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IN THE CIRCUIT COURT OF WAUPACA COUNTY
STATE OF WISCONSIN

STATE OF WISCONSIN,

Plaintiff,

vs.

Case No. 20CF265
Motion

PETER KLOTZBUECHER,

Defendant.

The Honorable Raymond Huber Presiding
Monday, February 21, 2022

Reported by Rose M. Coulthart, RPR, CRR, CCP

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

Ms. Veronica Isherwood, District Attorney, 811 Harding Street, Waupaca WI 54981, appearing on behalf of the State of Wisconsin.

Ms. Kate Drury, State Public Defender, 1265 Main Street, Ste. 201, Stevens Point, WI 54481, appearing on behalf of the Defendant who is present via telephone.

Ms. Jaclyn Shelton, Attorney at Law, on behalf of the State Public Defenders Office.

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1 MS. DRURY: He's released, your Honor.

2 THE COURT: You are released. Thank you.

3 THE WITNESS: All right. Thank you.

4 MS. DRURY: And the defense now calls
5 Detective Captain Julie Thobaben.

6 THE CLERK: Please raise your right hand.
7 State your first name and spell your last.

8 THE WITNESS: Julie Thobaben,
9 T-H-O-B-A-B-E-N.

10 THE CLERK: Do you solemnly swear that the
11 evidence you shall give in this case now on trial shall
12 be the truth, the whole truth and nothing but the truth
13 so help you God?

14 THE WITNESS: Yes.

15 THE CLERK: Thank you.

16 CAPTAIN JULIE THOBABEN, called as a witness
17 herein, having been first duly sworn on oath, was
18 examined and testified as follows:

19 D I R E C T E X A M I N A T I O N

20 BY MS. DRURY:

21 Q So, Detective Captain Thobaben, I'm going to ask that
22 you state your name for the record and spell your first
23 and last name for the record?

24 A Julie Thobaben, J-U-L-I-E T-H-O-B-A-B-E-N.

25 Q And how are you employed?

1 A I work with the Waupaca County Sheriff's Office. I am
2 the Detective Captain.

3 Q How long have you been so employed?

4 A Will be 27 years in May of this year.

5 Q Have you always worked as a Detective Captain?

6 A No.

7 Q Can you go through the different jobs that you've held
8 in your capacity as a law enforcement officer for
9 Waupaca County?

10 A Sure. I was hired as a dispatcher. And then I was
11 promoted to the road as a patrol officer. And then I
12 was promoted to the Detective Sergeant and then
13 promoted to the Detective Captain.

14 Q How long have you been in the role of Detective
15 Captain?

16 A Since June of 2019.

17 Q And in your capacity as a Detective Captain, I imagine
18 that you write performance reviews; is that right?

19 A I'm sorry. I didn't hear that. Just there was buzzing
20 here. I'm sorry.

21 Q I have a small voice, and I'm trying to stay close to
22 this microphone. I also can't sit down while
23 questioning witnesses so the both of us will work on
24 this together.

25 In your role as a Detective Captain, you do

1 performance evaluations?

2 A Yes.

3 Q And in performance evaluations you evaluate the
4 performance of the employees that you supervise?

5 A Correct.

6 Q You are the -- I guess the head of the Detective
7 Bureau; is that right?

8 A Yes.

9 Q Can you talk to me about the employees who you
10 supervise; who are those people generally?

11 A I supervise nine. I have six detective sergeants and
12 two narcotic detectives and a property manager and
13 evidence technician.

14 Q Do you sometimes field phone calls from other employees
15 of the Waupaca County Sheriff's Department?

16 A Yes.

17 Q And do you give those employees advice?

18 A I give them direction, yes.

19 Q Are you allowed to direct employees who you don't
20 directly supervise?

21 A Yes.

22 Q So if you were to provide a direction to a patrol
23 officer deputy, for instance, what does that mean?

24 Help me understand what that means as someone who is --
25 is a layperson that doesn't have familiarity with the

1 hierarchy of ranks in law enforcement?

2 A Sure. It depends on what they are working on, and they
3 may give me a call and ask for direction on it.

4 Q So what happens if I ignore your direction?

5 A What do you mean? I guess I don't understand your
6 question.

7 Q Sure. Do you expect people who you interact with who
8 are lower ranking than you to obey your directives?

9 A Yes.

10 Q And is there a penalty for failing to obey the
11 directives?

12 A There could be, yes.

13 Q So one of those penalties could be workplace
14 discipline, right?

15 A There could be. Yes.

16 Q One of those penalties could be, you know, demotion
17 from one position to a lesser rank?

18 A That wouldn't be up to me. But yes. That's possible.

19 Q It's also possible for someone, you know, to be
20 suspended without pay or to actually lose their
21 employment for failing to follow a directive?

22 A That's possible.

23 Q And when, you know, as a Detective Captain, who's --
24 who's higher ranking than you?

25 A There would be the Chief Deputy and then the Sheriff.

1 Q Would it be fair to say then that the majority of the
2 people who work in the Waupaca County Sheriff's
3 Department are lower ranking than you and required to
4 obey your directives?

5 A Yes.

6 Q You were involved in the Klotzbuecher investigation,
7 and I want to talk to you about how you were involved
8 so that -- so that I understand the full picture.

9 My notes indicate that you received a
10 telephone call from Deputy Stephens in reference this
11 incident. Is that consistent with your recollection?

12 A Yes.

13 Q Do you remember at what time you received that
14 telephone call?

15 A That I don't.

16 Q Do you --

17 MS. ISHERWOOD: I got -- do you want --
18 (offering water)

19 MS. DRURY: Oh, no. That would be --

20 MS. ISHERWOOD: It gets hard to sit there.

21 THE WITNESS: Oh, thank you.

22 MS. ISHERWOOD: Yep.

23 BY MS. DRURY:

24 Q What is your office cell phone number?

25 A (715)412-2803.

1 Q Do you take calls on that phone number?

2 A Yes.

3 Q What is your office phone number?

4 A (715)256-4503.

5 Q And you also take calls in your office I imagine?

6 A Yes.

7 Q It's just you're not always in your office, that's why
8 you have the cell phone?

9 A Correct.

10 Q Do you remember if Deputy Stephens contacted you either
11 in your office or while you were out and about on your
12 cell phone?

13 A I don't remember which one it would have been.

14 Q And is it typical for a patrol deputy to make contact
15 with you as the Captain?

16 A They have.

17 Q Is it typical?

18 A Depending on the situation. Normally they go through
19 their Patrol Sergeant. And if the Patrol Sergeant
20 would direct them to contact me, they would. So they
21 have.

22 Q Do you know why Deputy Stephens reached out to you on
23 that particular day?

24 A I don't.

25 Q And in your role as the supervisor, your concern isn't,

1 you know, making sure that he's contacted the right
2 person; your concern is just trying to give this law
3 enforcement officer who's reaching out for help advice,
4 right?

5 A Correct. I answer their questions.

6 Q Now, this phone call came in the afternoon on Monday,
7 August 31st, right?

8 A I know the call was on August 31st, correct.

9 Q Do you know what time it was?

10 A I don't remember that.

11 Q Do you remember if it was during working hours?

12 A Yes. I was at work.

13 Q And when do you work?

14 A I don't recall. My hours that day were either 8 a.m.
15 to 4 p.m. or 7:30 to 3:30. So it's one of those two.
16 I now work 7:30 a.m. to 3:30 p.m. Could have been
17 working 8 a.m. to 4 p.m. though.

18 Q And did you receive one call from Deputy Stephens or
19 two calls from Deputy Stephens?

20 A I'm not sure. I would say one, one call.

21 Q Did you take any notes on this incident?

22 A At the time of the call? Or?

23 Q Nope. I'm asking have you taken any notes as it
24 relates to this incident?

25 A I wrote an incidents report. That's the incident

1 report on it after the fact.

2 Q And the incident report, how is it labeled?

3 A I don't recall how it's labeled.

4 Q Was it assigned an investigation case number like
5 normal police reports? Or are we talking about an
6 internal document?

7 A It would have been through an internal investigation,
8 correct.

9 Q Okay. So you're saying that I wrote a internal
10 investigation statement is your testimony?

11 A Yes.

12 Q And you didn't write any other notes in connection with
13 this event?

14 A No.

15 Q When would you have written that internal investigation
16 statement?

17 A The statement would have actually been probably a
18 couple days right after the incident occurred. And
19 then it would have been -- that statement would have
20 been turned in during the internal investigation.

21 Q And how did you write it, handwritten, typed?

22 A Typed.

23 Q And did you retain a copy for your records?

24 A Yes.

25 Q And did you review that copy before testifying today?

1 A Briefly, yes.

2 Q Do you have a copy with you?

3 A I do not.

4 MS. DRURY: So, your Honor, I'm going to keep
5 going with my questions here, but I believe I have a
6 right to review any notes that the investigating
7 officer relied upon prior to testimony -- testifying.
8 And I don't plan to waive that objection.

9 For expediency sake, I'm going to continue
10 with my questions unless your Honor wants to break to
11 afford the witness the opportunity to retrieve her
12 witness statement.

13 THE COURT: Any comment, Ms. Isherwood?

14 MS. ISHERWOOD: No.

15 THE COURT: Obviously you're entitled to the
16 report. Is it readily available in the Sheriff's
17 Department?

18 THE WITNESS: I know it was in the internal
19 investigation report and that's where it's at.

20 BY MS. DRURY:

21 Q You indicated that you reviewed it today before
22 testifying.

23 A And I had a copy of the internal investigation report.

24 Q So that would be probably in the Sheriff's Department
25 or did you travel to Outagamie County?

1 A No. That would be at the Sheriff's Office.

2 Q So I think the Judge's question is, is it readily
3 available? That's what I'm trying to get an answer to.

4 A I'm sorry. Yes. I could go and get it. Yes.
5 Correct.

6 THE COURT: Because I assume you could take
7 another witness while she runs?

8 MS. DRURY: I absolutely can.

9 THE COURT: Okay. We'll take a recess in
10 your testimony. Why don't you run and get it?

11 THE WITNESS: Okay.

12 MS. DRURY: And, your Honor --

13 THE COURT: Off the record for one second.
14 (Off the record.)

15 THE COURT: We're on the record.

16 MS. DRURY: Sorry. So I'm just seeing an
17 individual who's -- who's identified himself as
18 Attorney Bill Fischer. He represented the County and
19 the Sheriff's Department in the Mandamus proceedings.
20 I'm in the middle of cross-examining
21 Detective Captain Thobaben. And I noticed Attorney
22 Fischer gesture to his purported client by using his
23 index finger.

24 I object to this witness speaking with
25 anybody during her testimony, especially her counsel,

1 unless a record can be made of the contents of that.

2 The witness has received clear direction from
3 the Court that she is to go to the Sheriff's Department
4 to retrieve the note that she reviewed prior to her
5 testimony here today. And I just don't think that
6 there is the need for input.

7 THE COURT: The directive of the Court,
8 Ms. Thobaben, is simply to go and obtain the report.

9 Mr. Fischer, if you believe there's some
10 basis for need to communicate with your client, you can
11 make the appropriate record.

12 MR. FISCHER: I'm happy to do so, Judge. I
13 believe I have a copy of the report Captain Thobaben is
14 referring to in my hand.

15 MS. DRURY: Great.

16 MR. FISCHER: I was going to ask her --

17 THE COURT: Good.

18 MR. FISCHER: -- if it is what she thinks it
19 is so as to save her a trip to the Sheriff's Office.

20 THE COURT: I appreciate it. Why don't --

21 MS. DRURY: That is fine.

22 THE COURT: -- you share that with her?

23 MS. DRURY: Yeah.

24 MR. FISCHER: I'm holding it up, Captain
25 Thobaben, is this the report you're referring to?

1 THE WITNESS: Yes.

2 MR. FISCHER: And I'll have you look through
3 it and verify that that's all --

4 THE COURT: You can reassume the witness
5 stand then, Captain.

6 THE WITNESS: Okay.

7 THE COURT: Thank you, Mr. Fischer.

8 MR. FISCHER: I -- this is the last thing
9 I'll say. I only have one copy so if you need to make
10 copies, you'll need to take a quick break to make those
11 copies.

12 THE COURT: All right. We'll take a break to
13 make copies.

14 MS. DRURY: Yes. I think that --

15 MS. ISHERWOOD: Do you want me to just run
16 over --

17 MS. DRURY: -- that would be helpful.

18 MS. ISHERWOOD: Do you want one for you?

19 MS. DRURY: I do please.

20 (Off the record.)

21 THE COURT: Please proceed back on the
22 record.

23 BY MS. DRURY:

24 Q Actually, I'm going to need to play some video here.

25 So you've mentioned an internal investigation that you

1 were part of as it relates to this incident?

2 A Correct.

3 Q And, you know, this is something that probably stands
4 out in your memory as a significant event; would that
5 be fair?

6 A Yes.

7 Q You haven't participated in many internal
8 investigations, have you?

9 A No.

10 Q Would this be the only internal investigation that you
11 have been the subject of the inquiry?

12 A Yes.

13 Q And you provided a statement to the internal
14 investigator on the 7th of October; does that sound
15 about right?

16 A It was in October. Yes. The exact date, if that's
17 when it is, then yes.

18 MS. ISHERWOOD: And what year?

19 MS. DRURY: In 2020.

20 MS. ISHERWOOD: Thank you.

21 BY MS. DRURY:

22 Q Is that right?

23 A Yes.

24 MS. DRURY: I'm going to play -- and this is
25 again, your Honor, on Exhibit No. 3. It is the

1 recording that is labeled copy of Captain Thobaben
2 interview.

3 (Exhibit No. 9-10 marked for identification.)

4 BY MS. DRURY:

5 Q And before I start playing that, I'm going to present
6 you with what -- what's been marked as Exhibit No. 10.

7 This is a transcript that we had made of this
8 interview. And in terms of the starting point, we
9 are -- we are going to start this recording at
10 approximately three minutes into the tape recording.

11 Captain Thobaben, if you want to follow along
12 with the transcript, you're welcome to do so.

13 (Recording playing.)

14 BY MS. DRURY:

15 Q And I'm going to ask that we stop. We're stopping at
16 13 seconds. And, Detective Captain, this is just for
17 your convenience. On page 4, we're on line 18. And
18 that's where we started. So going back to
19 August 31st when Deputy Stephens contacted you. We
20 can resume the recording.

21 (Recording playing.)

22 BY MS. DRURY:

23 Q And I'm going to stop the recording here at seven
24 minutes 50 seconds. And, Detective Captain Thoboben,
25 I'm actually going to ask that you take that transcript

1 exhibit and close it up and put it away.

2 I have some questions for you about your
3 testimony. And the first question I have for you has
4 to do with timing of the call.

5 So we just heard from Deputy Stephens that
6 he -- he performed a search at -- in the afternoon,
7 like about 3 o'clock in the afternoon. Would that be
8 consistent with the time that he called you?

9 A It was certainly later than when he called me because
10 he had called me asking me about that. And then he had
11 to -- he had arrested Klotzbuecher and had him in the
12 back of his squad car.

13 He had to follow the towing agency to the
14 Manawa evidence garage to drop off the vehicle,
15 Klotzbuecher's vehicle. And then he drove back, excuse
16 me, then he drove to the Sheriff's Office to take
17 Klotzbuecher and take him into the jail.

18 Q All right. So my question is how many times did Deputy
19 Stephens call you?

20 A I thought once.

21 Q Is it possible he called you twice?

22 A It's possible. I just remember him calling me once.

23 Q So your testimony during the internal investigation is
24 that, you know, he called me. He was at the scene. He
25 was with Deputy Huberty. They were wondering where to

1 tow the vehicle. Right?

2 A Correct.

3 Q That's consistent with your testimony today?

4 A Correct.

5 Q And if that telephone conversation would have occurred,
6 my understanding is that telephone conversation would
7 have occurred before the vehicle was towed, right?

8 A Yes.

9 Q And your testimony is that you believe you spoke with
10 Deputy Stephens before the vehicle was towed and had
11 this conversation?

12 A Yes.

13 Q And it would have been on your office phone or on your
14 cell phone, no other phones?

15 A Correct.

16 Q Would you be surprised to learn that the first
17 telephone call from Deputy Stephens' phone to yourself
18 would have been at 1:52 p.m., a phone call that lasted
19 five minutes in duration?

20 A No.

21 Q Well, at 1:52 p.m. the vehicle had already been towed.

22 A Okay.

23 Q The vehicle was towed before Peter Klotzbuecher was
24 booked into the jail, right?

25 A Yes.

1 Q And other records make clear that Peter Klotzbuecher
2 was booked into the jail at 11:28 in the morning,
3 right?

4 A If that's what the records say, yes.

5 Q But your testimony today and at the internal
6 investigation indicates that the telephone conversation
7 you had with Deputy Stephens happened before all of
8 that. Yet there is no phone record. Can you explain
9 that today?

10 A I can't.

11 Q The phone records also indicate, in addition to the
12 phone call you had at 1:52 with Deputy Stephens, that
13 you had a second telephone conversation with him at
14 3:59. There was a call lasting four minutes.

15 Now, that second telephone conversation would
16 have been after the search was started at 3 p.m. Do
17 you have any reason to doubt that the telephone records
18 are wrong?

19 A No.

20 Q Is your work cell number (715)412-2803?

21 A It is.

22 Q Now, in -- in this particular case, your testimony at
23 the internal investigation lead me to believe that you
24 had given a direction for an inventory search. Am I
25 wrong in reading that testimony? Did you give a

1 direction?

2 A Yes.

3 Q And the question that was being posed to you was should
4 I apply for a search warrant or should I search this
5 vehicle pursuant to the inventory exception; is that
6 right?

7 A Correct.

8 Q And your direction was to search it pursuant to the
9 inventory policy; do not obtain a search warrant?

10 A Yes. Except if he comes across something, then, yes,
11 absolutely stop and get a search warrant.

12 Q Right. And you actually, in your internal
13 investigation statement, claimed that you told Deputy
14 Stephens that twice during -- during the telephone
15 conversation, you know, yes, you're okay, do this
16 unless you find evidence, then stop. Yes, you're okay
17 to do this unless you find evidence, then stop.

18 Do you -- do you recall today whether you told
19 Deputy Stephens twice to stop if he found evidence that
20 links to another pending felony investigation?

21 A I don't.

22 Q Was your memory clearer when you gave your internal
23 investigation testimony or is it clearer today?

24 A It was clearer then.

25 Q In this case, you also just, you know, know -- you said

1 in your statement that I'm trying to read here and also
2 your testimony that you were aware that the defendant,
3 Peter Klotzbuecher, was the subject of a pending felony
4 investigation at the time he was related or arrested,
5 excuse me, for criminal trespass to dwelling, right?

6 A Deputy Stephens told me there was a possibility he may
7 have been involved in a theft. That's what I was told.

8 Q All right. So based on, you know, your involvement in
9 this case, Deputy Stephens took some actions which, you
10 know, aren't -- I'm not asking you to testify to his
11 actions. But I am asking you to testify to what
12 happened next.

13 It's my understanding that the Waupaca County
14 Sheriff's Department reviews the reports that patrol
15 officers write?

16 A Correct.

17 Q And when you review reports, you know, you're looking
18 to change the reports for grammatical errors?

19 A Make corrections, yes.

20 Q What type of corrections do you make?

21 A Grammatical, word changes, any corrections that need be
22 to make the report correct.

23 Q What type of corrections would fall under that last
24 category, need be to make the report correct?

25 A To make it factually correct for the charges being

1 there, yes. Correct.

2 Q So is it the policy of the Waupaca County Sheriff's
3 Department that police reports could be changed by a
4 reviewing detective to provide, you know, I guess
5 within the four corners of the document a probable
6 cause to make sure that elements are being met?

7 A Correct.

8 Q And it's also the policy of the Waupaca County
9 Sheriff's Department to make other changes to
10 substantive observations if those are believed to be
11 wrong or inconsistent?

12 A I'm not sure I understand what you're asking me.

13 Q And I can phrase that better. I know I can.

14 Some changes are grammatical. Those are not
15 substantive.

16 I'm going to define a substantive change as
17 any change to a fact. Are you with me along with that
18 definition?

19 A Yes.

20 Q So what I'm asking you is do you make substantive
21 changes as a policy in the Waupaca County Sheriff's
22 Department, not you personally, just as a policy is
23 this done?

24 And you're saying, yes, as a policy we make
25 it -- we do do that, for example, when there isn't

1 probable cause within the four corners of the
2 documents? And that is -- that is a change to the
3 factual observations of that officer.

4 You're saying that that happens relatively
5 frequently or infrequently?

6 A When someone has firsthand knowledge of what -- the
7 report, then yes.

8 Q And how often have you changed the substantive or the
9 factual non-grammatical observations of an employee
10 whose report you are reviewing when the reporting
11 differed from your own recollection?

12 A Maybe a handful of times if I had personal knowledge of
13 it.

14 Q And when you make those changes, it's just because
15 you're the reviewing officer, done it right into the
16 report, right?

17 A Well, in this case I didn't make the change alone. It
18 was myself along conferring with Captain Rasmussen
19 and --

20 Q Yeah. We're not to this case yet. We're just talking
21 generally. I promise we'll get there. But just
22 generally can you enter into the Spillman system
23 yourself or do you need to seek approval from others?

24 A We make corrections on the papers and then it goes back
25 to records.

1 Q And that's because the records people do your typing
2 for you?

3 A Correct.

4 Q So the papers have the writing on them?

5 A Yes.

6 MS. DRURY: I'm going to approach, Judge, if
7 I have permission with Exhibit No. 9?

8 THE COURT: You may.

9 BY MS. DRURY:

10 Q What is Exhibit No. 9.

11 A It would be Deputy John Stephens' narrative report on
12 the trespassing complaint.

13 Q And is this something that you've seen before?

14 A Yes, it is.

15 Q How do you know that you've seen it before?

16 A It's the report that Detective Sergeant Pete Kraeger
17 had handed to me on the morning of September 1st.

18 Q Okay. So just so I understand your testimony, you
19 know, you have either one or two, you're not sure,
20 telephone conversations with Deputy Stephens. You
21 believe it happened before the car was transported.
22 The phone logs don't reflect that. The next day you're
23 handed a report which is Exhibit No. 9?

24 A Correct.

25 Q And it's handed to you by Detective Sergeant Kraeger?

1 A Yes.

2 Q Who you don't get along with?

3 A I get along with Detective Sergeant Kraeger. I have no
4 reason not to get along with him.

5 Q And he hands you this report indicating, hey, there's a
6 problem with this report on the second page third
7 paragraph; is that -- is that right?

8 A He came into my office, set it down and said read the
9 third paragraph.

10 THE COURT: I'm sorry. What?

11 THE WITNESS: He came into my office, set the
12 paperwork down and said read the third paragraph.

13 BY MS. DRURY:

14 Q And my understanding is that you told him, well, wait.
15 I don't want to make that judgment. That's rash. Let
16 me read the whole report. Was that your response?

17 A Yeah. I said let me read the whole report because he
18 had additional paperwork sitting there as well.

19 Q And then you reviewed the whole report. And then the
20 inventory search policy that was submitted, you know,
21 with this report?

22 A Correct.

23 Q And then, you know, after you read it through, it rang
24 a bell that this is, you know, the report that you were
25 involved with because you had phone contact with Deputy

1 Stephens?

2 A Correct.

3 Q So when you looked at the report on Exhibit No. 9,
4 there's some highlighting on that report. And it is
5 also crossed out?

6 A Correct.

7 Q And you are the individual that did that highlighting
8 and -- and did that crossing out, right?

9 A Yes.

10 Q And you did this in front of Detective Sergeant
11 Kraeger?

12 A Yes.

13 Q And the highlighted and crossed out language, can you
14 read that verbatim for the record?

15 A For any possible evidence related to past thefts with
16 Peter.

17 Q Now, ultimately as the reviewing captain, you know,
18 your name doesn't go on this police report. It's
19 Deputy Stephens' name that goes on the police report,
20 right?

21 A Correct.

22 Q And you exercised your reviewing powers to strike that
23 sentence from the police report?

24 A Correct. Because I had personal knowledge of my
25 conversation with him.

1 Q And you have personal knowledge of what Deputy Stephens
2 understood from your telephone conversation or you had
3 personal knowledge of what you told him?

4 A Personal knowledge of what I had told him, correct.

5 Q And because Deputy Stephens' account differed from, you
6 know, what you had tried to communicate to him, you
7 took this report. And you didn't make the decision by
8 yourself. You involved other decision-makers?

9 A Correct.

10 Q And the other decision-makers that you involved were
11 the Chief Deputy Carl Artz and then also the patrol
12 Captain Todd Rasmussen?

13 A Yes. And Lieutenant Thorpe.

14 Q And Lieutenant Thorpe's first name?

15 A Andy.

16 Q So after this meeting, you know, that's happening, you
17 know, all of you get together and decide, yes, it's
18 okay to delete, you know, this portion from the report;
19 that's a unanimous decision?

20 A Correct.

21 Q And let's see. So this is a case where the report was
22 placed on your desk sometime after 9 in the morning,
23 right?

24 A Yes. It would have been after 9 because Detective
25 Sergeant Pete Kraeger works 9 a.m. to 5 p.m. So by the

1 time he comes into the office, he looked at it and then
2 brought it to me. So it would be after 9. Correct.

3 Q And the defendant had been in custody for about, you
4 know, 24 hours at this point. And you knew that there
5 was going to be a bond hearing potentially at 1
6 o'clock?

7 A Correct.

8 Q And you are aware through the course of, you know, just
9 being experienced that sometimes bond hearings happen
10 24 hours after arrest and sometimes they happen 48
11 hours after arrest, right?

12 A Correct.

13 Q But you wanted to get this change done and over to the
14 District Attorney's Office as soon as possible; would
15 that be fair?

16 A It was due to a time constraint, yes.

17 Q And in your mind the change was not a big deal?

18 A Correct.

19 Q So you made the change?

20 A We did. Yes.

21 Q And you didn't retain a copy of the report to document
22 it?

23 A It's a draft. We don't retain any drafts.

24 Q So the answer to my question is, yes, we didn't retain
25 anything documenting the change?

1 A Correct.

2 Q And you didn't write a memo or another report
3 explaining what that change was?

4 A No.

5 Q And it wasn't, you know, I understand it was witnessed
6 by other individuals who were consulting with you. But
7 I just want to make sure, in terms of the evidence
8 documenting the change, this exhibit in front of you is
9 it?

10 A Correct.

11 Q So based on this change, you were involved in an
12 internal investigation?

13 A Yes.

14 Q And I think you describe in the transcript just sort of
15 the reason that you wanted to make the change
16 internally without providing notice to the District
17 Attorney's Office was that you were sick of Attorney
18 Roni Isherwood sticking her nose in your business at
19 the Sheriff's Department where it didn't belong; was
20 that your testimony?

21 A No.

22 Q So if you said that, that was something that was taken
23 out of context?

24 A Yes. But I don't understand what one has to do with
25 the other.

1 Q Okay. Well, did you put the District Attorney's Office
2 on notice of the change?

3 A What do you mean on notice of the change? I don't
4 understand your question.

5 Q Did you talk to them about the change or let them know
6 about the change?

7 A I guess I don't understand what you're asking.

8 Q What I'm asking is did you, Detective Captain Thobaben,
9 communicate with the District Attorney's Office about
10 the change to the substantive fact that you made to
11 Deputy Stephens' report?

12 A I know that Deputy Stephens and Captain Todd Rasmussen
13 went over and talked with DA Isherwood.

14 Q Is the answer to my question no? Because my question
15 really pertains to your context.

16 A And I know that myself and Sheriff Wilz and Chief
17 Deputy Artz and Captain Rasmussen spoke with DA
18 Isherwood.

19 Q On -- on which date was that?

20 A I don't know what that date would be.

21 Q And in this conversation that you had was to document
22 the change that you had made to Deputy Stephens'
23 report? Sorry. You have the exhibit that I'm looking
24 for.

25 A Oh, sorry.

1 Q No. It's this transcript actually.

2 A Oh, sorry.

3 Q That's all right.

4 A Sheriff Wilz requested meeting with DA Isherwood and
5 myself along with Chief Deputy Artz and Todd Rasmussen
6 were also in on meeting.

7 Q I guess, though, it's -- I'm not sure that you're
8 answering my question. Maybe I'm explaining it poorly?

9 A Maybe I don't understand what you're asking.

10 Q Yeah. So what I'm asking is what actions did you as
11 the Detective Captain take to make the District
12 Attorney's Office aware of the fact that you had
13 changed the substantive content of this report?

14 A I don't think I had a personal conversation with DA
15 Isherwood.

16 (Exhibit No. 11 marked for identification.)

17 BY MS. DRURY:

18 Q Okay. I'm going to show you what's been marked as
19 Exhibit No. 11.

20 Oops. I don't know what this is.

21 A Well, this is my -- I'm sorry. This is the copy that
22 they gave me that you had requested copies of --

23 Q Sure.

24 A -- the internal investigation.

25

1 Q But witnesses can't have just anything.

2 MS. ISHERWOOD: That was me.

3 MS. DRURY: No. It's okay.

4 BY MS. DRURY:

5 Q What is Exhibit No. 11?

6 A That would be my typed-up statement.

7 Q In relation to this incident?

8 A Correct.

9 MS. DRURY: Your Honor, I'd move Exhibit No.
10 11.

11 THE COURT: Any objection?

12 MS. ISHERWOOD: No, your Honor.

13 THE COURT: Exhibit's received.

14 BY MS. DRURY:

15 Q Okay. So, Detective Captain Thobaben, I'm going to
16 read to you this transcript from the internal
17 investigation. And you can help me understand, you
18 know, what you meant when you said this.

19 He's in patrol. And that way you always had
20 the conversations with him. It's coming from you.

21 And yeah -- he's -- yeah, so sure. Not a
22 problem. So I said, well, before you do that, can you
23 come with me and let's go talk to the Chief and make
24 him aware of it.

25 I'm going to stop reading from the transcript

1 right now. I think we're talking here about the fact
2 that the Patrol Captain, Todd Rasmussen, was decided
3 would be the better person to approach Deputy Stephens
4 for coaching?

5 A Correct.

6 Q And that was a decision, you know, that was made and
7 you agreed with that decision just because of their
8 more direct relationship?

9 A Correct.

10 Q And then the transcript goes on to say, And the reason
11 I did that is previously our district attorney, Ron
12 Isherwood, obviously liked to stick her nose in our
13 business. Right. Yes. And telling us how we should
14 do things, you know, those type of things in regards to
15 just anything and everything. So I could already
16 perceive -- I just had this feeling because it's
17 happened in the past that my Detective Sergeants, some
18 of them, have gone behind my back to the Chief. Do you
19 recall stating that?

20 A Yes.

21 Q And can you help me understand how -- how, when I asked
22 you the question about Attorney Isherwood and, you
23 know, telling the investigators that she was sticking
24 her nose into places that it didn't belong, how I had
25 misphrased that question?

1 A State that again. I'm sorry.

2 Q Right. So I guess what I'm saying is your testimony
3 earlier was that you never said District Attorney
4 Isherwood sticks her nose in places where it doesn't
5 belong.

6 And now we have a transcript where you do say
7 that. So I'm wondering if you can explain that
8 discrepancy?

9 A Because clearly I didn't remember before until you read
10 that to me.

11 Q Okay. So you actually retained an attorney personally,
12 you know, to -- to sue on defamation grounds and that
13 attorney, Colin Good, has, you know, provided
14 instruction to the District Attorney's Office that
15 they're defaming your character?

16 A Correct.

17 Q Did you review the letter that your lawyer sent on
18 December 10, 2021, to the District Attorney's Office?

19 A Yes.

20 MS. DRURY: Your Honor, I'm going to have
21 that marked. I'm not sure what exhibit this is.

22 THE CLERK: You're on No. 12.

23 THE COURT: 12 it would be.

24 (Exhibit No. 12 marked for identification.)

25

1 BY MS. DRURY:

2 Q Is this the letter that your -- that your lawyer sent
3 indicating that the District Attorney's Office was
4 defaming you?

5 MS. DRURY: Can I have this marked too?

6 (Exhibit Nos. 13-14 marked for
7 identification.)

8 THE WITNESS: What was your question?

9 BY MS. DRURY:

10 Q My question was actually to authenticate that document.
11 Is that --

12 A Yes.

13 Q -- the letter that your attorney sent, you know,
14 claiming that the Waupaca County District Attorney's
15 Office had defamed you?

16 A Correct.

17 Q And the -- how they had defamed you was by indicating
18 or implying that you as, you know, Detective Captain
19 had committed Brady or Giglio violations?

20 A Correct.

21 Q And in this factual background paragraph your lawyer
22 indicates that you worked with the arresting officer to
23 ensure that his report accurately reflected information
24 that he had been given and upon which he had acted.

25 That -- that would be inaccurate, wouldn't it?

1 A No.

2 Q You worked with him by changing his report for him?

3 A I see what you're asking.

4 Q Right. Did you work on the changes with him or did you
5 make the changes and the coaching happened afterwards?

6 A We made the changes and the coaching happened
7 afterwards.

8 Q Okay. And then I think, you know, your lawyer sends
9 another letter -- and Exhibits 13 and 14 go together if
10 you want to review both of them. I'm going to ask you
11 to authenticate that Exhibit 13 is the finding from
12 your internal investigation and Exhibit 14 is the
13 second follow-up letter that you had your lawyer send
14 to the District Attorney's Office attempting to
15 discourage litigation of this issue.

16 Are you done reviewing those?

17 A Yes.

18 Q Okay. I actually need to see them because my memory is
19 like a fish.

20 The Exhibit No. 13 is the findings of the
21 internal investigation; is that right?

22 A Correct.

23 Q And the findings of the investigation was that you
24 acknowledged changing the report prior to being
25 finalized and sent to the District Attorney's Office,

1 that that change was not for malicious purpose or
2 personal gain, but that it is not best practice and
3 it -- actually the recommendation was that the practice
4 should be reviewed by Waupaca County Sheriff's
5 Administration?

6 A Yes. And that there were also no Brady or Giglio
7 issues.

8 Q Has the -- has this lawyer said that there are no Brady
9 or Giglio issues? Where did this person make that
10 conclusion if you could? I'll let you read it again.

11 A Okay. I'm sorry. What's your question?

12 Q Right. Well, my question was answered. But then you
13 provided some follow-up that piqued my interest because
14 you asserted that the investigator had concluded that
15 there were no Brady and Giglio issues. And as I read
16 Exhibit 13, I don't see that conclusion there. So it's
17 possible that I missed it because I haven't spent as
18 much time with the document as you have.

19 A Yes. Right after you stated that there was no willful
20 deceit or any other improper purpose in changing the
21 report. As such, there are no Brady/Giglio issues.

22 Q Okay. And that was the investigator's finding?

23 A Correct.

24 Q As it pertains to you?

25 A Correct.

1 Q And Lieutenant Carpenter, just so I understand -- could
2 I see that document again?

3 A Sure.

4 Q He is not a -- not a judge. He's just a law
5 enforcement officer?

6 A Correct. He was the lieutenant.

7 Q Okay. And then, again, you know, you're aware that
8 your lawyer sends another follow-up letter dated
9 February 21, 2022, to the District Attorney's Office
10 discouraging litigation of a Brady claim in this case?

11 A Correct.

12 MS. DRURY: Your Honor, I have no further
13 questions of this witness.

14 THE COURT: Cross?

15 MS. ISHERWOOD: I have no questions.

16 THE COURT: You may step down. Is the
17 Captain released?

18 MS. DRURY: I'd like to call Sheriff Tim Wilz
19 before we break, your Honor.

20 THE WITNESS: Your Honor, did --

21 MS. DRURY: That (referring to an exhibit)
22 goes to the clerk. Thank you.

23 THE WITNESS: You're welcome.

24 MS. DRURY: And the Sheriff's testimony will
25 be brief. But Attorney Gelhar is subject to

1 sequestration orders so he is not allowed to be in this
2 room. He's not in work status. He's not allowed to be
3 in work status and testify as a witness. He has to
4 take another day off if he can't testify today.

5 THE CLERK: Please raise your right hand.
6 State your first name and spell your last.

7 THE WITNESS: Timothy R. Wilz, W-I-L-Z.

8 TIMOTHY WILZ, called as a witness herein,
9 having been first duly sworn on oath, was examined and
10 testified as follows:

11 D I R E C T E X A M I N A T I O N

12 BY MS. DRURY:

13 Q Sheriff Wilz, can you state your name for the record
14 spelling your first and last name?

15 A Timothy R. Wilz. T-I-M-O-T-H-Y last name W-I-L-Z.

16 Q You are the elected Sheriff for Waupaca County?

17 A I am.

18 Q When were you elected?

19 A 2019.

20 Q And so you were the elected Sheriff on August 31st of
21 2020?

22 A Yes.

23 Q For your contact in your Office, you were aware that
24 there is an allegation that Detective Captain Thobaben
25 altered the police report of Deputy Stephens, right?

1 A Secondhand.

2 Q And because of you being aware of that secondhand, my
3 understanding is that Detective Captain Thobaben
4 actually discussed this with you personally?

5 A Not that day. I was gone.

6 Q Did she discuss it with you personally at some point in
7 time?

8 A Yes.

9 Q And you were -- I mean I guess when you received this
10 information -- oh, I edited the observations of an
11 officer just so it's consistent with my understanding
12 of how the telephone call went because I was a party to
13 the telephone call -- your reaction to that was that
14 this was not a problem, correct?

15 A I'm not sure what you mean. Could you rephrase that?

16 Q Sure. When Detective Captain Thobaben told you she
17 altered a police report, what was your reaction?

18 A When she said she corrected the report? We do it all
19 the time.

20 Q And you do corrections to substantive facts of police
21 reports all the time?

22 A We do corrections to incorrect reports, draft.

23 Q And I did go through this with Detective Captain
24 Thobaben. And so I'm going to define a grammatical
25 correction is when the word is spelled wrong or grammar

1 is wrong.

2 And I'm going to define a substantive
3 correction as something regarding the factual
4 observations of a witness. Are you with me in terms of
5 that distinction?

6 A You could balance it on that. But there's also other
7 areas that need to be corrected.

8 Q Enlighten me.

9 A Could be the elements to a crime.

10 Q Okay?

11 A If they're not in there, you have to tell the officer
12 where are your elements of the crime.

13 Q So your testimony today is that all the time reviewing
14 detectives will, with those criteria in mind, edit the
15 substantive facts, not the grammatical errors, of
16 reporting deputies?

17 A I'm not sure what you mean.

18 Q So you said that corrections are made all the time.
19 Right?

20 A When need to be, yes.

21 Q So my -- so my question for you, Sheriff Wilz, is to
22 figure out how often the substantive or the four
23 corners of the document changes are happening as
24 opposed to the grammatical corrections?

25 A With that, I don't know. I'm not a detective that

1 would correct those. So I couldn't tell you that.

2 Q When you heard that the substantive correction, the
3 correction to fact, was made, your impression about
4 that was that it was fair, it was justified, it was
5 making sure something in the report was right?

6 A Not immediately. Detective or Chief Deputy Carl Artz
7 spoke with me first.

8 Q Is that the opinion that you've arrived at?

9 A He spoke with me first about this whole issue the next
10 day when I arrived back to work.

11 Q Yeah. And my question really isn't who spoke with you
12 when. But it's really what your opinion is?

13 A My opinion is we correct reports all the time.

14 Q And so and your opinion is that it's the policy of the
15 Waupaca County Sheriff's Department to change the
16 factual observations of the author of the report when
17 it's appropriate?

18 A No. We don't -- we don't change reports. We correct
19 them.

20 Q And they can correct them in a way that will remove
21 evidence?

22 A No. We don't correct them in a way that removed
23 evidence. We make sure they're accurate as to what the
24 officer did.

25 Q And so the reviewing detective would be the one making

1 the change, right?

2 A Depends.

3 Q At times the reviewing detective would not be present,
4 right?

5 A It all depends. Every circumstance is different.

6 Q Okay. In this case, the reviewing detective was
7 present by phone?

8 A Was he? I don't know.

9 Q The reviewing detective is a female, Detective Captain
10 Thobaben.

11 A By phone? I guess I don't understand the question.

12 Q Okay. How many times have you testified before?

13 A A number of times.

14 Q So this is the portion of the hearing where I ask you
15 questions and you have to provide answers under oath.

16 A I do if I understand what you're saying.

17 Q Great. I will be more clear.

18 A Okay.

19 Q You have a policy in the Department about how reports
20 are reviewed, right?

21 A Correct.

22 Q What is that policy?

23 A The reviewed reports are -- we have a Spillman which is
24 our CAD system. The officers either write into
25 Spillman and then correct their own reports. Or they

1 print them off, they review them, give them back to
2 records and records corrects whatever they need
3 corrected. And it's sent over to the district
4 attorney.

5 Q So where in that policy does it say that a reviewing
6 detective can make those changes? That's not in your
7 description that you just gave us.

8 A Well, I don't have that policy in front of me.

9 Q Well, tell us what the policy is to your knowledge.

10 A Well, I can't tell you because I would have to look at
11 it.

12 Q Okay. Do you need some time to refresh your
13 recollection?

14 A Yeah. If you have the policy, I can look it over.

15 Q We will do that later. I'll ask that testimony be held
16 open because I do think that's an important fact.

17 A Sure.

18 Q You would agree that, you know, as the Sheriff, you're
19 responsible for enforcing the policies that the Waupaca
20 County Sheriff's Department has, right?

21 A Along with my staff, yes.

22 Q But the buck stops with you. I mean you are the chief
23 of the Sheriff's Department, the head, the grand poobah
24 for lack of a better way to say that?

25 A I'm the Sheriff. Yes.

1 Q And as the Sheriff, you also are in charge of the work
2 that you delegate because you can't do it all yourself?

3 A Is that a question?

4 Q It is. Again, this is the part where I ask you
5 questions and you provide answers.

6 A Yes.

7 Q So when you -- when you became aware of this situation,
8 I understand your testimony to mean that you believe
9 that Detective Captain Thobaben had done nothing wrong.
10 Am I right on that?

11 A That's correct. And we had an outside agency also say
12 the same.

13 Q Was the outside agency the Outagamie County Sheriff's
14 Department?

15 A Yes.

16 Q Did you review the findings that the --

17 A I did.

18 Q -- Outagamie Sheriff's Department made? An -- and the
19 portion where they said it's not best practice to have
20 reviewing officers make substantive changes to police
21 reports authored by other individuals, especially if
22 that officer doesn't have direct knowledge of events?

23 A Actually, he told me in person that they do the same
24 thing at his office. And as the report read,
25 procedurally it could be different.

1 Q Yep. So -- so on November 16th you picked up the
2 telephone to call me?

3 A I don't recall the date.

4 Q Well, you recall the conversation?

5 MS. ISHERWOOD: What year?

6 BY MS. DRURY:

7 Q Sorry. November 16 of 2021.

8 A I called you. I don't know what date it was.

9 Q I want to talk to you about the contents of that
10 telephone call. You had called me because you asked
11 why you were subpoenaed to, well, it was this hearing
12 but it was scheduled originally at a different date and
13 time?

14 A Yes.

15 Q And you had indicated that the subpoena that you
16 received was defective because my investigator had made
17 an error indicating that the venue or jurisdiction was
18 Portage County?

19 A Correct.

20 Q And you said you wanted to know why you were being
21 subpoenaed. And I believe I told you that I believed
22 you had information that was supportive to my case?

23 A Yes.

24 Q You told me this isn't going to go well for you?

25 A No. I didn't say for you. I believe I said it ain't

1 going to go well.

2 Q And you also told me that you don't employ any Brady
3 officers?

4 A Correct.

5 Q That I had gotten bad information?

6 A Correct.

7 Q And that the district attorney, you know, was sticking
8 her nose where it didn't belong?

9 A Correct.

10 Q You offered those comments, not in response to anything
11 I said, just to provide some friendly advice?

12 A Inform you.

13 Q You haven't had conversations like these just with me;
14 you've also had conversations indicating that you're
15 upset that individuals exceeded the chain of command
16 and informed the District Attorney's Office about the
17 changes that were made in this case?

18 A Yes.

19 Q You have told individuals that as soon as you find out
20 who the so-called whistleblower is, that you intend to
21 fire that person?

22 A Never called him a whistleblower.

23 Q You told individuals that if you find out who the
24 individual was, you would fire that person?

25 A Yes.

1 Q And you would fire that person because they went
2 outside the chain of command?

3 A No. They were spreading bad information, creating a
4 toxic work environment.

5 Q And that the bad information, just so I understand, is
6 what?

7 A That Captain Julie Thobaben changed a report illegally,
8 unethically or whatever the district attorney explained
9 to me.

10 Q Were there any notation -- like have you reviewed the
11 police reports in this instance?

12 A I was up by the DA's Office and I went through it with
13 her on one occasion.

14 Q Okay. Do you -- I mean do you remember if there's any
15 notation about the change or is it obvious from the
16 report in some way that the contents of the report were
17 changed by someone other than the author?

18 A Okay. Could you rephrase that? I'm not sure where
19 you're going with this. I'm sorry.

20 Q Well, you don't need to know where I'm going with it.
21 But I'm asking do you know from your review of the
22 records whether it's obvious from the documents in and
23 of themselves that a change was made by someone who is
24 not the author?

25 A I never saw the draft report. But I was told that

1 there was corrections made.

2 Q And not having seen just sort of the draft report or
3 the original report, you can't tell looking at the
4 final product exactly what has changed, can you?

5 A I did look at the final product after the corrections
6 were made.

7 Q So my question to you is that can you tell from looking
8 at that final product exactly what has changed?

9 A I believe I was told that.

10 Q Can you tell by looking at the final product exactly
11 what corrections had been changed?

12 A Only after I was told, yes.

13 Q And these changes happen all the time?

14 A Corrections happen all the time, yes, when needed.

15 Q You are aware that my investigator sent your office,
16 your agency, multiple open records requests regarding
17 draft report, original report, what have you?

18 A Yes.

19 Q And your office indicated that these documents about a
20 draft report or original report just, you know, weren't
21 retained by your office?

22 A The original report is. The draft, no.

23 Q Were you -- did you later find copies of these
24 documents that were requested through open records?

25 A The draft report was obtained through the County's

1 attorney who had it in their files. We had no idea
2 they had it.

3 Q And so your testimony is that your records completely
4 were devoid of any drafts; and it wasn't that you sent
5 an employee out to look for the report and it was
6 located?

7 A The drafts disappear after they're -- the corrections
8 are made in the Spillman.

9 Q Right. But did you send an employee out to look for
10 the draft report?

11 A Yeah. I had the president of the union contact the two
12 suspended officers to find out if they had a copy.

13 Q So you talked about suspension. People were suspended
14 over this?

15 A Not this matter, no.

16 Q Were they otherwise disciplined over this matter?

17 A The first, yes.

18 Q Well, who was disciplined and how?

19 A Well, I don't have the discipline records in front of
20 me. But one admitted to the discipline through an
21 arbitration. It was simply he was written up for
22 harassment, insubordination and lying. And he accepted
23 that agreement.

24 The second one was given a day off without
25 pay. And he was suspended a short time. And both were

1 given 30 days patrol to distance themselves from the
2 captain.

3 Q And who are these individuals?

4 A I'm sorry. Are you ready? Okay. Sergeant Detective
5 Pat McClone and Sergeant Detective Peter Kraeger.

6 Q And when you find out who told the district attorney,
7 you're going to fire that person?

8 A No.

9 Q Is that inconsistent with your testimony previously?

10 A I told Roni Isherwood in a meeting with my captains
11 that I would. Part of it was to flush out the person.

12 Q The message was clear that you sent.

13 A I guess I can say what I want to Isherwood, DA
14 Isherwood.

15 Q You can.

16 MS. DRURY: Judge, I have no further
17 questions of this witness.

18 THE COURT: Cross?

19 MS. ISHERWOOD: I have no questions.

20 THE COURT: You may step down. Is Officer
21 Wilz released then or do you need to have him obtain
22 the policy that you stopped questioning?

23 MS. DRURY: I need him to obtain the policy.
24 And I am not releasing the sheriff.

25 THE COURT: So you are not released, Sheriff.

1 Is that policy readily available at the Sheriff's
2 Department?

3 THE WITNESS: I don't know. I can try and
4 get it.

5 THE COURT: Why don't you see if you can get
6 it and bring it on back.

7 MS. DRURY: The defense will call Alex
8 Gelhar.

9 THE CLERK: Please raise your right hand.
10 State your first name and spell your last.

11 THE WITNESS: Alex Gelhar, G-E-L-H-A-R.

12 THE CLERK: Do you solemnly swear that the
13 evidence you shall give in this case now on trial shall
14 be the truth, the whole truth and nothing but the truth
15 so help you God?

16 THE WITNESS: I do.

17 ALEX GELHAR, called as a witness herein,
18 having been first duly sworn on oath, was examined and
19 testified as follows:

20 D I R E C T E X A M I N A T I O N

21 BY MS. DRURY:

22 Q Alex, can you spell your first and last name for the
23 record please?

24 A Sure. Alex, A-L-E-X. Gelhar, G-E-L-H-A-R.

25 Q Okay. How are you employed?

1 messages seems to indicate that the Captain reached out
2 to Deputy Stephens, the timestamp on that is 12:45,
3 right?

4 A Yep.

5 Q So that review doesn't make clear of whether he reached
6 out to him before or after the report was altered, does
7 it?

8 A The text at 12:46 indicates that they must have changed
9 it already. So it had already been changed without
10 Deputy Stephens' knowledge based upon that text.

11 Q And that's what I wanted to sure up.

12 MS. DRURY: Thank you, Judge.

13 THE COURT: Anything further?

14 MS. ISHERWOOD: Not by the State.

15 THE COURT: Is Officer Kraeger released then?

16 MS. DRURY: He is. Detective Sergeant.

17 Sorry.

18 THE COURT: Detective Sergeant, you are
19 released.

20 THE WITNESS: Thank you, your Honor.

21 MS. DRURY: And Sheriff Wilz is here again.

22 THE COURT: Sheriff, you are still under
23 oath. You may resume the witness stand.

24 THE WITNESS: Okay. Thank you, your Honor.

25 CONT'D D I R E C T E X A M I N A T I O N

1 BY MS. DRURY:

2 Q Sheriff Wilz, we took a break in your testimony so that
3 you could retrieve a policy that you referenced during
4 your testimony.

5 I'm going to retrieve that from you if it's
6 acceptable to the Court and have the clerk mark it.

7 THE COURT: We'll mark it as an exhibit.

8 THE WITNESS: So I can't use it for a
9 reference?

10 THE COURT: Well, if you need to refresh your
11 recollection, you certainly will be able to review it.

12 THE WITNESS: That's why I highlighted it,
13 your Honor.

14 THE COURT: Okay. But for now we're just
15 going to mark it and have you identify it. And then if
16 you need to review it for purposes of testimony, we
17 will take a break and you can review it.

18 THE WITNESS: Sure.

19 (Exhibit No. 16 marked for identification.)

20 BY MS. DRURY:

21 Q So, Sheriff, Exhibit No. this is now 16.

22 MS. DRURY: Do you mind if I remove the
23 sticker? It's just cause it was marked on the last
24 page. I'm going to put it on the first page of the
25 policy. Okay.

1 BY MS. DRURY:

2 Q You have come back to court with Policy Number 322
3 which is the report preparation policy. It's a
4 four-page policy; is that right?

5 A Yes.

6 Q And on page 4 you highlighted the following sentence
7 verbatim. And I'll give it to you so you can make sure
8 that I'm reading it correctly. But the quoted language
9 is, "Reviewed reports that have not yet been submitted
10 to the Records Division may be corrected or modified by
11 the authoring employee." Is that the text you
12 highlighted?

13 A Yes.

14 Q Do you need to see it?

15 A No. Thanks.

16 Q And this -- the statement of policy encompasses what
17 the policy is?

18 A Yes.

19 Q No additional documents?

20 A Do I have any additional documents? No. That
21 encompasses the policy.

22 Q Correct.

23 MS. DRURY: Judge, I have no further
24 questions of this witness.

25 MS. ISHERWOOD: I have nothing.