stains. And then you
7 may have an opinion as to how those stains came to be, the
8 forces, the actions.

9 And so to test your opinion, you go back and do
10 those--make those forces, do those actions. And the re-
11 creations sometimes are videoed. Sometimes they're made on
12 cardboard. Sometimes they're made on shirts. And then you
13 use that before the jury to say, "This is the"--"This is the
14 unknown. We believe that this force created this. This is
15 something we made known to show and for you to compare to
16 see."

17 And so in that case we were doing that, in the
18 Peterson case. In the Gerald Thomas situation or Turner
19 case, he was doing that. He had some kind of theory on how a
20 bloodstain on the T-shirt came to be. I don't remember what
21 that was. And so we do that. It was my policy to make those
22 things for court, to make videos for court or those kinds of
23 things, so that everybody could see how it was done.

24 Q In this particular re-creation on the Peterson case,
25 do you recall what you were trying to re-create or what was

1 the actual re-creation? In Turner it was I think blood on a
2 T-shirt, something to that effect. Do you recall what you
3 were trying to do?

4 A No. We had all kinds. I mean I dropped things from
5 12 feet. They were--the contention was that she fell down
6 the stairs accidentally and died, and my theory was that she
7 had been beaten. And so we tested fall theory and we tested
8 beating theory and then made a bunch of exhibits and showed
9 the jury all of it.

10 Q And you said that you were responsible for the
11 re-creation of the testing?

12 A Well, it was my case.

13 Q Okay, so you were responsible?

14 A Right.

15 Q And was Suzi Barker working with you to do the
16 re-creations?

17 A She did work with me, and some others. I don't
18 remember who else, but there was a group of people that were
19 helping. It was a lot of work, and so I had helpers.

20 Q Do you recall the particular re-creation you were
21 doing when Suzi I think you said showed emotion on video?

22 A No, sir, I don't.

23 Q Do you know if Suzi got in--Ms. Barker, I apologize--
24 got in trouble for her action?

25 A I was told that she was verbally reprimanded for that.

1 Q Okay. How long had she been with the SBI at that
2 time?

3 A I don't know. She was hired to take my place in the
4 lab. She actually took my position when I left the lab, but
5 I don't know when that was and I don't know when we did those
6 re-creations. It was sometime before the trial in 2003.

7 Q Do you think that Ms. Barker should have received a
8 stiffer penalty for her actions on video?

9 A No, sir, I don't.

10 Q Do you think that her conduct was professional?

11 A No, sir, I don't, but it was honest. And I taped it
12 and allowed the defense to have it.

13 Q Do you know--I think you testified earlier that
14 conduct was shown to the jury?

15 A That was shown to the jury.

16 (Pause.)

17 Q Mr. Deaver, do you think that the conduct or the words
18 that you used at the end of the Turner re-creation--do you
19 think that affected at all your ability to give testimony for
20 the SBI?

21 A No, sir, I do not.

22 Q Do you think that Ms. Barker's conduct during the
23 Peterson re-creation affected her ability to testify for the
24 SBI?

25 A No, sir, because she testified many, many times after

1 that.

2 Q Do you think that your conduct in the Turner video
3 affected your credibility at all?

4 A No, sir, I do not.

5 Q Do you think Ms. Barker's comments affected her
6 credibility?

7 A No, sir, I do not.

8 Q How long was the January 5th predisciplinary
9 conference?

10 A I don't remember.

11 Q Any recollection, whether it be five minutes or an
12 hour or two hours?

13 A No, sir. It was extremely stressful and I don't
14 remember any specifics. I don't remember words that were
15 said. All I remember is when I was done they said thank you
16 and got up and left.

17 Q Anything else that you can recall that Mr. Tucker or
18 Mr. Brown may have said to you during that conference---

19 A (interposing) No, sir.

20 Q ---that we haven't already talked about?

21 A No, sir. My recollection was that it was very
22 businesslike. It was not adversarial in any way. It was,
23 again, matter of fact. We just went through it and they said
24 thank you. I do believe one of them said, "You have done an
25 excellent job."

1 very stressful situation, so I don't remember exactly.

2 Q Were you called to Mr. Tucker's office to receive this
3 or how was it given to you?

4 A I believe I was upstairs--I believe I was upstairs in
5 his office. I know that I was sitting down at my desk down-
6 stairs and I was asked to come upstairs, I'm pretty sure.
7 And then I remember going back downstairs to get my stuff, so
8 yeah, I think so.

9 Q And did you meet with Mr. Hooks and Mr. Tucker to talk
10 about the January 7th letter?

11 A I don't remember talking about it. I just--I think
12 they told me I was terminated and handed it to me.

13 Q Did they go through the items or reasons why you were
14 being terminated?

15 A I don't remember that they did.

16 Q Did you try and discuss those with them and they cut
17 you off or it just wasn't discussed?

18 A I don't remember.

19 Q How long was your meeting before you were escorted out
20 of the building?

21 A Well, they let me go downstairs and pick up a few
22 things. And I called my brother-in-law to bring his pickup
23 truck so I could get my files out. I was escorted out, and
24 then I guess I was allowed to come back in with my
25 brother-in-law and pick up boxes of stuff. And then they

1 took me to my car and kind of went through it and gave me
2 some personal things, so I don't know, maybe an hour.

3 Q Did you have to turn in your gun and your badge?

4 A Sir, they had already taken my gun and badge in
5 August.

6 Q When you turned in your gun and badge or they took it,
7 was there any issues with that?

8 A No. No, they told me to give them my stuff.

9 Q Did you own your gun or was it SBI property?

10 A It was SBI property.

11 Q And Mr. Carter, did he add anything to the
12 conversation or add anything to the meeting or was he just
13 there to escort you out?

14 A No, he didn't add anything.

15 Q Did he say anything to you at all on January 7th?

16 A No. He kept--during the day of the 7th, he kept
17 coming downstairs and wandering in my office, which was
18 really odd. He'd stand there, look at me, and then he'd walk
19 out. And he did that all day, but I don't remember him
20 saying anything.

21 Q During your tenure with SBI have you known other
22 agents to be terminated?

23 A No; not specifically, no.

24 Q So no one had ever been fired?

25 A No, I can't say that. I just don't know of it myself.

1 Q Okay. So you don't know if it was policy to escort
2 people out of the building on the day of their termination or
3 to allow them back to pick up their personal effects?

4 A No, I don't.

5 Q And then looking at the January 7th termination
6 notice, it looks like it's down to just three issues for
7 termination. Does that accurately reflect your recollection?

8 A Yes, sir.

9 Q And I believe that we've already talked about the
10 Turner video. And the first issue--now the paragraphs are
11 numbered. The first issue, number 1--is the same as in the
12 January 4th predisciplinary conference notice, and that talks
13 about the Perry complaint. Would that be an adequate
14 description?

15 A Yes, sir.

16 Q Okay. And tell me, if you could, how is it--how did
17 you become involved in the Hendersonville, North Carolina
18 case?

19 A Agent Williams--and I cannot remember his first name.
20 Agent Williams called me sometime--and I don't remember when
21 the date was--and described to me an unsolved homicide that
22 Henderson County had and asked me if it would be a good case
23 to profile. And I told him that I didn't know; I needed more
24 information. And so I agreed to go and meet with the county
25 investigators and SBI investigators at the Henderson County

1 Sheriff's Department, I believe, at some point. I remember
2 there was snow on the ground, so--and so I went up there and
3 met with them.

4 They gave me a file on the case. And then I got--
5 after I brought it back, I got Jon Perry involved in it. And
6 then Jon Perry got his other understudy at Virginia State
7 Police, and the three of us worked on the case together as
8 training for me and the other understudy, Jon Perry doing the
9 kind of supervising as we went through it.

10 Q What was Mr. Perry's relationship to the SBI at that
11 time?

12 A He was a--he was a contracted employee to the SBI
13 for--to do my training.

14 Q And he was a retired Virginia police officer?

15 A He was a retired Kansas City detective and then a
16 retired Virginia state trooper. And he had been--in both of
17 those positions he had been a profiler.

18 Q And he was a member of the profile association, the
19 IA---

20 A (interposing) ICIAF.

21 Q ICIAF, yes.

22 A He actually had been a president of the association,
23 was one of the charter members to my understanding. He is a
24 profiler with very high standing in the United States and
25 around the world actually.

1 Q And you profiled--I believe you profiled the case and
2 provided that to the Hendersonville police?

3 A We--we did write a profile report on the case, and--of
4 course it went through the proper SBI channels and became an
5 official report and it became a part of the SBI file. I
6 don't remember how that was shared with them. I remember
7 talking to the detectives about--and I don't remember if that
8 was on the phone or if I went back up there.

9 I was up there for training from time to time at our
10 academy, which is close by. And so I don't know if I just
11 went over there one night and met with some of the guys. But
12 we had continual conversations about things that needed to be
13 done with that profile case. But I don't remember exactly
14 how it got shared with them. I talked to them about it.

15 Q You said it went through the usual SBI channels.

16 A Right.

17 Q Explain to me what that is. So you get the case.
18 What do you do with it?

19 A Well, I get all the evidence. I have to make a--kind
20 of an inventory sheet of what I've received. And then when I
21 get through--all my notes and everything that I take and use
22 in my work, when I get through, I do a rough draft copy of
23 what the final report should be and then turn that in to the
24 typing pool. They turn it into what we consider an 11A,
25 which is called--we call it a blue paper. It's put on blue

1 paper.

2 It comes back to me, as I remember. I review it and
3 then I give all of the notes and all the materials that go
4 with the file back to them to become an official report.
5 That's kind of how I remember it.

6 Q And where does Mr. Perry's input come in?

7 A Mr. Perry had to approve my report before I could
8 issue it because he was the real author of the report because
9 I was still in training. And so that report--my rough draft
10 usually was e-mailed to him. He would review the report,
11 make sure that it was in accordance with what he had seen and
12 the principles of profiling. He would e-mail me back and
13 say, "Okay, you can go ahead and submit that."

14 Q And do you recall the time frame when this was
15 happening?

16 A No, sir. I don't know when this case even came up.

17 Q Is it in 2009?

18 A I don't remember.

19 Q And was the victim Charity Williams? Does that sound
20 familiar?

21 A Worley.

22 Q Worley.

23 A Charity Worley; Worley I think is her name, yes.

24 Q And after you prepared--well, let me ask you this.
25 How long does it take you to prepare your profile?

1 A Well, it could take a long time.

2 Q Do you recall in this particular---

3 A (interposing) No, I---

4 Q ---case?

5 A I don't. It seemed like it took a long time because
6 this was an unusual case. There was a lot of discussions by
7 profilers about what it meant. It seemed like it took
8 awhile, but I don't remember exactly.

9 Q And you indicated you were still in training at this
10 point?

11 A Yes, sir, I was.

12 Q How many profiles had you done prior to Ms. Worley's
13 case?

14 A I don't know. I believe we were supposed to do 50
15 profiles before we could go to our--to our internship. And I
16 was closing in on my 50 profiles, but where that one comes in
17 the number, I don't know.

18 Q And at some point an individual named Bo Barton
19 becomes involved in the case; is that right?

20 A Yes, sir.

21 Q What was Mr. Barton's involvement?

22 A Let me preface that a little bit in that we were about
23 to have our international conference for ICIAF and it was
24 going to be in Myrtle Beach. Bo was actually responsible for
25 the conference.

1 At those conferences ICIAF invites law enforcement to
2 present cases to them to be profiled--now, I say profiled, to
3 be profiled at least in some rudimentary way. Of course you
4 couldn't present a case and then in a couple of hours get a
5 profile.

6 But the way--what they would do is they would divide
7 the entire conference up into groups, five or six people.
8 And we would go off to a room and then for a period--every
9 afternoon--well, mostly in the afternoons--we would have
10 speeches in the morning or talks. And then in the afternoon
11 we would go to these rooms, and officers would come in and
12 present cases to five or six of us.

13 And for us who were trainees, they would put us with
14 very experienced officers who had been doing profiles for--I
15 mean like Perry, he's probably been doing profiles for 50
16 years or--I mean just a ridiculous amount of time, but--and
17 then we would--we would work on a profile that we could give
18 them verbally where they could get some information and try
19 to break the case loose or go forward with it.

20 Now, now that I've said all that, Bo was responsible
21 for gathering cases for the conference so that they would
22 fill up everybody's schedule. I was actually assisting Bo
23 with that. I was contacting SBI agents and even local law
24 enforcement to present cases in Myrtle Beach that would help.

25 Bo calls me and--or no, I think Williams called me and

1 said that Bo had called Henderson County and asked them if
2 they had any cases to present at the ICIAF. And they said
3 they wanted to present the Charity Worley case at the
4 conference. I told Williams--I said, "Well, we've already
5 written a profile on that. Really they probably wouldn't
6 want to see it because they always tell us if there's already
7 a profile, they'd rather see cases don't have a profile." He
8 said, "Okay."

9 And then I remember a few days later Bo calls me and
10 he said, "Hey, Henderson really wants to present that thing."
11 I said, "Well, Bo, there's already a profile written on it."
12 And he said, "Okay. Well, I think we need to meet on this
13 case because we"--you know, "We'd like to talk about it."
14 And I said, "Okay. Well, when do you want to do that?" And
15 he said, "Why don't we do it after the conference sometime at
16 the end of May?" I said, "Great."

17 So we go to the conference--I actually go down a day
18 early and help Bo with the conference and nothing is ever
19 said about it again. I don't remember hearing anything else
20 about it. They--he never says anything to me. We worked
21 together. We were setting up chairs and putting up a few
22 tables. And Bo and I were pretty--I mean kind of a--he had
23 just finished his training, so I was--they were even asking
24 me to come to South Carolina to do my internship. But
25 anyway, we had a pretty good relationship.

1 Then go all the way to October, I believe, maybe the
2 first of October. Ron Tunkel calls me. He was also one of
3 my mentors, but not full time. He's an ATF profiler assigned
4 to the behavioral--behavioral unit of the FBI. Ron Tunkel
5 calls me and says, "Hey"--I was actually sitting at my
6 kitchen table going over the Innocence Commission stuff. I
7 had been sent home. I spent my day studying, you know, these
8 things, going through, you know, the stuff.

9 He calls me and says, "Hey, what do you know about the
10 Charity Worley case?" And I said, "I don't know anything. I
11 have no contact with anyone." He said, "Well, what do you
12 know about them writing--South Carolina writing a profile in
13 it?" I said, "I don't know anything about that."

14 Ron Tunkel's family lives in Hendersonville. They had
15 called him apparently and told him that Bo Barton was on
16 television giving out a profile. And she knew that--his
17 sister or cousin or whoever it was knew that Ron Tunkel had
18 been involved because he had looked over my work too. So
19 anyway, I said, "Well, I don't know anything about it." He
20 said, "Well, I'll get back with you on it." Okay.

21 And I never heard--I don't remember hearing from Ron
22 again, but in a few days, Jon Perry calls me and he said,
23 "Looks like they've issued another profile on it." And Jon
24 told me--he said that Bo had called Jon and talked to him
25 about the case, and Jon told him not to--not to write a

1 profile because it would be a ethics violation or whatever.
2 And so Jon said that he was going--that he was going to talk
3 to some people in ICIAF about it.

4 And I don't remember, again, any specifics, but
5 eventually he calls me and says, "I can't find my profile
6 anymore on that. Can you send it back to me?" And so I sent
7 him a rough draft that I had. And he'd already had it, okay,
8 so I mean--but he just--I don't know what he did with it,
9 lost it. What they would usually do is they would shred them
10 or delete them after they had been approved.

11 And so I sent it back to him, and then I got back from
12 him the complaint one night. And he sent it to me and he
13 said, "Hey, I need you to look over the dates on it." And I
14 read it and he had Henderson County wrong on it, I think, and
15 my name was on it. And I said, "Hey, you know, I've got
16 problems," you know. "I don't need any controversy. Can
17 you"--you know, "Do you have to do this? Do you have to put
18 my name on it?"

19 And Jon said, "Yeah, we have to do this. This is a
20 bad violation of ethics," you know. "They've created
21 problems for the case now. And you have to be on it because
22 it's your state and it's your"--"it's your case." And I
23 said, "Okay, well, you know"--you know.

24 So he--so the next thing that I hear about is it seems
25 like Jon calls me and says, "Hey, some SBI agents are calling

1 about this Charity Worley case. Have they talked to you?"
2 And I said, "No. Nobody has talked to me about it." And
3 that's about all I remember.

4 Q The profile that you did on the Charity Worley case, I
5 think that came to the conclusion about a particular type of
6 perpetrator they were looking for. I think--didn't Bo's come
7 to a different conclusion in his profile?

8 A I don't remember the differences. I really didn't
9 even ever look at it because I was focused on what I was
10 dealing with. I literally told Jon, "Hey, I'm not worried
11 about that even though that's"--you know, "I've got stuff to
12 do."

13 Q So when you said you were worried about other things
14 you were focused on, this is while you were on administrative
15 leave?

16 A Right.

17 Q So you were focusing on the Innocence Commission, the
18 Taylor case, that sort of thing?

19 A Yes, sir.

20 Q And when Jon asked you to send him your report again
21 or your profile again, you didn't think anything of it
22 because you had already sent it to him? He had already
23 received a copy?

24 A I didn't think anything of what?

25 Q Of sending him the report again, sending him the

1 profile.

2 A In reference to what?

3 Q Well, you said that he had called you and said he
4 didn't have one anymore. And you said you sent it off to
5 him, that he may have destroyed his or something else.

6 A Right. I had to send him all my reports anyway, so
7 that didn't--that didn't trigger any--you know.

8 Q Did he ever tell you what result Bo Barton had come to
9 in his profile?

10 A No, he didn't, that I remember.

11 Q Did he seem angry that Bo had done this?

12 A He was upset, yes.

13 Q And he sent you a copy of the complaint that he was
14 going to send in to the ICIAF; correct?

15 A Yes.

16 Q And that was, again, while--you saw that report while
17 you were still on administrative leave?

18 A Yes, sir.

19 Q Did you ever notify anyone at SBI that Mr. Perry was
20 going to issue a complaint with your name on it to the ICIAF?

21 A No, sir, I don't believe I did.

22 Q Why not? Why didn't you tell Mr. Tucker or Mr. McLeod
23 or anyone else that Mr. Perry was going to issue a complaint
24 about Mr. Barton's profile?

25 A I don't know specifically except that basically I was

1 traumatized with what I was dealing with with the Taylor
2 case. And I--I just really didn't focus on that at all.

3 Q And I think you testified earlier that you were aware
4 that the SBI had a contract with the ICIAF, that they would
5 abide by their rules as long as you were being trained
6 properly in your profile work; is that right?

7 A Yes, sir.

8 Q And Mr. Perry--do you know what his contractual
9 relationship was with the SBI at that time? I know you said
10 he had a contract, but I'm wondering if you know what--what
11 it was.

12 A I had to write the contract and I paid Jon. I was
13 responsible for the invoices and stuff. The only thing that
14 I can remember is time.

15 Q Is, I'm sorry, what?

16 A Time; he was being paid for time.

17 Q Okay.

18 AA And so his time in training and looking at cases and
19 being involved with anything that North Carolina--that
20 related to my--or to the profiling program. That's all I
21 remember.

22 Q Do you know if the Charity Worley case was ever
23 solved?

24 A I actually looked online last night, and it appears
25 that it has not been solved.

1 Q Have you talked to Mr. Barton about his profile since
2 the complaint was issued?

3 A I have not talked to Mr. Barton since--since the
4 conference, I believe, sir.

5 Q Which was before the complaint?

6 A It was--yes, sir. It was in May and the complaint was
7 in maybe October.

8 Q And at that time you were operating under the assump-
9 tion that Mr. Barton was not going to profile the Worley
10 case?

11 A I was under that assumption. He--I had told him that
12 there already was a profile, and Jon later told me that he
13 had told him that there was already a program--profile. And
14 Jon told me that he told him that "You should not do a
15 profile."

16 Q Okay. Was Mr. Perry--I believe you mentioned that Mr.
17 Barton had just become a member and a profiler very recently
18 when this was happening. Was Mr. Perry also mentoring him?

19 A No, sir. He was being mentored by a SLED agent.

20 Q Did you ever see Mr. Barton's interview on TV about
21 the Worley case?

22 A No, I never have.

23 Q I think the only issue we haven't talked about, then,
24 with regards to the termination is the Innocence Inquiry
25 Commission on the Taylor case; is that right?

1 A I believe that's correct, sir.

2 Q And according to the January 7th termination notice,
3 the allegation is that the Innocence Commission had "filed a
4 Motion to Show Cause against you requiring you to show cause
5 as to why you should not be held in criminal contempt." Do
6 you see that paragraph 2?

7 A Yes, sir.

8 Q And that the commission alleged that "your testimony
9 misrepresented the true tests performed and the true [test]
10 results" and that "This show cause action...impedes your
11 ability to effectively act as a Special Agent in that your
12 credibility is significantly impaired." Do you see that
13 allegation?

14 A I do, sir.

15 Q And that your actions in the Taylor case further
16 brought the SBI and the Department of Justice into disrepute;
17 do you see that allegation?

18 A I do, sir.

19 Mr. Whitehead: Philip, do you want me to get into
20 Taylor before we have lunch or should we---

21 Mr. Isley: It's your call. I've got ten
22 minutes left on my watch, but I mean---

23 Mr. Whitehead: Okay. Well, I'll go ten minutes if
24 that will---

25 Mr. Miller: (interposing) I can go check real

1 quick and see if it's here.

2 Mr. Isley: Yeah, why don't you do that?

3 Mr. Whitehead: If that's going to be---

4 Mr. Isley: (interposing) No, no, that's fine.

5 The Reporter: Do you want to go off the record?

6 Mr. Worley: Yeah, we'll go off the record.

7 The Videographer: We're off record at 1:04.

8 (The deposition was recessed at 1:04 p.m. to reconvene
9 at 1:39 p.m. this same day.)

10

1 3rd, 2009 before the Innocence Commission. Do you recall
2 that?

3 A I believe that's correct.

4 Q And the Innocence Commission is an eight person panel;
5 is that right?

6 A I don't remember.

7 Q And do you recall why you were called in front of the
8 Innocence Commission to give testimony?

9 A I had--yes, sir, I do. I had written a serology
10 report in the Taylor case during my career as a serologist.

11 Q And this serology report that specifically dealt
12 with--I believe there was some blood on a tire or a fender or
13 something on a truck. Does that refresh your recollection?

14 A It does.

15 Q And---

16 A (interposing) Among other things.

17 Q Did you testify in the Taylor case?

18 A No, I did not.

19 Q Okay. And were you ever provided with any guidance on
20 why the Innocence Commission wanted you to come and give
21 testimony?

22 A The only guidance was that--my understanding was that
23 I was supposed to just fill in the blank to cover a report
24 that had been I guess used in court and just go through it.
25 That's what I was instructed.

1 Q And what was the blank that you were to fill in?

2 A That report, just come and go through it.

3 Q When you say that report, do you mean specifically for
4 that blood on the tire and the wheel well?

5 A Well, it was a serology report. There was a blood
6 spatter report enteric (phonetic) to it. There was a crime
7 scene report. The three reports had been done together.

8 Q Did you meet with anyone prior to your testifying in
9 front of the Innocence Commission to prepare for your
10 testimony?

11 A Only--I talked to the lady who was responsible and I
12 can't remember her name, Kendra Blinn something or something
13 Blinn. I talked to her on the phone a day or two before I
14 went to testify.

15 Q Montgomery-Blinn?

16 A That's it.

17 Q Okay. And did she call you or did you contact her?

18 A She called me.

19 Q And why did she tell you she was calling?

20 A I don't remember exactly. She informed me that they
21 were going to be using me, and she just kind of went through
22 the--a couple pieces of evidence with me.

23 Q Was your telephone conversation with her taped?

24 A Yes, it was.

25 Q While you were speaking with her, were you aware that

1 you were being taped?

2 A No, I was not.

3 Q Did she ever inform you at any time toward the end of
4 the conversation that in fact she had taped your conversation
5 with her?

6 A No, she did not.

7 Q What sorts of things did she ask you during that phone
8 conversation?

9 A I don't remember any specifics.

10 Q Was it all about the Taylor case?

11 A I believe so. There were some specific things--
12 specific things about the Taylor case and some general things
13 about serology.

14 Q And you think this was a couple of days before you
15 went before the commission to testify?

16 A I think that's correct.

17 Q Did you review your notes and file for the Taylor case
18 prior to giving your testimony in front of the Innocence
19 Commission?

20 A I did.

21 Q Do you recall what it was that you looked at, what you
22 had in your file?

23 A No, I don't recall.

24 Q There's some indication or discussion about field
25 notes. How would you describe field notes?

1 A Well, they're not field notes.

2 Q Okay.

3 A They're bench notes, a very similar thing, but it's
4 just a pad of paper that we kept on our bench and wrote down
5 evidence, the condition of the evidence, whatever we felt
6 like we needed to refer to perhaps in the future for
7 testimony purposes and--yeah.

8 Q Did the bench notes also indicate whatever testing you
9 performed?

10 A They did.

11 Q And the Taylor case, was that in 2003 that you
12 performed the serology tests?

13 A Oh, no. I was long since out of the lab. I've been--
14 I want to say it was '93--'91 or '93.

15 Q I'm sorry. I'm sorry. I'm confusing it with the
16 other--I'm sorry.

17 A Yeah. I believe it was '91.

18 Q And at that time your bench notes would have reflected
19 what testing you did to determine whether it was blood and
20 then if there was any identification of the blood?

21 A That's correct.

22 Q And without getting too deep in the woods on this
23 issue, there were a couple of different tests that you could
24 do, an initial testing and then some secondary testing, to
25 determine in fact if the stain or the--what you were looking

1 at was blood; is that right?

2 A That's correct.

3 Q And walk me through those two tests, what they were
4 back in 1991.

5 A It was a preliminary--the preliminary test was phenol-
6 pthalein, and then the confirmatory test was Takayama.

7 Q And I believe some of the issue of confusion at your
8 Innocence Commission dealt with what happens if you got a
9 positive first test and a negative second test; is that
10 correct? Would that be accurate?

11 A I'm not sure what the confusion was specifically
12 about.

13 Q Okay. Do you think that you provided any testimony in
14 front of the Innocence Commission that was false?

15 A No, I do not.

16 Q Do you think that any of the testing that you did in
17 the Taylor case was incorrect?

18 A No, I don't think so.

19 Q Do you think that any of the reports that you prepared
20 in the Taylor case were inaccurate?

21 A Well, you showed me before on one of these issues
22 about--something about the--that they had found semen on some
23 other piece of clothing or something, and I may have missed
24 that.

25 Q Notwithstanding that issue that we've already talked

1 about, any other issues that you think may have been
2 inaccurate or incorrect?

3 A No, I don't think so.

4 Q And after your testimony at the Innocence Commission,
5 you received a motion to show cause; is that right?

6 A That's correct.

7 Q Do you know--were you ever told by anyone why that
8 motion was issued?

9 A Well, I mean it just had the--outlined in the motion
10 the issues that were involved, I believe.

11 Q And I guess my question--and I apologize. It probably
12 wasn't a great question. Did anyone ever talk to you between
13 the time you testified at the Innocence Commission and the
14 time you received that motion? Were you interviewed or asked
15 any questions of about your testimony that may have raised
16 any doubts or issues?

17 A I'm sorry. I still don't understand your question.

18 Q Okay. Did anybody talk to you after you testified at
19 the Innocence Commission to tell you that what they thought
20 you said was wrong?

21 A Well, I had interviews as part of an internal
22 investigation that someone had made an allegation that I had
23 lied during my testimony.

24 Q Do you know who was making the allegation?

25 A His last name is Klinkosum.

1 Q He's a defense attorney?

2 A Yes, he is.

3 Q Did he represent Mr. Taylor?

4 A Yes, he did.

5 Q Do you know specifically what his allegation was?

6 A I believe that what he said was that I had told Judge
7 Becton that I had not performed some tests when I had indeed
8 performed it, performed the test, and that I had lied about
9 that to Judge Becton.

10 Q And the motion to show cause re the criminal contempt,
11 that motion came directly from the Innocence Commission; is
12 that right?

13 A That's my understanding.

14 Q It's not something that was prepared by this defense
15 attorney, Mr. Klinkosum, but in fact was prepared by Ms.
16 Montgomery-Blinn, who was the administrator of the Innocence
17 Commission; is that correct?

18 A I don't know what she is, but it appeared to me that
19 she had prepared the document.

20 Q When you spoke with her on the phone, did she identify
21 who she was to you?

22 A When was that?

23 Q Before your testimony at the Innocence Commission, you
24 said you spoke with---

25 A (interposing) She---

1 Q ---Ms. Montgomery-Blinn. Did she tell you who she was
2 then?

3 A She did.

4 Q Okay, and that she was somehow involved in the
5 Innocence Commission and was asking you what you were going
6 to testify about, that sort of thing?

7 A She told me she would be asking the questions.

8 Q Besides Ms. Montgomery-Blinn, the other members of the
9 Innocence Commission also asked you questions; right?

10 A During my testimony?

11 Q Yes.

12 A Yes, they did. Well, no, I don't remember anybody but
13 Judge Becton asking me a question. Now, they may have, but I
14 only remember Judge Becton asking a question.

15 Q Along with your petition for a contested case, you
16 attached an Exhibit A that outlined your thoughts on the
17 issues for your termination. Do you recall that? We talked
18 about that early this morning.

19 A Yes.

20 Q And with regards to this issue, you specifically
21 stated that you felt there were a number of situations where
22 agents--I'm assuming that means SBI agents--had been subject
23 to similar allegations. Do you recall that?

24 A Yes, I do.

25 Q Do you have any thoughts or specifics on which agents

1 and what allegations they may have been subject to?

2 A Well, I believe I had listed Dwight Ransome. I
3 believe I had listed Brenda Bissette, Chris Williams, and
4 Mark Isley maybe. I don't remember specifically.

5 Q With regard to Ms. Bissette, what were the allegations
6 against her?

7 A I don't know specifics. It was--what I was told was
8 that she may have mixed up some DNA samples.

9 Q But I guess more specifically, who was making the
10 allegation against her?

11 A I don't know.

12 Q Do you know if that was just a complaint from a
13 defense attorney or a citizen against her?

14 A I don't know.

15 Q How about--you said Chris--was it Wilson?

16 A Chris Williams?

17 Q Williams. I can't read my own writing. What was the
18 allegation against--is that Mr. Williams?

19 A Yes.

20 Q What was the allegation on---

21 A (interposing) I believe it was assault.

22 Q Again, sworn out by a citizen against him?

23 A I believe the district attorney or assistant district
24 attorney is what I remember.

25 Q Do you recall in which county?

1 A No, I don't. It's in the western part of the state.

2 Q And when was that?

3 A I don't remember.

4 Q Do you recall the facts of that situation, what
5 happened?

6 A No, I don't.

7 Q And Mr. Ransome, what were the allegations against Mr.
8 Ransome?

9 A It had something to do with the Gill case. I was
10 actually asked to look at the Gill case for blood spatter.
11 And it seems like that a report wasn't written or filed
12 properly that was exculpatory is what I remember.

13 Q Was there an allegation from the defense that he
14 hadn't done a test correctly or hadn't performed a test
15 correctly?

16 A No. He was a field agent and it was an interview.

17 Q Okay, so he hadn't done an interview correctly?

18 A He hadn't filed it correctly.

19 Q And that was the allegation from the defense in that
20 criminal matter?

21 A I don't know who made the allegation.

22 Q And how about Mark Isley? What's the allegation with
23 regards to Mr. Isley?

24 A That he had--my understanding is, and I don't know
25 personally, but that he had made up a confession for a

1 suspect.

2 Q And that was the allegation raised by attorneys
3 representing---

4 A (interposing) I don't know.

5 Q ---the individual? In these four situations are you
6 aware of any time that there had been a grand jury indictment
7 against any of these individuals based on these allegations?

8 A No.

9 Q How about a criminal indictment against any of these
10 four individuals you've named?

11 A I think Chris Williams was a--may have been a criminal
12 indictment.

13 Q But you don't know how that--how that case ended, what
14 the final outcome was?

15 A No, I don't know.

16 Q Do you know--have any of these individuals--do you
17 know of any that had an order from the Court issued against
18 them?

19 A No, I don't know that.

20 Q And again, the motion to show cause in this case came
21 directly from the Innocence Commission; is that right?

22 A That's correct.

23 Q And the--while the order to show cause was issued, the
24 motion never happened; is that right? There was no hearing?

25 A I went before the commission, but I don't know what

1 you call it---

2 Q (interposing) What happened---

3 A ---to talk about it.

4 Q What---

5 A (interposing) Well, we--they asked me what I had said
6 and they asked me some questions. And they said, "Thank you
7 very much," and I got dismissed.

8 Q Did you sign any agreement or other documents when you
9 went in front of the commission about your testimony there
10 that day?

11 A I don't know. There was a--I guess there was an
12 agreement form or something maybe I signed.

13 Q Do you know what that agreement form said?

14 A It said I was dismissed. I know that. I think it--I
15 believe I admitted that there--that I was--that the situation
16 had been confusing.

17 Q But was there no fault of misleading testimony?

18 A No, sir.

19 Q Just confusing testimony?

20 A Yes, sir, no faults for misleading in--I would say in
21 any way.

22 Q Did you speak with any of your supervisors at SBI
23 prior to giving your testimony in front of the Innocence
24 Commission?

25 A About giving that testimony?

1 Q Uh-huh. Yes.

2 A Did I speak to my supervisors about that?

3 Q Yeah.

4 A No. I called the laboratory prior to that and asked
5 them a few things because it had been a long time since I'd
6 been in the lab. And I just wanted to discuss with them, you
7 know, "How do you do things now? Do you do this?" And yeah,
8 I talked to somebody in the laboratory about just general so
9 that I could kind of refresh my memory on how things are
10 done.

11 Q When you received the motion to show cause, did you
12 talk to your supervisors about it at that time?

13 A I was on administrative leave.

14 Q Did you talk to anyone?

15 A No. I was instructed not to talk to anyone.

16 Q When you--I think you said you came back in October
17 under some house rules for what you were supposed to be
18 doing, but you were back in the building in October; is that
19 right?

20 A Right.

21 Q Did you speak with anybody about it then---

22 A (interposing) I don't---

23 Q ---back at work?

24 A I don't remember specifically speaking to anyone about
25 it.

1 Q And at some point you filed a grievance hearing
2 request regarding your termination; is that right?

3 A Yes, sir.

4 Q And I believe it was you had a--well, let me ask you.
5 After you filed your request for grievance, what was the
6 next step? What happened next?

7 A I believe I had a meeting. I think the steps are that
8 first you have a meeting with a representative of your
9 agency, and then I believe you have another meeting with a
10 representative of your agency. And then you go before a
11 committee. And of course I had to file each stage of the way
12 that I wanted to go to the next step. And I think that's
13 what I remember about that.

14 Q And do you recall who you met with initially? You
15 said someone--a representative from the agency. Was that Mr.
16 McLeod?

17 A I believe so.

18 Q And then was there another meeting with Mr. McLeod
19 before the Grievance Committee hearing?

20 A I believe so.

21 Q Do you recall what you two talked about or discussed
22 at those meetings?

23 A I don't.

24 Q Other than yourself and Mr. McLeod was anyone else
25 present?

1 A I believe Wendy Brinkley was present at one of the--
2 maybe both.

3 Q Who's Wendy Brinkley?

4 A She was a special agent in charge of one of the
5 sections at SBI.

6 Q At the meeting that you had with Mr. McLeod prior to
7 the Grievance Committee hearing, what did you discuss?

8 A I'm sorry; again?

9 Q What did you discuss with Mr. McLeod?

10 A I don't remember specifically. No, I don't remember.

11 Q Did you go through the allegations?

12 A I believe so.

13 Q Did you raise counterissues at that time and defend
14 yourself or was it just him reading the allegations to you
15 and moving on to the next step?

16 A No. I believe I defended myself.

17 Q And in--well, I'm sorry. On March 17th, 2011 you had
18 the Grievance Committee hearing; is that right?

19 A Yes, sir.

20 Q And you brought with you two witnesses, Mr. Weis and
21 Mr. Myers; is that right?

22 A That's correct.

23 Q And did you also give testimony that day?

24 A I did.

25 Q Did anyone from the state testify?

1 A Greg McLeod.

2 Q Did anyone beside--did anyone beside Mr. McLeod
3 testify at the Grievance Committee hearing that you are aware
4 of?

5 A On the state side?

6 Q For the state, yeah.

7 A I don't think so. Marshall Tucker was present, but I
8 don't believe he said anything.

9 Q And did you ask Mr. Weis and Mr. Myers to come to the
10 hearing and testify on your behalf?

11 A Mr. Myers volunteered. And Mr. Weis--Mr. Weis had
12 volunteered also from the first--from August the 18th, when
13 the Swecker report was made public, Mr. Weis came to my house
14 and wanted to be of assistance. So he had volunteered also.

15 Mr. Whitehead: We have just a couple of minutes
16 left on the tape, if we can just go off the record and change
17 the tape over.

18 Mr. Isley: Sure.

19 The Videographer: This concludes Tape 3. The time is
20 2:01.

21 (A brief recess was taken.)

22 The Videographer: This is Tape 4. The time is 2:03.

23 By Mr. Whitehead:

24 Q Mr. Deaver, just before we took our break we were
25 talking about the Grievance Committee hearing. Mr. Weis--do

1 you recall what he testified to at the Grievance Committee
2 hearing?

3 A I believe he testified about issue number 1. It seems
4 like I remember that's what he testified to.

5 Q Issue 1 being the Perry complaint, I think we called
6 it today; is that---

7 A (interposing) That's correct.

8 Q Okay. And then Mr. Myers, what did he testify to at
9 the---

10 A (interposing) He testified to issue number 2.

11 Q The Innocence Commission hearing---

12 A That's correct.

13 Q ---and the order to show cause? Okay. And Mr.
14 McLeod, did he testify to all three issues on behalf of the
15 state?

16 A Yes, sir.

17 Q And the Grievance Committee found in your favor, did
18 they not?

19 A Yes, sir, they did.

20 Q And then the final agency decision issued by Ms. Hyman
21 supported the findings of the agency and upheld the termina-
22 tion; correct?

23 A Yes, sir.

24 Q All right. I think we're getting close. I think we
25 just have one issue left to talk about, and that's the

1 Peterson matter. And I'll ask you probably a silly question,
2 Mr. Deaver, but you're familiar with the Peterson matter?

3 A Well, I have to tell you that I really am not.

4 Q Okay.

5 A I don't know--I was not in town when the hearings were
6 held. I don't know who testified or to what. I don't know
7 specifically what the issues are. I've heard some rumors of
8 stuff, but I really don't know much about it.

9 Q I'm going to go through and try to be fairly quick
10 about it. It's getting late in the day, but I will tell you
11 that--well, let me ask you this. Did you testify at Mr.
12 Peterson's trial?

13 A Yes, sir, I did.

14 Q Okay. And I believe I read somewhere that there was
15 1,000 pages of testimony for just your testimony at the
16 Peterson trial. Is that correct?

17 A I don't know.

18 Q Did you testify for numerous days?

19 A Eight days.

20 Q That would be 1,000 pages. What were you asked to
21 testify to at Mr. Peterson's trial?

22 A Bloodstain pattern analysis.

23 Q Okay. And we talked about this a little bit earlier
24 about the allegation of either falling down--Mrs. Peterson
25 falling down the stairs or being hit with an object or pushed

1 down the stairs or something along those two divergent
2 stories; is that right?

3 A That's correct.

4 Q And you were asked by the district attorney to give
5 testimony regarding blood spatter analysis?

6 A That's correct.

7 Q And in that regard you were on the stand for eight
8 days?

9 A That's my recollection.

10 Q And that was back in 2003?

11 A Yes, sir.

12 Q Thereafter--Mr. Peterson was convicted for the murder
13 of his wife and thereafter he filed motions for appropriate
14 relief. And in December of 2011, there was a hearing on a
15 motion for appropriate relief that Mr. Peterson had filed.
16 Were you involved in the December 2011 hearing on the motion
17 for appropriate relief?

18 A No, sir, I was not.

19 Q That hearing was held before Judge Hudson and there
20 were various witnesses from the state who testified from the
21 SBI. Judge Hudson--and I believe you were asked about this
22 very, very briefly in the last--in the Taylor deposition that
23 I read, but Judge Hudson issued an order that you had
24 intentionally provided false and misleading testimony. Do
25 you agree with Judge Hudson's decision?

1 A No, I do not.

2 Q Judge Hudson also was very critical of the work that
3 was done in the case with regards to the evidence presented
4 and the credibility of the work done. Do you agree with
5 Judge Hudson's disregard for the work in that matter?

6 A Well, I don't know what he said, but I would disagree
7 within general terms.

8 Q And these are paraphrasing his findings. We're going
9 to talk more specifically about the Court of Appeals
10 decision, but I just wanted to give you some background
11 because you said you weren't totally familiar with the
12 Peterson---

13 A (interposing) That's right.

14 Q ---case, so I wanted to walk through. That decision
15 from Judge Hudson was appealed to the Court of Appeals, who
16 issued a decision in *State v. Peterson*, which I'm going to
17 share with you. And the Court of Appeals limited their
18 decision really to the issue of your testifying with regards
19 to your background and training and prior history working in
20 blood spatter cases.

21 And the Court of Appeals found that you had misrepre-
22 sented your qualifications and that that misrepresentation
23 was relevant and material to the issues at the defendant's
24 trial. Do you agree with that statement?

25 A No, I do not.

1 Q Okay. Specifically, the Court of Appeals adopted the
2 facts which were in Judge Hudson's order. And I'm going to
3 just read them to you briefly and ask you if you agree with
4 what both the lower court and then the Court of Appeals
5 affirmed in their order. And specifically, the Court of
6 Appeals felt that at the MAR hearing "Agent Deaver had not
7 been mentored by Agent Spittle." Do you agree with that
8 finding?

9 A Do not.

10 Q Is it your testimony as you sit here today that Agent
11 Spittle had been a mentor to you with regards to blood
12 spatter analysis?

13 A Yes, it is.

14 Q And I believe you testified--you testified earlier
15 that Agent Spittle had provided you some training as far back
16 as when you were hired in 1985-'86. Do you recall that?

17 A I do.

18 Q Other than that preliminary training back in '85-'86,
19 did you receive any other mentoring or training from Agent
20 Spittle?

21 A No, I did not.

22 Q The next finding from the Court of Appeals is that
23 "Agent Deaver had only participated in 54 cases involving
24 bloodstain analysis, not over 500." Do you agree with that
25 statement?

1 A I do not.

2 Q When I read the term "bloodstain analysis"--and this
3 was one of my earlier questions to you--I think that we've
4 agreed for the purposes of this deposition that we're talking
5 about blood splatter or blood spatter analysis. Would you
6 agree with that?

7 A I would agree with that.

8 Q Do you know how many cases you have participated in
9 for bloodstain analysis?

10 A No, I don't.

11 Q Do you have any estimate for me as you sit here today
12 on how many cases you may have participated in regarding
13 bloodstain analysis?

14 A No, sir. And prior to the Peterson case, I asked the
15 SBI to give me the numbers, and they said there's no way to
16 find them.

17 Q Do you remember who you talked to at the SBI to
18 request those numbers?

19 A No, I don't.

20 Q Did you testify at the Peterson hearing that you had
21 participated in over 500 bloodstain analysis cases?

22 A I don't remember that.

23 Q Next, the Court of Appeals found that "Agent Deaver
24 only wrote 36 reports in cases involving bloodstain analysis,
25 not 200." Do you agree with that finding?

1 A I do not.

2 Q Do you know how many cases you may have been involved
3 in where you wrote reports involving bloodstain analysis?

4 A No, sir. But again, I would just say that the stand-
5 alone blood spatter reports were less than the reports that
6 were enteric (phonetic), for instance the Taylor case,
7 serology, but it also had a blood spatter report in it. And
8 so it's--the bureau told me it was impossible to be able to
9 find all those.

10 Q So you're saying that a report may involve both
11 serology and blood spatter?

12 A Yeah, and then other things too, profiling, so---

13 Q (interposing) How about--how about cases--even if it
14 involved numerous issues, serology, blood spatter, other
15 issues, how many do you think you were involved with where
16 you wrote reports that bloodstain analysis was one of those
17 issues?

18 A I would go with the estimate that I had given him in
19 the thing, roughly 200.

20 Q Okay. So you think rather than the 36 reports that
21 the--that Judge Hudson and the Court of Appeals found, it's
22 in fact roughly 200?

23 A Well, I don't know how they found any, but whoever
24 testified for the bureau, they didn't, so--do you see what
25 I'm saying?

1 Q Right, so you would agree that it's approximately 200?

2 A That's an estimate, but yeah, it's a lot more than 36.

3 Q The next finding from the Court of Appeals, "before
4 defendant's case in 2001, Agent Deaver had not conducted any
5 bloodstain analysis at a potential crime scene since 1997,"
6 would you agree with that statement?

7 A I don't know. I don't know whether to agree with that
8 or not because I have no--I have no--let's see, 2003. No, I
9 have no way of knowing.

10 Q The next finding, number (5), "Agent Deaver had not
11 been qualified as an expert witness in bloodstain analysis 60
12 times," do you agree with that statement?

13 A I have no way of knowing. That was an estimate.

14 Q Okay. Do you--so you think--you think as you sit here
15 today that you may have been qualified as an expert in blood-
16 stain analysis about 60 times?

17 A Right. And then again I would tell you that there are
18 many times when I was testifying for some other reason and
19 they would qualify me as an expert in bloodstain pattern
20 analysis. I don't know how you could even find that. I
21 don't know, but that was part of, you know, my estimate.

22 Having gone to court specifically for blood spatter, I
23 couldn't tell you how many times. But the many times that
24 I've been there and they hold up some piece of evidence and
25 qualify me at that point because the DA wants to talk about

1 it were numerous.

2 Q And next, finding number (6), "Agent Deaver had never
3 been to a potential crime scene involving an alleged
4 accidental fall prior to the crime scene at [the defendant
5 Taylor's] house," do you agree with that?

6 A That's absolutely false. And I went to a case in
7 Guilford County where a man fell down the stairs. That was
8 an accident. And I went to a case in--and these are just
9 some that I can remember. I can't believe--I can't believe
10 that's a fact of finding (sic), but I went to a case in
11 Carteret County where the district attorney stood with me on
12 the steps. And it was supposedly an accidental fall, and it
13 was in my opinion a homicide.

14 Q What was that last county? I'm sorry. I didn't get
15 it.

16 A That was Carteret County.

17 Q Carteret County? Do you recall the name---

18 A (interposing) That was Indian Beach. It was a PD
19 case.

20 Q Do you recall the name of either one of those cases---

21 A (interposing) I don't.

22 Q ---either the victim or the defendant in---

23 A (interposing) No, I don't.

24 The Reporter: I'm sorry; a PD case?

25 The Witness: Police department, Indian Beach

1 Police Department case, if I recall correctly.

2 Q Do you recall what year the Beaufort County case may
3 have occurred?

4 A I don't.

5 Q Any range for me, an estimate? Was it early in---

6 A (interposing) Sometime during my career.

7 Q I'll ask the same question for the Carteret County
8 one, any range for me---

9 A (interposing) Sometime during my career. The
10 district attorney was--oh, he was down there forever. That
11 would kind of narrow it because he retired sometime after
12 that, but I can't remember.

13 Q And the last finding by the Court of Appeals,
14 "although Agent Deaver testified that he 'typically'
15 performed bloodstain experiments, he had only done so in 3
16 cases other than defendant's," do you agree with that
17 statement?

18 A Absolutely false. I did them every time we held a
19 school along with other people and their cases.

20 Q How many bloodstain experiments do you think you have
21 performed?

22 A No way to tell.

23 Q Any estimate for me?

24 A No, sir.

25 Q I mean is it--this says only three. Do you think it

1 might have been---

2 A (interposing) It's a lot more than three.

3 Q Okay.

4 A How about that? I don't know.

5 Q Well, is five a lot more than three or is 300 a lot

6 more than three? I'm just trying to---

7 A (interposing) I don't---

8 Q ---get some estimate.

9 A There's no way to tell you. I've done lots of them.

10 And I didn't write them down. I didn't keep a mental count.

11 I just did them.

12 Q Do you recall if the last time you did a bloodstain

13 pattern experiment was 1991?

14 A Well, we know that's not true because I was involved

15 in the ones with the Turner case, so that was after that,

16 so---

17 Q Any others than the Turner case that you can recall

18 that may have been at or near 2001 to 2003, in that---

19 A I don't remember.

20 (Pause.)

21 Q The Court of Appeals also found that it was probable

22 that this evidence or these findings of fact concerning your

23 qualifications would have caused a jury to reach a different

24 result at another trial. Do you agree with that?

25 A I don't understand.

1 Q Well, the Court of Appeals finding that but for these
2 factual issues that came up, the jury would have found not
3 guilty.

4 A Well, if the issues had been true, I could agree with
5 them. But the issues are not true, so I can't agree with
6 them. Now, number two, I did know what the jury said and the
7 jury did not talk about my qualifications as part of their
8 findings. The jury cited that they went to the crime scene
9 and that's what convinced them and that Dr. Henry Lee was not
10 convincing in his testimony. So I have to go by what the
11 jury said.

12 Q I understand, Mr. Deaver, but I guess whether you
13 agree with these findings or not that these are Court of
14 Appeals opinions in the state of North Carolina, that this is
15 the facts as the Court of Appeals has found them to be and
16 the findings of law that they've determined based on those
17 facts.

18 A Well, again, I have to tell you that I haven't read
19 who testified to these things. And I can tell you for
20 absolute certainty that most of that is wrong. And so
21 whoever testified to it--I'll have to look at that when the
22 time comes and maybe I'll get a chance to refute those
23 things. That's all I can tell you. And if the Court of
24 Appeals has an idea from someone who did not testify
25 correctly, then they'll have to deal with them.

1 Q Do you believe--whether you believe they are true or
2 not, do you believe that these findings---

3 A (interposing) Exist?

4 Q ---place the department in disrepute?

5 A Sir, things that are said that are not true should not
6 place the department in disrepute.

7 Q Again, though, these are findings from the Court of
8 Appeals here in North Carolina. If someone were to pick up
9 this case and read it, their conclusion would be that your
10 testimony was material and it was also false. Do you think
11 that that would put the agency, the SBI, in disrepute?

12 A I don't mean to be argumentative, sir, but if they're
13 false, they're false. And so they---

14 Q (interposing) Yea, that's fine.

15 A I mean defense attorneys have said a lot of things
16 about me over the years. They don't put me in disrepute
17 unless they're true.

18 Q And I could not agree with you more, sir, that if a
19 defense attorney stands up in trial and says you're a son of
20 a gun liar, that doesn't mean a thing to me. But when the
21 Court of Appeals issues a decision that's now the law of this
22 state that says you were dishonest and that that dishonesty
23 may have led to a different decision, don't you think that
24 places the department in disrepute?

25 A No.

1 Q Would you agree that this conduct outlined in this
2 Court of Appeals decision is the type of conduct that no
3 reasonable person would expect to receive a prior warning for
4 if they were to be terminated?

5 A Sir, I would expect for people to investigate those
6 things to see if they're true before they would do anything
7 to anybody.

8 Q You worked in the HR department at SBI for many years?

9 A Yes, sir, I did.

10 Q If someone applied to be an SBI agent and part of your
11 job responsibilities as an SBI agent was to be testifying in
12 open court and you did a background check on them and pulled
13 this case up, you wouldn't hire them, would you?

14 A If they were false, I would hire them. I'm a sworn
15 law enforcement officer in this state, as we speak, sir. And
16 so they haven't terminated me.

17 Q Okay. But I guess my question is if someone applied
18 to you to get a job at the SBI and you did your thorough, due
19 diligence background search and found this and the Court of
20 Appeals said that person had essentially provided false or
21 misleading testimony on the stand, you would not hire them?

22 A Again, there were a lot of allegations that we found
23 out about that we checked to see if they were true or not
24 because people say a lot of things. And I certainly wasn't
25 going to hire somebody based on what somebody said if it's

1 not true.

2 Q How about if they had a criminal conviction?

3 A If they had a criminal conviction, yes, they would not
4 be hired. That's a state law.

5 Q But that's somebody else saying something about them.
6 They could come in and explain it away, that it just wasn't
7 true.

8 A You can go through the process of appeal just like
9 everyone else and try to--try to do that.

10 Q And we're looking at a Court of Appeals decision.

11 A Sir, I've answered that.

12 Q I appreciate that, and I'm not trying to be argumenta-
13 tive either. Would you agree, sir, that if these allegations
14 are in fact true in the Court of Appeals decision that that
15 would be conduct that would be unbecoming to a state employee
16 that would be detrimental to their state service?

17 A If they were true?

18 Q Yes.

19 A Oh, yes, sir. I would agree with that.

20 Q Same thing: if these allegations in the Court of
21 Appeals decision were true that they would be a willful
22 violation of known or written work rules? You can't lie on
23 the stand.

24 A Yes, sir, I would agree with that.

25 Q Have you ever read--and I apologize if I asked this;

1 I'm sorry. Did you ever read Judge Hudson's decision in the
2 Peterson case?

3 A No, I did not--in the hearing?

4 Q From the--yeah, from the December 6th MAR hearing.

5 A No, I did not.

6 Q Have you ever read the Court of Appeals decision?

7 A No, I have not.

8 Q Since January 7th, 2011 have you talked with anyone at
9 the SBI about your situation, your termination?

10 A An active member of the State Bureau of Investigation?

11 No, I---

12 Q (interposing) Yes, sir.

13 A ---have not.

14 Mr. Isley: Were you including about the
15 grievance and all that stuff?

16 Q I am not. I'm sorry. I meant outside the grievance,
17 outside the letter from Ms. Hyman. Just have you called
18 anybody to say, "What the heck's going on over there?"

19 A No, sir. I don't remember having talked to anybody
20 over there. I just haven't had any contact with people.

21 Mr. Whitehead: Sir, I think I'm done. Just give
22 me a couple of minutes to go through my notes and we may be
23 through for the day.

24 The Videographer: Do you want to go off record?

25 Mr. Whitehead: Yeah. We can go off for five

1 minutes.

2 The Videographer: Off record at 2:27.

3 (A brief recess was taken.)

4 The Videographer: We're back on record at 2:31, and
5 this concludes the deposition of Peter Duane Deaver and the
6 time is 2:31.

7 (The deposition was closed at 2:31 p.m.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

C E R T I F I C A T E

I, Kay K. Rohde, Notary Public-Reporter, do hereby certify that **Peter Duane Deaver** was duly sworn or affirmed by me prior to the taking of the foregoing deposition, that said deposition was taken by me and transcribed under my direction, that the foregoing pages 6 through 181 constitute a true and correct transcript of the testimony of the witness, and that the witness reserved the right to review his testimony.

I do further certify that I am not counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

I do further certify that the stipulations contained herein were entered into by counsel in my presence.

In witness whereof, I have hereunto set my hand, this 6th day of November, 2013.

Kay K. Rohde, CVR-CM
Notary No. 19971050205

S I G N A T U R E

I have read the foregoing pages 6 through 180, which contain a correct transcript of the answers made by me to the questions herein recorded. My signature is subject to corrections on the attached errata sheet, if any.

(Signature of Peter Duane Deaver)

State of _____
County of _____

I certify that the following person personally appeared before me this day and I have personal knowledge of the identity of the principal or have seen satisfactory evidence of the principal's identity in the form of a _____ or a credible witness has sworn to the identity of the principal, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated herein and in the capacity indicated: _____.

(Name of Principal)

Date _____

(Official signature of Notary)

(Official Seal)

_____, Notary Public
(Notary's printed or typed name)

My commission expires _____.

I, Kay K. Rohde, the officer before whom the foregoing deposition was taken on 10/14/13, certify that the foregoing transcript was delivered to the witness either directly or through the witness' attorney or through the attorney retaining the witness on _____ and that as of this date I have not received the executed signature page.

Therefore, more than 30 days having elapsed since receipt of the transcript by the witness, the sealed original transcript was filed with attorney for Respondents on _____ by means of US Priority Mail, in accordance with Rule 30(e) of the North Carolina Rules of Civil Procedure.

Date

Kay K. Rohde
Court Reporter