



1 tion based upon personal knowledge. I am one of the attor-  
2 neys for plaintiffs herein.

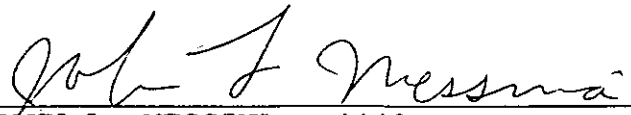
3 Attached hereto as exhibit "A" are those pages of the  
4 deposition of Joseph Kirby taken on 2/15/01, which are cited in  
5 plaintiff's brief opposing the motions for summary judgment.

6 Attached hereto as exhibit "B" are those pages of the  
7 deposition of Philip Lindsay taken on 10/2/01, which are cited  
8 in plaintiff's brief opposing the motions for summary judgment.

9 Attached hereto as exhibit "C" are those pages of the  
10 deposition of Charles Meinema taken on 1/18/01, which are cited  
11 in plaintiff's brief opposing the motions for summary judgment.

12 I certify under penalty of perjury under the laws of the  
13 State of Washington that the foregoing is true and correct.

14 DATED this 6 day of December 2002, at Tacoma,  
15 Washington.

16  
17   
18 JOHN L. MESSINA 4440

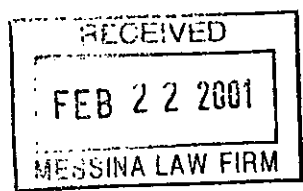
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

JOSEPH J. KIRBY and DEBORAH A. )  
KIRBY, husband and wife, )  
 )  
Plaintiffs, )



vs. )

No. 99-2-13911-4

THE CITY OF TACOMA, a municipal )  
corporation; RAY CORPUZ, and "JANE )  
DOE" CORPUZ, husband and wife; )  
PHILIP ARREOLA and "JANE DOE" )  
ARREOLA, husband and wife; WILLIAM )  
WOODARD and CATHERINE WOODARD, )  
husband and wife; RAYMOND ROBERTS )  
and "JANE DOE" ROBERTS, husband and )  
wife; DAVID BRAME and "JANE DOE" )  
BRAME, husband and wife; and JAMES )  
HAIRSTON and "JANE DOE" HAIRSTON, )  
husband and wife, )

EXHIBIT# A

Defendants. )

DEPOSITION OF JOSEPH J. KIRBY

February 15, 2001  
Tacoma, Washington

BYERS & ANDERSON, INC.

COURT REPORTING & VIDEO

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1 sort of like I got in trouble for limping after I  
2 broke my leg, that it would be expected that I might  
3 limp. I shouldn't be punished for those things. The  
4 department in the alternative chose to disregard that  
5 analogy and decided to discipline me.

6 Q What symptoms was your doctor referring to?

7 A I'm not medically qualified to tell you what he was  
8 actually referring to, but we -- because our  
9 discussions occurred over probably a period of a year  
10 and we were specifically -- my recollection was --  
11 talking about the fact that not so much symptoms, but  
12 time that that particular incident that I was  
13 disciplined for immediately preceded a medical finding  
14 of a disability.

15 The disability didn't start on the day that the  
16 doctor disabled me, but it was a continuation of a  
17 whole sequelae of medical conditions and symptoms.  
18 And I'm not really comfortable nor am I familiar with  
19 the psychiatric interpretations that either doctor  
20 Lindsay or any of the city doctors have applied to my  
21 case.

22 Q What is your understanding of what the symptoms of  
23 your stress disorder are?

24 A Are you asking what symptoms did I present at the  
25 time?

1 treated me. That's the kind of an open ended  
2 question. I'm not really sure that's narrow enough  
3 for me to answer. We certainly discussed things  
4 related to this condition and this disorder and his  
5 diagnosis.

6 Q Did he tell you what systems you might likely  
7 experience as a result of this stress disorder?

8 A Yes. My recollection of all the ones I had.

9 Q You don't know what those are?

10 A I don't know what they are from a clinical standpoint.  
11 I know -- do you understand the principle of the  
12 psychiatric or the psychological principle of  
13 depression? That's when the experience is so bad to  
14 you that basically you start -- your subconscious  
15 starts repressing the active memory because to relive  
16 it and bring it back up is almost as painful as going  
17 through it the first time.

18 I think that maybe what you have is a lot of  
19 repression here going on about what the symptoms were,  
20 the way I felt. I'm sure that those symptoms were  
21 adequately detailed in those records that are in your  
22 possession.

23 Q You've talked about discipline you received from James  
24 Hairston in connection with symptoms that you felt  
25 were consistent with your disability.

1 Q Yes.

2 A Well, let's see. You are in possession of my medical  
3 records from Dr. Lindsay?

4 Q I am.

5 A Do you have them with you?

6 Q No.

7 A That's unfortunate.

8 MR. SADLER: She's asking for your  
9 recollection. If you have a recollection of the  
10 symptoms, tell her. If you don't... (Pause.)

11 WITNESS: My recollections are a little  
12 fuzzy, and the reason is it was a whole bunch of  
13 things that caused me basically to get sent in for a  
14 fitness review evaluation, whole bunch of behaviors.  
15 I would characterize them as behavior.

16 Q (By Ms. Kerslake) You don't have a specific  
17 recollection of what symptoms were you exhibiting?

18 A I have a lot of different recollections, but at the  
19 risk of getting them confused because there were  
20 various times when I was off on this disability, I  
21 would feel more comfortable at having my recollection  
22 refreshed by looking at medical records.

23 Q Did Dr. Lindsay ever discuss with you the nature and  
24 extent of your stress disorder?

25 A We talked about a lot of things over the year that he

1 Were there any other acts that you considered to  
2 be discrimination based on your disability?

3 A I think that not only Hairston but Arreola contributed  
4 to that discipline. He set it up initially. As far  
5 as other acts, I believe in my mind that a lot of  
6 decisions were or were not made about me based on what  
7 they perceived as a disability.

8 In other words -- if you want to characterize  
9 that as mental stability, I think a lot of decisions  
10 were made on the basis of those defendants with either  
11 an ignorance or an improper appreciation for what that  
12 disability actually entailed and when it might right  
13 itself, when those symptoms might go away and I might  
14 be completely restored to duty, which I was.

15 I think in retrospect when I review in my mind  
16 the way I was treated, I believe that a lot of folks  
17 thought that the police culture was that if you were  
18 disabled at all for any kind of a stress injury or  
19 mental injury, you were damaged goods.

20 I don't think that's consistent with modern  
21 management philosophy or medical thought. I think  
22 those things can be situational and you can come back  
23 into the work place and be a contributor. But I do  
24 not believe that certain people, among them the  
25 defendants in this case, held those same beliefs that

1 I did that. And I think they acted out of what their  
 2 prejudice was against anyone that might have been  
 3 placed in a disability status due to any kind of a  
 4 stress related injury.  
 5 Q You talk about other decisions you believe were made  
 6 based on your disability. What decisions are you  
 7 talking about?  
 8 A They removed me from the clandestine lab team where I  
 9 served for six or seven years, where I was completely  
 10 qualified. I was a lieutenant, they removed me. I  
 11 was actually the team commander.  
 12 And they told me the removal was because I was a  
 13 lieutenant and I was not in SID. Subsequent to that,  
 14 they allowed Lieutenant Ramsdell to remain affiliated  
 15 with the team as a lieutenant while not assigned to  
 16 SID.  
 17 So as I look at what they did to me and the  
 18 contradiction in Lieutenant Ramsdell's continued  
 19 affiliation with the team, it was apparent to me there  
 20 were two standards there. They were applying a  
 21 different standard to me. I would also say nothing in  
 22 my meth team career would merit the removal from that  
 23 team.  
 24 Q What do you base your belief on that was related to  
 25 your disability in any way?

1 Q So if I understand your testimony, your belief that  
 2 that was the case is an assumption on your part?  
 3 A No.  
 4 MR. SADLER: Object to the form of the  
 5 question.  
 6 WITNESS: It is not assumption.  
 7 Q (By Ms. Kerslake) What facts do you have to support  
 8 that statement?  
 9 MR. SADLER: Asked and answered.  
 10 THE WITNESS: I believe that I did  
 11 answer it. I believe it's a feeling that I had and I  
 12 believe that feeling is in conjunction with other  
 13 activities I was subjected to, behavior that I was  
 14 subjected to and that I came to that conclusion.  
 15 Q (By Ms. Kerslake) What other behavior were you  
 16 subjected to?  
 17 A I'm sure we'll get that covered in your other  
 18 questions. There's a wide range of behavior.  
 19 Q Let's limit the focus to things related to disability.  
 20 MR. SADLER: Object the form of trying  
 21 to separate out the claims for disability versus  
 22 retaliation versus union activity because there are  
 23 events that go into all of them and it's hard to  
 24 separate them out.  
 25 THE WITNESS: There's a clear nexus in

1 A I think what I just articulated, that people made  
 2 decisions about Joe Kirby based on their own  
 3 particular prejudices against officers that might be  
 4 medically diagnosed with a valid stress disorder that  
 5 originated out of something that happened at work.  
 6 There's an interesting interpersonal dynamic  
 7 that police officers want to think they're invincible.  
 8 Having been an infantry officer and special forces  
 9 officer, I came to an early conclusion in my military  
 10 career, not only were we not invincible, we very  
 11 vulnerable for many stresses.  
 12 I don't think that is shared a lot by a lot of  
 13 police officers who will tell you they're not scared,  
 14 who really are and they see that as some kind of a  
 15 human frailty. When someone falls out of the fold  
 16 with a diagnosed stress disorder, they're not worthy  
 17 to continue in these positions.  
 18 I think there's a whole body of legislation for  
 19 that Americans with Disability Act and some recent  
 20 court decisions. Our society's kind of swung around  
 21 on that.  
 22 Q Did anyone tell you that the decision to remove you  
 23 from the clandestine lab team was based on your  
 24 disability?  
 25 A No.

1 my mind with all the different tenets of our case as  
 2 Jeff has briefly presented to you, and I find it  
 3 difficult in my own mind to focus in and look at an  
 4 electron microscope view of the discrimination phase  
 5 or the disability as being different from union  
 6 activities, as being -- I'm not sure in my mind they  
 7 can be separated, that there is so much overlap there  
 8 that you can isolate and look at them clinically in  
 9 the fashion you're attempting to do here.  
 10 Q To the extent that you do base any particular action  
 11 on solely disability -- and I understand your answers  
 12 to my previous question that's hard to do -- is there  
 13 anything else other than the incidents we've talked  
 14 about that you relate solely to disability  
 15 discrimination?  
 16 A They started -- there's a general pattern of treatment  
 17 which started after, basically I was -- actually it  
 18 started before -- but it started with the arrival of  
 19 Arreola, but it got more pronounced after I was  
 20 diagnosed with a stress disability.  
 21 It seemed to me that the whole spectrum of  
 22 treatment I got at the Tacoma Police Department  
 23 radically changed after that.  
 24 Q Can you describe that pattern of behavior for me?  
 25 A I was isolated. I don't think that I was given

1 characterized our relationship as a friend. He said  
2 "I believe I'm Joe Kirby's friend." I find out that  
3 Mike Darland didn't recommend my promotion to the  
4 chief in deposition, which was quite frankly a little  
5 stunning to me.

6 And that night I called Mike and I asked him  
7 "Mike we've had the Hairston deposition today, and I  
8 understand that Jim's testimony was that he didn't  
9 promote me to captain on your recommendation for  
10 passover." And Mike said "that's true."

11 At that point those dynamics were that I was  
12 feeling a little bit betrayed by who I might  
13 characterize as a friend and Mike's characterization  
14 of our relationship as a friendship. And felt Mike  
15 has spent an inordinate amount of psychic energy the  
16 last five months convincing me it was Jim, never came  
17 forward and said the reason you got passed over was I  
18 made the recommendation to Jim.

19 He never did that, which is just not the way I'm  
20 basically used to be being treated in a professional  
21 manner. I would have had a lot more respect for Mike  
22 Darland had he said, look "this is what happened." In  
23 the alternative he said, this is what happened and  
24 this is where I think we can work on your performance  
25 and the next time this won't occur.

1 are interviewed?

2 A Yes.

3 Q And a selection is made from those three?

4 A That's apparently the protocol.

5 Q When you said "fire doesn't have it," what do they  
6 have?

7 A "Rule of one."

8 Q What does that mean?

9 A That means when you participate in a process similar  
10 to what I participated in. The city gets to design  
11 and you finish first ahead of your peers, that  
12 personality aside, you are selected because the city  
13 gets to design the course, gets to design how high the  
14 hurdles are, gets to design what your performance will  
15 be.

16 When you compete in a fair process like that,  
17 there's a reasonable expectation that everything being  
18 equal, that -- after all they set up the criteria --  
19 that you will be selected. That's why fire has it.  
20 And that's why the city unions have gone to it because  
21 of the abuse potential.

22 Q So in that circumstance, number one is automatically  
23 given the job when the position becomes available?

24 A Prior Chief Fjetland was one that said absent some  
25 very compelling circumstances, I will not deviate from

1 You will also recall on questioning in  
2 deposition, Jim Hairston said if Kirby wanted to know  
3 why he was passed over he can request the reasons in  
4 writing. I would tell you at this point I don't think  
5 that's enlightened leadership nor is it mentoring nor  
6 is it valuing your employees, if you have an employee  
7 that you think might be salvageable or might be  
8 important, I think you might do those things.

9 Q What's your understanding of the "rule of three"  
10 selection process?

11 A It's always been a little bit of a confusing process  
12 to me in that fire doesn't have it, city water, other  
13 city agencies do not have it. The union conceptually  
14 dislikes it. It's been a sticking point at several  
15 bargaining sessions for contract. The police  
16 department has tenaciously held onto it for whatever  
17 agenda. I'm not sure I have a good understanding of  
18 the "rule of three" other than my observations on how  
19 it's been used.

20 Q What are your observations?

21 A My observations are that they hold onto it that  
22 tenaciously so they can preserve their option to pass  
23 over someone like me who's, for whatever reason,  
24 fallen out of favor with the current administration.

25 Q Is it your understanding that the top three candidates

1 the list. Again, you know, you have leadership  
2 perspectives on how that's applied.

3 Q Do you believe that the police department should have  
4 a "rule of one" process?

5 A Do I personally believe?

6 Q Yes.

7 A I not only personally believe, it was my advocacy in  
8 the union to promote that because it was the union's  
9 belief, Local 6 at the time, to preclude the exact  
10 scenarios I've seen occur, and that I was subjected  
11 to.

12 MR. SADLER: Take a quick break?

13 MS. KERSLAKE: Sure.

14 (Recess taken.)

15 EXAMINATION (CONTINUING)

16 BY MS. KERSLAKE:

17 Q Let's talk about your union advocacy, let's go into  
18 more detail. You were on the union executive board?

19 A Yes.

20 Q What year did you begin that service?

21 A It predated Arreola not that far. And, you know, I  
22 don't remember what the year was, whenever Arreola  
23 came. It seems to me I was affiliated -- I had always  
24 been in the union, but that I was elected to an  
25

1 executive board officer position. It predated him by  
2 a little bit.

3 Q Tell me what an executive board -- what is your role?  
4 A Basically it's a pure advocacy role. In the union you  
5 have some paid positions, the president, the vice  
6 president, treasurer, secretary. And then you have  
7 executive board members. And they participate in  
8 things like bargaining. As a part of the bargaining  
9 team, by my understanding of the real purpose of  
10 executive board members, it's difficult that 400  
11 people can only go to the four elected officials.  
12 Four elected officials handle the more formal  
13 structure of the union.

14 Executive board are somewhat similar to shop  
15 stewards where they go out in individual work groups.  
16 If you had a problem that affected Local 6 or  
17 yourself, and I was in your work unit, you would go to  
18 me and say, Hey, this is my problem. I, as an  
19 advocate, became your advocate and would bring those  
20 issues back to the full board where they would be  
21 discussed and decide whether we wanted representation  
22 from union attorneys or where those concerns would go.  
23 That's what an executive board member does.  
24 It expands the ability of the elective officers  
25 to extend control with more of us than the actual paid

1 officers were not getting such volume of work they  
2 couldn't handle. It spreads the work out.

3 Q So from a day-to-day perspective, what types of things  
4 would you do as an E-board member?  
5 A The E-board is all just collateral to my main mission  
6 which was at the time to be a police lieutenant and  
7 conduct business at the Tacoma Police Department. But  
8 the types of things I might do, people would come to  
9 me and talk to me and ask for advice and to solicit  
10 whether they thought this was something the union  
11 wanted to pursue or contract breach, or what could be  
12 done to assist them.

13 There's a whole area of grievances and protocol  
14 and discipline and those things that a police officer  
15 is exposed to by virtue of his employment with the  
16 city.

17 And so you would mediate that and assist them in  
18 assuring their due process in those processes were  
19 adhered to.

20 Q And how did that role as an executive board member  
21 interact with police management?  
22 A How did it interact, or how should it interact? What  
23 was the dynamics? That's such an open-ended question.  
24 Q Let's start with prior to Arreola. Would you go to  
25 management and say we have these concerns?

1 A Yes. Typically you would hope in a perfect world you  
2 would be able to -- I wouldn't -- although I did  
3 because I was on some committees, the safety committee  
4 and uniform committee. You would actually go to  
5 people like division commanders and say, I'm wearing  
6 my union hat as a part of the union safety committee  
7 and we have concerns about this. And you could work  
8 with individuals and get things done. It wasn't such  
9 a formal structure.

10 When Arreola came in, it broke down. We were  
11 not able to do that. And we basically, everything  
12 became so formalized it just froze the whole process  
13 of how we did business prior to the Arreola years.

14 Q When you say it became "more formalized," can you  
15 explain that to me?  
16 A Arreola only wanted to talk to the president of the  
17 union and he pretty much, despite a contrary, large  
18 library of case law, basically said I don't want you  
19 to do any union stuff on my dollar.

20 Q In your complaint you alleged that you were retaliated  
21 against for participating in some specific union  
22 activity.  
23 What activity did you participate that you feel  
24 precipitated that retaliation?  
25 A I think an initial instance of that when I asked at a

1 staff meeting -- I inquired -- in my union advocacy  
2 role, I was a lieutenant but I had union advocacy role  
3 and I inquired in an open forum -- which at the time  
4 we were permitted to do -- that there was a great  
5 concern in Local 6 about not only the disparity of  
6 discipline but the length of time that it took to  
7 administer the discipline, and in fact some discipline  
8 cases had gone on for years and been unresolved.

9 That was causing a great unsettling effect among  
10 members of -- as you can imagine it would. And I  
11 brought that question up in a staff meeting and he  
12 said you need to refer that to internal affairs. And  
13 I countered, internal affairs is your detail. It  
14 comes under you, so they do what you mandate to be  
15 done.

16 And that degenerated, he told me to stand down  
17 and threatened to terminate my employment because I  
18 had the audacity to challenge him in an open forum  
19 like that.

20 Q That was at a staff meeting?  
21 A It was at a staff meeting and Dave Brame had to  
22 physically get involved with him and say, that may not  
23 be the way you do things in Milwaukee, but it is in  
24 Tacoma. These guys have the right to do, so that  
25 would be ill advised for you to take any action. But

1 he made the comments. And after that, my relationship  
2 with Arreola deteriorated. I think that was the  
3 opening event.

4 Q When you said he threatened to terminate you, do you  
5 recall exactly what he said?

6 A "I'll fire his ass if he thinks he can challenge me in  
7 an open forum like this."

8 Q Did you have any action taken against you for those  
9 comments?

10 A Subsequent to that I believe a good portion of what  
11 happened to me in the department was a direct result  
12 of those comments. Was any overt action taken?  
13 Probably yes, and it spun into later discipline.

14 Q What discipline are we talking about?

15 A The follow-up to that, which was what we characterized  
16 as the Ramirez incident where I was ordered to divulge  
17 the nature of a private conversation I had with a  
18 member of Local 6 which did not occur in the city. It  
19 occurred in the city of Lakewood on the telephone off  
20 duty.

21 I was told basically if I didn't divulge that, I  
22 was in jeopardy of being terminated again, which is  
23 not my understanding about what the RCW said.  
24 Subsequently that led to PERC decision where the city  
25 was sanctioned for interfering with union activities

1 Q Other than Arreola's comment threatening termination  
2 to you, is there any other retaliatory activity you  
3 ascribed to the named defendants?

4 A I think pulling me off the meth team was pure  
5 retaliation.

6 Q How do you know?

7 A I don't know. That's my belief. I can't get in their  
8 heads, but it's conduct consistent with my belief.

9 Q Anything else that you can think of?

10 A Off the top of my head, no. I'm sure that I could on  
11 reflection expand on that.

12 Q I asked some questions similar to this in some  
13 interrogatories, which you answered very completely.  
14 I just had some follow-up questions. Maybe we could  
15 go over those.

16 A I might expand, you said I could expand from time to  
17 time on that question about retaliation. I think that  
18 the whole sequence of my being investigated by  
19 internal affairs in the last several years  
20 particularly in those instances where Chief Darland  
21 recommended that not happen, where at the time a  
22 deputy, or Assistant Chief Meinema recommended you  
23 can't do this, these are witch hunts, that even  
24 internal affairs personnel don't do this. These cases  
25 do not merit internal affairs investigation against

1 of that nature.

2 And most recently the filing of a second unfair  
3 label practice where Washington State Patrol did the  
4 very same thing to me as an agent of the city of  
5 Tacoma.

6 Q So you filed a grievance based on the Ramirez  
7 incident?

8 A I think the union filed the grievance. I believe I  
9 was the precipitating -- I filed a grievance.

10 Q And the outcome of that was what?

11 A My understanding that eventual was Bob Blystone, the  
12 union president also filed a grievance for a similar  
13 incident and the merged outcome of those grievances  
14 were that the city was sanctioned by PERC and forced  
15 to post under Ray Corpuz's signature a statement that  
16 said you will not do this to these people anymore,  
17 which they subsequently chose to disregard.

18 Q So your understanding of the Blystone grievance and  
19 the one which you were named were determined together?

20 A My understanding is that the outcome was that when  
21 Bob's was adjudicated that the same set of facts and  
22 principles applied to mine and that therefore, since  
23 they were correlary [sic] actions, grievances, they  
24 pretty much conceptually proceeded through the process  
25 together. That was my understanding.

1 anyone, let alone Kirby, pretty much show that they  
2 went out of their normal protocol to retaliate against  
3 me for whatever they perceived from my transgressions  
4 previous to that.

5 And that behavior never diminished or let up  
6 because I delivered, and I'm sure you have in your  
7 files a number of protest IDMs to Jim Hairston that  
8 said this conduct has got to stop. And I think that's  
9 got to be adequately embedded in your records  
10 somewhere.

11 Q So it's your position that being investigated for  
12 alleged misconduct relates directly to your labor  
13 activities?

14 A It relates to what their perception was of my status  
15 subsequent to being medically diagnosed with a  
16 disability. It relates to my previous union  
17 activities which put me directly counter to a number  
18 of defendants in this case. It relates to a whole  
19 bunch of stuff.

20 Like I said this stuff is so interwind, it's  
21 difficult to clinically isolate things for review.  
22 They're not stand alone items. They're the totality  
23 of the circumstances as you so aptly put 14 pages ago.

24 Q In your answers to interrogatories, I asked you what  
25 adverse employment actions had occurred as a result of

1 your union advocacy, and your answer included the  
2 investigations as well as your electronic mail being  
3 seized. Can you explain that to me?

4 MR. SADLER: What number are you on?

5 MS. KERSLAKE: Interrogatory 5.

6 WITNESS: Yes, before I do that, I'll  
7 review my interrogatory.

8 MR. SADLER: You can do that. I think  
9 the question doesn't go to the answers.

10 WITNESS: I had written -- it came to my  
11 attention after Bill Lowry's death -- it was a line of  
12 duty death of one of our police officers -- it came to  
13 my attention that county had altered some of their  
14 tactical protocol after their own death of an officer,  
15 John Bananola, about how warrants would be served by  
16 tactical units that were not SWAT, special weapons and  
17 tactics units.

18 In my particular instance at the time I was  
19 assigned to special investigations division, we did on  
20 average ten times the amount of tactical entries that  
21 the SWAT team ever did. We were making tactical  
22 entries every week. And at one time in SID, we were  
23 making as many as five a day when we were doing crack  
24 houses.

25 Came to my attention there may be a problem

1 department to the risk manager, and Cheryl Carlson I  
2 think became involved in it. And basically Philip  
3 Arreola got it, and my characterization is he went  
4 quite ballistic over the fact that one of his  
5 lieutenants would question those kinds of things.

6 I was doing it because I thought the  
7 department might suffer a liability or we might lose  
8 another officer. I wanted it looked at by someone.  
9 And I wanted to have the same standards that were  
10 being applied to the county -- initially they were  
11 being mandated by L&I -- if those are state mandates,  
12 I felt an obligation they should be exported back to  
13 the Tacoma Police Department and we should be under  
14 that same protocol.

15 It's my responsibility to make sure every one  
16 of those people survived those warrant entries. In  
17 doing that I apparently fell out of favor with Phil  
18 and he decided to fish around in my electronic  
19 messages and figure out what else I might be  
20 subversive. Prior to that had only been done in  
21 investigations of officers where there was misconduct.

22 There was some investigations done about  
23 inappropriate email of a sexual nature. I was  
24 fortunately not involved in any of that. And their  
25 email was seized. It was a feeling at the time that

1 with having warrants served by portions of the  
2 organization that were not pure SWAT, that did that  
3 basically for a living. We did narcotics and vice and  
4 we also served warrants.

5 I guess what I'm trying to say is that there  
6 was a question as to whether those warrants would have  
7 better been served by the actual tactically elite  
8 portion of our department, which was SWAT or better be  
9 served by us. A question as to who should be serving  
10 them.

11 And I generated some email -- which you have  
12 in your possession -- where I basically stated my  
13 belief that this could be a liability problem -- I'd  
14 have to review it -- and I had concerns. It was my  
15 understanding at the time the county wasn't letting  
16 their narks serve tactical warrants. They were being  
17 all referred to their SWAT team in light of Bananola.

18 I wanted a clarification and I wanted to put  
19 everything on hold until we could get it. We had two  
20 officers killed over this thing, and I thought that  
21 was sufficient reason to question that protocol and I  
22 did so in that message.

23 That message went through a serious of folks,  
24 ended up at Risk Management, although I only sent it  
25 to people I sent it to, and it got out of the

1 email -- although it was the city's intellectual  
2 property -- was also considered was the city's storage  
3 locker or personal locker, which the contract mandated  
4 you needed a search warrant to get into.

5 Whether philosophically they're the same  
6 issues, that's for the legal people to decide.

7 What occurred, Philip Arreola decided to seize  
8 my email account and go through all my email for a  
9 certain period. That had never been done for a  
10 fishing expedition or just to review. It had only  
11 ever been done in support of some investigation where  
12 there was alleged activity, inappropriate activity.  
13 And it had to be very inappropriate because normally  
14 the department would get a search warrant.

15 Q Did you write the email in your capacity as an  
16 executive board member, or was it your capacity as an  
17 SID lieutenant?

18 A The thing of it is, a lot of stuff I wrote can't be  
19 separated. And I came under some criticism for that  
20 as anyone including one of the defendants, Dave Brame,  
21 he was an IA lieutenant, how can he be IA lieutenant  
22 and administer discipline?

23 The dilemma of the executive board participation  
24 is that sometimes it was difficult to split my hats,  
25 that sometimes I had to basically put on a record

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

**COPY RECEIVED**  
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JOSEPH J. KIRBY and DEBORAH A. KIRBY, husband and wife,

Plaintiffs, EXHIBIT#

B

vs.

No.  
C00-5332-FDB

THE CITY OF TACOMA, et al.,

Defendants.

DEPOSITION OF PHILIP G. LINDSAY, M.D.  
October 2, 2001  
Seattle, Washington

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PHILIP LINDSAY, MD

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1 obligation not to reveal and did reveal and wrote it up.

2 Finally, when he told the chief of police about his  
3 stress and how he was reacting to it, about a month before I  
4 saw him first, which I think would be in August of 1998,  
5 they took his badge and his gun.

6 **Q** Was he specific with you about how he had reacted to what he  
7 determined stress was?

8 **A** Yes.

9 **Q** What did he say the symptoms were?

10 **A** What he said was that for about the preceding 18 months  
11 before I first saw him and increasingly so in the last 12  
12 months before I saw him, he had had symptoms of poor  
13 appetite, middle of the night awakening, irritability,  
14 forgetfulness, trouble concentrating, a depressed sad mood,  
15 social withdrawal, restlessness with pacing, agitation,  
16 night sweats, recurrent distressing dreams and low energy.

17 In addition, he began, while telling me about that, to  
18 describe the symptoms of his post-traumatic stress in  
19 addition to the depressive symptoms, and he talked about  
20 recurrent distressing dreams.

21 He talked particularly about one dream in which he  
22 would be washing Billy's personal effects and his widow was  
23 coming to get them and the blood wouldn't come out of his  
24 clothing, and he also had recurring dreams of washing the  
25 blood out of Billy's things prior to giving them to the

*Byers Anderson Beach - Court Reporters & Video*

1 widow.

2 He told me about his fellow policeman and close  
3 friend, Bill Lowery, being killed by gunfire on August 28th  
4 of 1997 and that he was having nightmares regarding that,  
5 intrusive memories, insomnia, irritability, anxiety  
6 exaggerated startle reactions, and other symptoms I can  
7 further detail if you wish.

8 **Q** So your initial thought about the symptoms that he is  
9 describing to you is one of post-traumatic stress?

10 **A** There were two diagnoses initially, which were the  
11 depression and post-traumatic stress.

12 **Q** And the post-traumatic stress was related to Bill Lowery?

13 **A** In part.

14 **Q** Okay. And what would be the other part?

15 **A** I think the part that made it so difficult for him is that  
16 he felt that he should have been part of that team, but for  
17 administrative difficulties he wasn't part of that team,  
18 that it might have been him to be shot rather than Bill had  
19 he been part of that team or that had he been part of that  
20 team better preparation might have been done so that the  
21 death could have been prevented.

22 I think he felt that the SWAT team itself was  
23 inadequately and inappropriately managed and that that had  
24 contributed to the death of his friend, so I think it was  
25 inextricably linked to the feeling he had about the

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

3 JOSEPH J. KIRBY and DEBORAH )  
4 A. KIRBY, husband and wife, )  
5 Plaintiffs, )

EXHIBIT#

C

6 vs. )

No. C00-5332FDB

7 THE CITY OF TACOMA, a )  
8 municipal corporation; RAY )  
9 CORPUZ and "JANE DOE" CORPUZ, )  
10 husband and wife; PHILIP )  
11 ARREOLA and "JANE DOE" )  
12 ARREOLA, husband and wife; )  
13 WILLIAM WOODARD and CATHERINE )  
14 WOODARD, husband and wife; )  
15 RAYMOND ROBERTS and "JANE DOE")  
16 ROBERTS, husband and wife; )  
17 DAVID BRAME and "JANE DOE" )  
18 BRAME, husband and wife; and )  
19 JAMES HAIRSTON and "JANE DOE" )  
20 HAIRSTON, husband and wife, )  
21 Defendants. )

22 DEPOSITION OF CHARLES MEINEMA  
23 Thursday, January 18, 2001

24 APPEARANCES

25 For Plaintiffs: JOHN L. MESSINA  
Messina Bulzomi  
Attorneys at Law  
5316 Orchard Street West  
Tacoma, Washington 98467-3633  
For Defendants: SHELLEY M. KERSLAKE  
Assistant City Attorney  
747 Market Street, Room 1120  
Tacoma, Washington 98402  
Reported by: Fay J. Holme, CSR-RPR

JAMES, SANDERSON & LOWERS  
945 Tacoma Avenue South, Suite E • Tacoma, WA 98402  
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1 BE IT REMEMBERED that the deposition upon  
2 oral examination of CHARLES MEINEMA was taken on  
3 Thursday, January 18, 2001, at 747 Market Street, Room  
4 1120, Tacoma, Washington, before Fay J. Holme, Notary  
5 Public in and for the State of Washington.

6  
7 CHARLES MEINEMA, having been first duly sworn  
8 upon oath by the notary, testified as follows:

9  
10 EXAMINATION

11 BY MR. MESSINA:

12 Q Tell us your name, please.

13 A Charles Meinema.

14 Q And your business address?

15 A 930 Tacoma Avenue South, Tacoma, Washington, 98402.

16 It's Tacoma Police Department, Room 359.

17 Q What's your occupation?

18 A Police department. I'm a captain for the City of  
19 Tacoma Police.

20 Q How long have you been employed by the Tacoma Police  
21 Department?

22 A Over 27 years.

23 Q And just tell me the progression of steps you went  
24 through in the department.

25 A I was hired in November of '73. I was an officer for

1 close to four years. I promoted to detective in the  
2 fall of '77, promoted to sergeant in the fall of '79,  
3 promoted to lieutenant sometime during 1981, captain in  
4 1985, assistant chief in the summer of 1989, and  
5 returned to captain in January of 1998, I want to say.

6 Q Okay. Why did you go from assistant chief back to  
7 captain?

8 A Chief Arreola demoted me.

9 Q Okay. How long have you known Joe Kirby?

10 A As long as he's been with the department. 15 years. I  
11 don't know. 18 years, whatever it is.

12 Q How would you define your relationship with him?

13 A He's a good friend.

14 Q Okay. Have you ever had occasion to directly supervise  
15 him?

16 A Yes, I have.

17 Q Have you had an occasion to directly observe his work  
18 throughout the time he has been on the department?

19 A Yes.

20 Q Okay. Generally speaking, in your opinion, have his  
21 assignments or job duties been consistent with his  
22 abilities and his capabilities?

23 A I'm not sure you understand. He's never had a job he  
24 couldn't handle well in that respect.

25 Q Did you know that Lieutenant Kirby placed No. 1 on the

## DEPOSITION OF CHARLES MEINEMA

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1 civil service captains list?

2 A Yes.

3 Q Did that surprise you?

4 A No.

5 Q Are those fairly competitive exams?

6 A Yes, they are.

7 Q And who controls the content of the exam?

8 A The questions themselves are formulated by a committee

9 of people currently in the rank being tested, so in

10 this case, by police captains, and the content of the

11 oral board is formulated by -- by the way, the

12 questions are written in conjunction with the city

13 human resources, which is usually Bob Paz or Roberta

14 Peters, but the oral board is also -- one of them is

15 involved, and again, it's the captains, although I

16 assume perhaps the assistant chiefs or chiefs might

17 offer a question in the mix as well.

18 Q So basically, the department controls the content of

19 those examinations?

20 A Yeah.

21 Q What does it take to place No. 1 in that exam?

22 A A lot of hard work, a little luck.

23 Q What's the usual number of people taking the captain's

24 exam?

25 A Pretty much any exam is dependent on how many people in

Page 7

1 the rank immediately below it, and we have 12

2 lieutenants. So any lieutenant who is not on

3 probation -- and probation for a lieutenant is six

4 months -- could take it.

5 I'm not dodging your question. It is a limited

6 pool. It can be more than 12, but I would say normally

7 it's seven or eight, just as many that are eligible.

8 Q Okay. In your time in the department, has that person

9 who was No. 1 on the captains list ever been passed

10 over for promotion?

11 A Not to my knowledge.

12 Q Other than Joe Kirby?

13 A Other than Joe Kirby, correct.

14 Q Why do you feel he was passed over?

15 MS. KERSLAKE: Objection; calls for

16 speculation.

17 Q You can answer.

18 A I feel he was passed over because he was involved in a

19 series of issues of contention with the department, I

20 guess, and management wanted someone else.

21 Q What issues are you talking about specifically?

22 A Well, let's see. He had been involved in some

23 disciplinary matters. He had been -- I don't recall

24 the timing, if this lawsuit had been filed or what have

25 you, but Joe had made a claim against the city sometime

Page 8

1 before the lawsuit was filed and issues like that.

2 Q Okay. Do you know the captains who were appointed or

3 for whom he was passed over, Captains, I think, Woodard

4 and Langford?

5 A I do.

6 Q Are you familiar with their histories and

7 qualifications?

8 A Yes.

9 Q In your opinion, do either of those persons exceed

10 Lieutenant Kirby in either technical or tactical

11 competence?

12 A No.

13 Q How long was Joe Kirby a temporary captain?

14 A I would say three to five months. I'm kind of guessing

15 there.

16 Q Was he appointed temporary captain because he was first

17 on the list?

18 A Presumptively, yes.

19 Q Now, is there any training for temporary captains to

20 assist them in this transition from probably lieutenant

21 to this temporary position?

22 A There's no formal training in-house at any promotional

23 rank that I'm aware of.

24 Q Even for permanent captains?

25 A Correct. There is training that's mandated by the

Page 9

1 state, but in-house, there is not.

2 Q Okay. You're the department's training captain, I

3 believe.

4 A Yes.

5 Q So what type of training does that involve?

6 A The state-mandated courses are courses -- for example,

7 it's called the mid-level management course or

8 something like that, and there's a series of courses

9 that persons promoting to captain are required to

10 complete within, I think, six months of date of

11 promotion.

12 Q Okay. If a lieutenant is promoted to captain, does the

13 department have any type of formal program so that the

14 person is trained in the increased levels of

15 responsibility? Not the state-mandated courses, but

16 internal department programs.

17 A No. It's pretty much sink or swim.

18 Q Okay. So there is nothing in the area of personnel

19 management or budgeting project, anything like that?

20 A Nothing.

21 Q I take it, then, the department didn't do anything to

22 train Joe Kirby to be acting as a temporary captain?

23 MS. KERSLAKE: Objection; lack of foundation.

24 A I couldn't speak specifically as to whether anybody did

25 anything, but I'm unaware of any formal training or any

3 (Pages 6 to 9)

CHARLES MEINEMA - BY MR. MESSINA

1/18/01

1 before the lawsuit was filed and issues like that.

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## DEPOSITION OF CHARLES MEINEMA

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<p style="text-align: right;">Page 18</p> <p>1 Q In what fashion?</p> <p>2 A When there's no atmosphere of cooperation and</p> <p>3 communication and it divulse, you find out problems</p> <p>4 after something has happened instead of seeing them</p> <p>5 beforehand.</p> <p>6 Ideally, when you go to put together a training</p> <p>7 program or a plan, you talk to people and people throw</p> <p>8 their ideas out, and you try and incorporate everything</p> <p>9 you can. Nothing is ever perfect, but it causes the</p> <p>10 minimum disruption to other units or whatever you can</p> <p>11 do to make it both effective and least disruptive.</p> <p>12 When there isn't that kind of communication and,</p> <p>13 basically, if you feel people are just waiting in the</p> <p>14 wings to spring, you do the best you can anyway, and</p> <p>15 you talk to as many people as you can, but inevitably,</p> <p>16 you don't have all the information. When you put it</p> <p>17 out, whether for good reason or bad, somebody jumps out</p> <p>18 with a criticism, and in many cases, under the current</p> <p>19 administration, it's back to the drawing board to</p> <p>20 revise it. So we're often doing the same job</p> <p>21 repetitively to get it right.</p> <p>22 Q Have you seen any meaningful effort by Chief Hairston</p> <p>23 to improve the communication and cooperation at the</p> <p>24 command staff level?</p> <p>25 A I think he wants to. I have not seen any particular</p>	<p style="text-align: right;">Page 20</p> <p>1 Q And do you believe that it was performance-driven or</p> <p>2 personality-driven or both?</p> <p>3 MS. KERSLAKE: Objection; calls for</p> <p>4 speculation.</p> <p>5 Q Do you know what I mean by personality-driven versus</p> <p>6 performance-driven?</p> <p>7 A No. I was going to say I didn't quite understand the</p> <p>8 question anyway.</p> <p>9 Q What I mean by performance-driven is that the probation</p> <p>10 report was an objective, honest evaluation of his</p> <p>11 performance. What I mean by personality-driven is that</p> <p>12 the result of the probation report was primarily due to</p> <p>13 personality conflicts between evaluator and evaluatee.</p> <p>14 MS. KERSLAKE: Same objection.</p> <p>15 Q Do you have an opinion as to whether performance or</p> <p>16 personality was more predominant in the report?</p> <p>17 A I have an opinion that the change in the probation</p> <p>18 reports, as I understood it, which was good originally,</p> <p>19 apparently, and then went bad, was primarily a function</p> <p>20 of dispute between Joe and upper management. That's my</p> <p>21 opinion.</p> <p>22 Q Personality disputes?</p> <p>23 A Well, disputes over how things were done. I don't know</p> <p>24 if I'd call it personality or disputes of performance,</p> <p>25 but it was disputes that were opinion rather than</p>
<p style="text-align: right;">Page 19</p> <p>1 amount of change, no.</p> <p>2 Q You're aware of the fact that Lieutenant Kirby has been</p> <p>3 counseled and disciplined and passed over for promotion</p> <p>4 over the past few years?</p> <p>5 A Yes.</p> <p>6 Q In your observations, is any of the behavior that</p> <p>7 prompted that counseling, discipline, or passing over</p> <p>8 consistent with behavior that Chiefs Arreola, Hairston</p> <p>9 or the assistant chiefs, Brame, Roberts, and Woodard,</p> <p>10 have also exhibited?</p> <p>11 MS. KERSLAKE: Objection; lack of foundation.</p> <p>12 A That's a pretty broad question.</p> <p>13 Q Did he do anything worse than any of these chiefs at</p> <p>14 command level have done in getting disciplined or</p> <p>15 passed over?</p> <p>16 A The things for which he was disciplined, counseled, or</p> <p>17 passed over were things for which -- and again, we'd</p> <p>18 have to go through them one by one, but yeah. In that</p> <p>19 group of people, yes, they have done things that were</p> <p>20 very similar to what Joe Kirby did.</p> <p>21 Q Were they disciplined, counseled, and passed over, as</p> <p>22 far as you know?</p> <p>23 A Not to my knowledge.</p> <p>24 Q You've seen the probation reports of Lieutenant Kirby.</p> <p>25 A I've seen the one, and we've discussed them.</p>	<p style="text-align: right;">Page 21</p> <p>1 documented in fact. I know that sounds vague.</p> <p>2 If you do something concrete that's wrong or</p> <p>3 concrete that's right and it clearly is delineated how</p> <p>4 to do it right and you don't, that's a fact I can say</p> <p>5 you need to improve on.</p> <p>6 If I don't like the way you've done something, but</p> <p>7 it's not necessarily wrong or right or it's a right</p> <p>8 way, but it's not my right way, then I don't feel that</p> <p>9 you necessarily deserve to be criticized or rated down.</p> <p>10 I may demand you do it my way, but it doesn't mean what</p> <p>11 you did was wrong.</p> <p>12 Q Okay. The two people that were promoted over him, I</p> <p>13 believe, were Captains Woodard and Langford.</p> <p>14 Would you have recommended Lieutenant Kirby for</p> <p>15 promotion over either of those people?</p> <p>16 A I would have.</p> <p>17 Q Why would you have?</p> <p>18 A And again, this is what I -- me personally, what I'm</p> <p>19 looking for is, I'm looking for people who have the</p> <p>20 ability to handle big tasks, who are creators and who</p> <p>21 can take command in major incidents.</p> <p>22 Police first and foremost have to be capable of</p> <p>23 handling crises, and Lieutenant Kirby is very good at</p> <p>24 that. He can do all the work, but he also can take</p> <p>25 charge of a major event.</p>

6 (Pages 18 to 21)

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24 that. He can do all the work, but he also can take  
25 charge of a major event.

## DEPOSITION OF CHARLES MEINEMA

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Page 22

1 Q Is a part of your responsibility as captain to  
2 administer discipline or review people and administer  
3 discipline if necessary?  
4 A Yes. Well, let me review that. It was. Disciplinary  
5 ability is no longer in the province of captains.  
6 Q Okay. It starts --  
7 A I could review some matters and make recommendations,  
8 but I don't have any authority.  
9 Q Who has the authority to discipline? What is the  
10 lowest level?  
11 A Well, actually, I'm going to say the chief, because  
12 while the assistant chiefs can and do issue the thing,  
13 the written reprimand, for example, or whatever, I  
14 believe even that, the chief has to approve. I'm not  
15 involved in those circles, so I can't say that is an  
16 absolute fact.  
17 Q Let me hand you a -- I don't know if you know who the  
18 defendants are in this case, but that will tell you who  
19 they are if you haven't seen the caption of the lawsuit  
20 before.  
21 Do you know all of those named defendants?  
22 A Well, I don't know the "Jane Doe" wives, I mean --  
23 Q No. I mean the --  
24 A -- the spouses.  
25 Q -- those who are employed by the police department.

Page 23

1 A Yes, I do.  
2 Q Okay. In your opinion, have any of those named  
3 defendants abused their authority to administer  
4 discipline?  
5 MS. KERSLAKE: Objection; lack of foundation;  
6 calls for speculation.  
7 Q From your observations.  
8 A Well, I certainly think Mr. Arreola did. I think Chief  
9 Brame has issued some very questionable disciplinary  
10 actions, and by that, I include counseling, not  
11 necessarily formal discipline.  
12 I know that Lieutenant -- that Captain Kirby's  
13 issues with Chief Roberts were of the same nature, and  
14 I'm trying to think specifically of disciplines that  
15 have been issued by these people, but the general  
16 answer is yes.  
17 Q Now, I would like you to answer that question relative  
18 to Joe Kirby.  
19 Do you have an opinion as to whether any of those  
20 defendants have abused their authority to counsel or  
21 discipline relative to Joe Kirby?  
22 MS. KERSLAKE: Objection; calls for  
23 speculation.  
24 A Yes.  
25 Q Tell us what your observations are.

Page 24

1 A I felt Chief Arreola certainly did. There were a  
2 couple of disciplinary cases against Joe Kirby that  
3 simply dragged on for -- I couldn't tell you if they're  
4 resolved now. I believe they are, but I don't know.  
5 But for two years or better, they were never resolved,  
6 and specifically, the abuse there is his holding that  
7 over your head.  
8 It's a terrible strain in the police department to  
9 be on the hot seat for discipline. I have seen  
10 people -- when I've told them what I was going to  
11 recommend when I had the authority to do that -- say  
12 I'm going to recommend four days, and watch a  
13 1,000-pound weight fall off their shoulders.  
14 Now, I'm recommending four days without pay. Why  
15 do they feel better? Because they can see the future.  
16 There's some resolution to their problem. There is a  
17 light at the end of the tunnel.  
18 "I'm not going to lose my job. Four days' pay is  
19 a lot of money, but I'm not going to lose my house. My  
20 kids won't be living in my car."  
21 To stay under that kind of pressure for two years  
22 is unconscionable. It doesn't even matter what the  
23 resolution is. The simple act of being under that kind  
24 of pressure is a tremendous strain and a form of  
25 discipline in and of itself.

Page 25

1 Q Did that happen to Joe?  
2 A Yes, it did. Others, I --  
3 Q I'm talking about the initiation of internal  
4 investigations as well in the context of discipline.  
5 A Yeah. Others -- I mean, I guess the bottom line, if I  
6 can speak generically on issue -- that I have taken  
7 issue with formally on more than one occasion is, in  
8 the department -- I believe it's a contractual  
9 requirement, but it could be manual drills. Anyway,  
10 issues that are sent to Internal Affairs, which is a  
11 special bargaining group, are those which might rise to  
12 the level of economic sanction, which you can translate  
13 as discipline involving loss of pay, days without pay.  
14 Incidents which are not anticipated at first blush  
15 to rise to the level of economic sanction can be  
16 handled within the individual bureau wherein they  
17 arise.  
18 My opinion is, it seems whenever Joe Kirby has any  
19 kind of disagreement with a superior, the matter gets  
20 referred to IA, and this has happened to other people  
21 as well.  
22 The problem with that is, again, it's a whole  
23 different world. You're now -- immediately you're sent  
24 notice, and I mean not just formally. I mean you get  
25 the notice. If you know you're going to be sent to IA

7 (Pages 22 to 25)

## DEPOSITION OF CHARLES MEINEMA

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<p style="text-align: right;">Page 26</p> <p>1 for review of your matter, you're potentially going to 2 be disciplined four days off. This is serious. 3 You may not have thought the interaction of the 4 dispute was serious at all, a disagreement between 5 commanders, but suddenly, you find yourself facing not 6 merely a counseling or even a written reprimand but 7 formal discipline and days off. 8 Q Did that happen to Joe Kirby? 9 A Yes. 10 Q Unjustifiably, in your opinion? 11 A No. 12 Q Justifiably? 13 A Not justifiably. 14 Q Who initiated those internal investigations that you 15 recall that you believe were not justified? 16 A Well, Mr. Arreola did at least one of them and probably 17 a couple, three more if I took some time to think, but 18 he was certainly an initiator. He's one of those who 19 did it. 20 Q Any of the others on the list? 21 A Oh, it seems to me Chief Brame has sent Lieutenant 22 Kirby to IA or Captain Kirby at the time or one of the 23 other. Mr. Woodard, although I'm a little fuzzy. His, 24 like myself, was a rather checkered career in terms of 25 where he was. He was a captain and an assistant chief</p>	<p style="text-align: right;">Page 28</p> <p>1 Special Investigations and one -- and move her up to 2 Criminal Investigations for now a total of four in 3 Criminal Investigations and one in Special 4 Investigations. 5 The secretary was upset. The secretary remaining 6 in SID was upset, and Lieutenant Kirby, having been in 7 SID or Captain Kirby having been in SID, said, "Well, I 8 wouldn't have made the move." And as he explained it 9 to me, he accepted the move; that it was the authority 10 of the chief to do it. He was simply trying to 11 ameliorate it and draw some of the stress out. 12 It's not an uncommon technique to -- "I feel your 13 pain. I wouldn't have done it, but we have to live 14 with it. Let's move on and get past the initial hurt 15 and reaction." 16 I'm trying to think of any other comment 17 specifically, but I know it was relating to the fact 18 that he would not -- did not think the move was the 19 best move to have made and/or other comments to the 20 effect. 21 Q In that meeting, did Joe Kirby ask Assistant Chief 22 Roberts to interview witnesses who had knowledge of 23 this alleged incident? 24 A Yes, he did. Specifically that, I remember, because he 25 asked him to interview the secretaries that hadn't made</p>
<p style="text-align: right;">Page 27</p> <p>1 and then a captain again. So at one point, yes, he had 2 him sent to IA, and perhaps Chief Roberts. I don't 3 know for sure on that one. I have to think about it. 4 Q Okay. Were you present at a counseling session when 5 Joe was -- he was a temporary captain at the time, was 6 being conducted by Chief Roberts? 7 A Yes. 8 Q Okay. What was that all about? 9 A Then Captain Kirby had been sent to a meeting with the 10 secretaries in the Criminal Investigations Division, 11 and he was being counseled about allegations arising 12 from that meeting. 13 Q What kind of allegations? 14 A Primarily the complaint was that his statements and/or 15 actions had undermined Chief Roberts' and/or the 16 department's authority and his statements were not 17 acceptable. 18 Q Do you know what those statements were alleged to have 19 been? 20 A I can remember a couple. One was in reference to his 21 transfer of a secretary. There had been three in 22 Criminal Investigations and two in Special 23 Investigations for a total of five in the 24 Investigations Bureau. 25 The move was made to move one secretary out of</p>	<p style="text-align: right;">Page 29</p> <p>1 any complaint or hadn't reported his statements. 2 Q What was Chief Roberts' response to that request? 3 A He said he would. 4 Q Did he? Do you know? 5 A To the best of my knowledge, he didn't, and the final 6 report didn't reflect any deviated opinion from what 7 was expressed in the counseling session, so I don't 8 think he did. 9 Q Did he administer discipline to Joe Kirby over this 10 incident? 11 A In the sense he wrote him a formal counseling document. 12 I don't recall -- it may have been in the probation 13 report, but he did document it in a negative form. I 14 don't believe it rose to the level of discipline. I 15 could be wrong on that. 16 Q So if he didn't interview the witnesses, he did it 17 simply based on some assumptions that he must have 18 made? 19 A Well, apparently, somebody told him -- went to him and 20 told him what Joe Kirby had allegedly said in the 21 meeting, but he did not, to the best of my knowledge, 22 have any of the other side of the argument based on the 23 other witnesses' input which Lieutenant Kirby -- or 24 Captain Kirby had requested he get. 25 Q Okay. Did Chief Roberts say he would interview the</p>

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<p style="text-align: right;">Page 30</p> <p>1 witnesses?</p> <p>2 A Yes, he did.</p> <p>3 Q Okay. Does Chief Hairston allow the assistant chiefs</p> <p>4 to initiate complaints and investigate complaints and</p> <p>5 adjudicate the complaints?</p> <p>6 A Yes.</p> <p>7 Q And is it generally the department policy that when</p> <p>8 those complaints come about, that people who have</p> <p>9 knowledge of them are interviewed?</p> <p>10 A Yes.</p> <p>11 Q Have any of those people in the list of defendants ever</p> <p>12 been investigated by Internal Affairs themselves --</p> <p>13 MS. KERSLAKE: Objection; lack of foundation.</p> <p>14 Q -- that you know of?</p> <p>15 A My guess is that, with the exception of Mr. Corpuz, who</p> <p>16 is not in the department, and Mr. Arreola, who was only</p> <p>17 at the chief's rank when he was there, probably all of</p> <p>18 them have in the course of their careers.</p> <p>19 Q Okay. Have any of those named defendants ever been</p> <p>20 investigated for criminal suspicions --</p> <p>21 MS. KERSLAKE: Objection; lack of foundation.</p> <p>22 Q -- that you know of?</p> <p>23 A Well, I'm not quite sure the question makes sense to</p> <p>24 me. We have had officers -- I'm not talking here. I'm</p> <p>25 talking -- trying to clarify.</p>	<p style="text-align: right;">Page 32</p> <p>1 A Yes, I did.</p> <p>2 Q What were Olsen's opinions?</p> <p>3 A Olsen's opinions were that the allegations were</p> <p>4 sustained, but that because of the witness -- length of</p> <p>5 time between allegation, investigation, and witness</p> <p>6 reluctance, et cetera, et cetera, they couldn't be</p> <p>7 proven.</p> <p>8 Q Okay. The matter was dropped then?</p> <p>9 A Yes.</p> <p>10 Q Okay. Are you aware of any incidents where Chief</p> <p>11 Hairston has removed records of formal discipline from</p> <p>12 officer personnel files?</p> <p>13 A Yes, I am.</p> <p>14 Q Who were the officers?</p> <p>15 A I believe it would be Officer Andrew Hankins and</p> <p>16 Officer Zachary Smalls.</p> <p>17 Q Okay. Were those minority officers?</p> <p>18 A I'm sorry?</p> <p>19 Q Were they minority officers?</p> <p>20 A Yes.</p> <p>21 Q Okay. African-Americans?</p> <p>22 A Yes.</p> <p>23 Q Who originally administered the discipline to them?</p> <p>24 A It came out of the Operations Bureau, I would believe.</p> <p>25 The formal person that handed them the form would have</p>
<p style="text-align: right;">Page 31</p> <p>1 We often investigate someone internally, and if</p> <p>2 it's considered criminal, we've had officers</p> <p>3 transferred to criminal jurisdiction, but we don't do</p> <p>4 criminal investigations in-house for the most part.</p> <p>5 Not in IA anyway, if you're talking about that kind of</p> <p>6 investigation.</p> <p>7 Q Okay. I just wondered if any of those defendants had</p> <p>8 ever been investigated for criminal matters by any</p> <p>9 agency you know of.</p> <p>10 A Yes.</p> <p>11 Q Who would that be?</p> <p>12 A Chief Brame was investigated many years ago for an</p> <p>13 allegation that, had it been substantiated, would have</p> <p>14 been a criminal matter.</p> <p>15 Q I take it, then, the outcome was that there was no</p> <p>16 evidence of criminal activity?</p> <p>17 A I wasn't involved directly in the investigation, but as</p> <p>18 far as I know, there was no formal criminal</p> <p>19 investigation, nor was the complaint substantiated</p> <p>20 in-house to the degree of discipline against Chief</p> <p>21 Brame.</p> <p>22 Q Who was the lieutenant that did the investigation?</p> <p>23 A That would have been then Lieutenant David Olsen.</p> <p>24 Q Do you recall if you ever discussed Olsen's opinions</p> <p>25 regarding this investigation?</p>	<p style="text-align: right;">Page 33</p> <p>1 been Captain William Meeks, albeit the person of</p> <p>2 decision there would have had to have been Chief David</p> <p>3 Brame.</p> <p>4 Q Okay. Do you know of any reaction on the part of</p> <p>5 anybody on the command staff, negative reaction to the</p> <p>6 removal of those matters by Chief Hairston?</p> <p>7 A Generically, I'd say it was more shock and dismay on</p> <p>8 the part of several people, but specifically, I know</p> <p>9 Captain Meeks was very disappointed.</p> <p>10 Q You're aware of the Seahawk ticket incident?</p> <p>11 A Yes.</p> <p>12 Q Okay. Did Lieutenant Walker receive any discipline</p> <p>13 over the alleged Seahawk ticket bribery incident?</p> <p>14 A No.</p> <p>15 Q Okay. We know the context that Seahawk tickets were</p> <p>16 offered to a person who made a complaint against</p> <p>17 another officer?</p> <p>18 A Yes.</p> <p>19 Q Okay. And it was alleged that Lieutenant Walker had</p> <p>20 actually offered the tickets; is that correct?</p> <p>21 A Yes.</p> <p>22 Q There was no discipline that you know of for that</p> <p>23 offer?</p> <p>24 A No, there was no discipline.</p> <p>25 Q Is he a minority officer?</p>

9 (Pages 30 to 33)

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<p style="text-align: right;">Page 42</p> <p>1 limited. Joe now feels he should only do that which he 2 is specifically and directly told to do, and he still 3 functions well, but he does not feel comfortable using 4 initiative, attempting to solve anything on his own. 5 He is very concerned about his actions, even his 6 language. He is concerned about use of electronic 7 messaging systems in the wake of this one investigation 8 in his e-mail. He doesn't like to use it. Doesn't 9 like to use the voice mail because of concerns. 10 He does his job. He communicates well. He has 11 excellent handwriting, thank goodness, and works hard, 12 but I've definitely seen a change in his behavior. 13 Q His personality? 14 A Personality, yes. He's more nervous. He's more tense. 15 Joe is a fast speaker. I am not alone in that, and I 16 am being slow today. 17 Joe was -- Joe actually has reached a point where 18 there's almost a cataclysm, if you will, of his grief 19 that comes out on occasion. When he feels something is 20 done that's again affected him negatively, I can expect 21 to hear almost a ten-minute -- almost a statement of 22 faith of the wrongs that have been done to him, and I 23 have to let him vent until I can even talk to him about 24 it. I'm not going to get a word in edgewise until I 25 let him get that off his chest.</p>	<p style="text-align: right;">Page 44</p> <p>1 last year and a half since this lawsuit was filed? 2 A Yes. 3 Q How would you characterize that? 4 A The primary thing I've noticed was, Joe was subjected 5 to a series of fitness for duty evaluations and for 6 reasons that defied my understanding. 7 Q You're talking about the psychiatric exams? 8 A Yes. Fitness for duty is an examination that's used 9 fairly rarely by the department. 10 To make a long story fairly short, just generic 11 information, if an officer is involved in a shooting 12 incident, we require them to talk to a psychologist, 13 for example, before they return to work, but that's 14 usually a fairly short interview, specifically, "How 15 are you doing?" if an officer exhibits things that 16 cause the department to be worried about, is he or she 17 a danger to himself or herself or the safety of others 18 of the public or whatever it is. 19 If a spouse calls and says, "Officer so-and-so is 20 really scary these days. He doesn't talk to the kids," 21 if there's real concern for that person, they're sent 22 for a fitness for duty evaluation for the protection 23 both of themselves, other members, and the liability of 24 the city. 25 And I'll be the first to admit it's also partly</p>
<p style="text-align: right;">Page 43</p> <p>1 And it used to be that he would be upset and 2 frustrated if something went wrong, like anybody else, 3 but he'd blow it off and he'd be fine that afternoon or 4 the next day or whatever, give him a little time. 5 Now it's an ongoing thing. He's very concerned 6 about his job and everything he does and how it's going 7 to be viewed. 8 Q Okay. Have you observed any disparate treatment or 9 unusual treatment of Joe Kirby after the filing of this 10 lawsuit primarily by the named defendants? 11 A I've observed disparate treatment of Joe Kirby for the 12 last four years. 13 When was the lawsuit filed? 14 Q What are the first two numbers on there? 15 MS. KERSLAKE: 99 16 Q It was filed sometime during '99. Is it '99? Sometime 17 during '99. 18 A I'm not the world's biggest star with dates. I would 19 have to take a look at when, but the generic answer is 20 yes. 21 If you want to ask about a specific incident, 22 that's fine, but I've observed his treatment being 23 disparate, occasionally bizarre over the last four 24 years. Not his treatment, but the treatment of him. 25 Q Have you seen any acceleration of that treatment in the</p>	<p style="text-align: right;">Page 45</p> <p>1 for the officer's own protection, you know, and good if 2 we can help them. 3 However, when a captain is repetitively for 4 reasons that simply don't, in my opinion, rise to 5 anything remotely resembling a need to do it, it becomes a 6 form of treatment that is unpleasant and unnecessary, 7 and I do think Joe was subjected to it for reasons 8 which I can't answer, but inappropriately. I don't 9 know what the reasons were. 10 Q Okay. Have you ever seen that pattern of behavior 11 relative to any other officer? 12 A I've never seen anyone else subjected to it, no. 13 Q During the Arreola years, did you ever hear the people 14 now in command positions -- and I'm saying command 15 positions as captain or higher -- criticize Chief 16 Arreola? 17 A I'm sure all of them did. 18 Q Including these named defendants? 19 A Yes. Oh, absolutely. I've rarely known a person who 20 is less popular than Mr. Arreola. 21 Q Okay. Would it be fair to say, then, that these 22 defendants have either counseled or disciplined Joe 23 Kirby for the very type of things that they did or said 24 while Arreola was chief? 25 A Yes and no. I'd make an exception to Chief Hairston.</p>

12 (Pages 42 to 45)

CHARLES MEINEMA - BY MR. MESSINA

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1 I include him only because I heard him express  
2 disappointment on one occasion, and that was not even  
3 of a real strong nature.

4 Chief Hairston is not the kind of person to  
5 criticize people usually, and this particular occasion  
6 was a minor thing, and I fully understood why, because  
7 he felt that he had been misled deliberately, and I  
8 agree with that, by the way, but yeah. I've heard the  
9 others criticize Mr. Arreola rather strongly, and in  
10 terms of Joe being disciplined for criticizing behavior  
11 of a superior, yes. I mean, in other words, yeah, they  
12 did it, too.

13 MR. MESSINA: Okay. I've got three exhibits  
14 here I'd like marked.

15 (Exhibit Nos. 1-3 marked for identification.)

16 Q Before we get into these exhibits, there is one other  
17 thing I wanted to cover.

18 Did Joe serve on the department's clandestine lab  
19 team?

20 A Yes, he did, both, I believe, as a sergeant and as team  
21 commander.

22 Q Do you know how long he was on that?

23 A I would say four years or maybe more. I don't know  
24 exactly. We transfer in and out of different divisions  
25 in the course of a career, and you kind of lose track.

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25 in the course of a career, and you kind of lose track.

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1 You see the person, but since it's not a full-time  
2 job, it's not like, "Where are you assigned today? In  
3 patrol or detectives?" but it's "Are you on that now?"  
4 Q Okay. Why did he leave the team?  
5 A He was transferred out of Special Investigations  
6 Division and was told that the team leader would be  
7 the -- have to be in Special Investigations, and since  
8 he wasn't, he could no longer be the team leader.  
9 Q Do you know who made that decision?  
10 A You know, I don't remember that. I would -- I would  
11 imagine it was probably the commander of the  
12 Investigations Bureau at the time, but I don't recall  
13 which one that was. I mean, I'm sure I know who it is,  
14 but I don't remember which one was in charge at the  
15 time.  
16 Q Was Lieutenant Ramsdell also on the clandestine lab  
17 team?  
18 A Yes, he was.  
19 Q Was he allowed to continue his affiliation with the  
20 team after he transferred to SID to Operations?  
21 A Yes, he was.  
22 Q Did Lieutenant Kirby voice any concerns over that,  
23 apparently, disparate treatment?  
24 A Yes. He made it specifically a complaint of disparate  
25 treatment.

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1 Q Did you take any action in that regard?  
2 A Documented his complaint, sent it forward.  
3 Q Okay. Would you look at Exhibit 1, please? Exhibit 1  
4 should be dated March 4, 1999.  
5 A Correct.  
6 Q Who authored that?  
7 A I did.  
8 Q To whom did you send it?  
9 A Assistant Chief Brame.  
10 Q Can you tell us what the nature of that exhibit is?  
11 A Well, this is the documentation of the initial  
12 complaint. I note I was -- it says I was speaking to  
13 Lieutenant Ramsdell. I recall the incident.  
14 Joe walked in and brought up the point that Don  
15 Ramsdell was allowed to remain in command of the team  
16 while -- although having been removed from SID or  
17 transferred out, whereas he, Joe Kirby, was not and  
18 that he made the point that the team is -- it's a small  
19 team, and it's very, very demanding, physical because  
20 the officers are forced to work in, frankly, very tense  
21 situations. Because of the hazardous chemicals, they  
22 work in fully contained suits with self-contained  
23 breathing apparatus, their own oxygen.  
24 Additionally, they have to make forcible entry  
25 into houses with armed suspects who often have booby

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1 traps just to clear the house of people before they can  
2 even start to dismantle any suspected drug lab or take  
3 out the chemicals or what have you that are involved in  
4 clandestine lab operations, and Lieutenant Kirby felt  
5 he would still like to help because he was trained and  
6 certified. There is a very, very demanding physical  
7 that goes in far excess of anything else in the  
8 department to even participate.  
9 Q Okay. And so Joe was trying to get back on the team?  
10 A Yes.  
11 Q Okay. Do you want to look at Exhibit 2 then? It  
12 should be dated April 8th, 1999.  
13 A I have that.  
14 Q It looks like it's a little bit copied off. But what  
15 is that?  
16 A That is notice to me from Assistant Chief Brame that he  
17 is questioning and calling me on the carpet for  
18 allowing Lieutenant Kirby to take an interview to come  
19 back onto the clandestine lab team while he was off  
20 duty on a fitness for duty evaluation leave.  
21 Q All right. Would you identify Exhibit 3, please, if  
22 you could, dated April 11th, 1999?  
23 A Yes. I'm sorry?  
24 Q What is that?  
25 A That is my response to Chief Brame on how unfair and

13 (Pages 46 to 49)

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<p style="text-align: right;">Page 50</p> <p>1 unnecessary and accusatory his initial actions were,  2 and specifically, I asked Chief Hairston that this  3 matter be handled by someone else because I took issue  4 with any chief – and I voice this often – being  5 judge, jury, and executioner. The likelihood –  6 Q What did you mean by that, judge, jury, and  7 executioner?  8 A I mean the person making the complaint against me,  9 which is Chief Brame, is unlikely to then investigate  10 and find me innocent. So I do not have much chance of  11 being cleared even if my remarks are, in fact, going to  12 exculpate me from anything because he is the one who  13 has decided I was guilty before we started. Therefore,  14 I wanted this reviewed by someone else because I wanted  15 an objective viewpoint and because I felt his tone  16 indicated this was going to wind up in Internal Affairs  17 with a consequent threat of economic sanction.  18 Q Against you?  19 A Against me.  20 Q For advocating Joe being put back on the clandestine  21 lab team?  22 A I did not advocate he be put back on the team. I  23 merely offered him an opportunity to compete to be back  24 on the team because, A, he was qualified, B, the team  25 needed people, and, C, he had been off and under a</p>	<p style="text-align: right;">Page 52</p> <p>1 the commander.  2 Q Was Lieutenant Ramsdell ever removed from the team?  3 A Just recently, he has.  4 Q Why did that happen, if you know?  5 A I don't know.  6 Q Do you have an opinion?  7 A I do.  8 Q What's your opinion?  9 A My opinion would be that people are starting to get  10 deposed in this case and that it will look better to  11 say he, too, was removed when he left SID, because I  12 don't know any other reason for it.  13 Q Did that cause any personnel problems within the team  14 when Lieutenant Ramsdell was removed?  15 A Yes.  16 MS. KERSLAKE: Objection; lack of foundation.  17 Q From your observation?  18 A Yes, it did.  19 Q What were your observations?  20 A A number of the members of the team turned in  21 resignations and asked to be removed from the team.  22 They were very upset at the removal of a popular kind  23 of leader and without replacement of the same caliber  24 being offered, and I know that – I believe Assistant  25 Chief Roberts went personally to the team and asked</p>
<p style="text-align: right;">Page 51</p> <p>1 great deal of hard times, and as I documented in here,  2 I never told anyone that he had to be selected. That  3 wasn't my call. It was Lieutenant Ramsdell's.  4 I called the Special Investigations commander,  5 Captain Mielbrecht, and asked if he objected to Joe  6 taking the interview for the team, and Captain  7 Mielbrecht did not, even though he would inherit anyone  8 who was on the team in that role.  9 So I let him take it, thinking it might, in fact,  10 help him because I knew he was under a lot of stress,  11 being sent off for fitness for duty evaluations, what  12 have you. Letting him take the interview, in my  13 opinion, could do no harm because there's no obligation  14 to select him.  15 Q This would have been, then, in the spring of 1999 if –  16 A Yes.  17 Q Okay. Why do you think Lieutenant Kirby was removed  18 from the team?  19 MS. KERSLAKE: Objection; calls for  20 speculation; no foundation.  21 Q If you know.  22 A I can only guess, because they wanted to put someone  23 else on the team and/or, quite frankly, maybe they  24 desperately, I mean, somewhat truly believed that we  25 should keep it in-house and the SID person should be</p>	<p style="text-align: right;">Page 53</p> <p>1 them to hang on and not leave and "Give us a chance to  2 work through this."  3 Q Okay. If Kirby was removed because he was no longer an  4 SID lieutenant and Ramsdell was allowed to stay even  5 though he was also no longer an SID lieutenant, would  6 you consider that disparate treatment by the  7 department –  8 MS. KERSLAKE: Objection; calls for a legal  9 conclusion.  10 Q – as you understand the term "disparate treatment"?  11 A Yeah. Not only could, but so stated.  12 Q Do you feel you were targeted for harassment by Chief  13 Brame because of the interview process you allowed Joe  14 to go through?  15 A One of the reasons I believe I was targeted for  16 harassment by Chief Brame, yes.  17 Q What do you think are the other reasons?  18 A From the day he took office, Chief Brame found fault  19 with me. I went to him and offered to help, if I  20 could, because he was a brand-new assistant chief and I  21 had been one for over nine years, and I felt I could  22 offer a lot in terms of being a sounding board or how  23 things were done, and that was basically rebuffed then.  24 I was almost never spoken to during that tenure,  25 other than at large meetings. My opinion was not</p>

14 (Pages 50 to 53)

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1 solicited, and on the rare occasion it was, it was  
 2 almost inevitably gone the other way 180 degrees, on  
 3 one occasion directly involving Joe Kirby again, which  
 4 led to him being sent for another fitness for duty  
 5 evaluation.  
 6 Q Do you think that Lieutenant Kirby's removal from the  
 7 clandestine lab team might have been related to his age  
 8 at all?  
 9 MS. KERSLAKE: Objection; calls for  
 10 speculation. He has no personal knowledge of that.  
 11 Q Your opinion.  
 12 A I would say it was more related to his personality. I  
 13 don't think his age specifically there was the issue.  
 14 Q Or how about his own union advocacy as an elected  
 15 member of the executive board of the union?  
 16 MS. KERSLAKE: Same objection.  
 17 A I think a lot of decisions about Joe Kirby have been  
 18 involved with his advocacy work or his work as a member  
 19 of the executive board, yes.  
 20 MR. MESSINA: Well, let me see if there are  
 21 any parking places.  
 22 (Brief recess.)  
 23 ///  
 24 ///  
 25 ///

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1 reported weren't, in fact, taken, and this led to an  
 2 investigation of possible fraud which came back to the  
 3 Tacoma Police Department in some manner.  
 4 Chief -- then chief, Mr. Arreola, being advised  
 5 immediately, went and told Mr. Corpuz that he was the  
 6 subject of criminal investigation.  
 7 Q Is that common, that a suspect is informed?  
 8 A No, no. Actually, it tends to fall under the grounds  
 9 of obstructing a criminal investigation.  
 10 Q Was that the sentiment of the officers that you knew?  
 11 A Not altogether unsure it was the sentiment of some  
 12 of the prosecutors as well, but that prosecutor said if  
 13 one of his assistants had done that, they would be  
 14 looking for work, at the least. That was a quote in  
 15 the paper.  
 16 Q Are you aware of any other instances where members of  
 17 the Corpuz family have been given preferential  
 18 treatment by the police department?  
 19 A Well, yes.  
 20 Q Will you elaborate, please?  
 21 A Mr. Corpuz has a son named Dito.  
 22 Q Dito?  
 23 A Dito. I believe it's D-i-t-o, but I won't swear to  
 24 that. Dito has a fairly long track record of  
 25 involvement in the criminal justice system, and at one

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1 EXAMINATION (Continuing)  
 2 BY MR. MESSINA:  
 3 Q Captain Meinema, back on the record now.  
 4 I'd like to ask you if you were aware of a Safeco  
 5 insurance investigation alleging wrongdoing by city  
 6 manager Ray Corpuz and/or Chief Arreola.  
 7 A Yes.  
 8 Q What's your understanding of the general sequence of  
 9 events that led to the involvement of the Tacoma Police  
 10 Department?  
 11 A The general sequence of events was, there was a  
 12 reported burglary at Mr. Corpuz's residence in Tacoma.  
 13 At the burglary, Chief Arreola personally  
 14 responded and ordered a sergeant to get an  
 15 investigative forensics team up there. The sergeant  
 16 noted the only one on duty was at a home invasion  
 17 robbery at a very serious crime scene.  
 18 The chief reminded the sergeant that he was the  
 19 chief and told him to get them up there now, so he did.  
 20 So it wasn't photographed, fingerprint, the whole nine  
 21 yards.  
 22 Subsequent investigation didn't produce an arrest.  
 23 However, subsequently an investigation, I guess, by the  
 24 insurance company -- I don't know, but another agency  
 25 anyway indicated a concern that perhaps the items

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1 point, there was a memo on the patrol briefing sheet.  
 2 It's called the peg because you used to hang things on  
 3 a peg.  
 4 But anyway, the patrol peg had a notice that Dito  
 5 Corpuz was not to be arrested at his aunt's house or at  
 6 his parents' house, basically creating a no-arrest zone  
 7 within a block or two or three of the houses, because  
 8 the aunt's house was fairly close to the parents.  
 9 MR. MESSINA: Okay. I've got a couple more  
 10 documents I'm going to have marked.  
 11 (Exhibit Nos. 4-5 marked for identification.)  
 12 Q Will you look at Exhibit 4, please, which is called  
 13 general staff meeting minutes?  
 14 A Yes.  
 15 Q Were you in attendance at this meeting for which these  
 16 are the minutes?  
 17 A I'm listed here. I have to read it to see if I recall  
 18 the meeting.  
 19 Q Well, let me ask you a couple of questions about it.  
 20 What is Harrison Range?  
 21 A That's the police firing range located in the old  
 22 Harrison Brothers gravel pit. When they donated it, it  
 23 was converted to a range.  
 24 Q Do you recall any comments being made about the city's  
 25 light rail project?

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<p style="text-align: right;">Page 62</p> <p>1 aging of the department?</p> <p>2 A He made one that got a lot of people's attention.</p> <p>3 Q And what was that?</p> <p>4 A We were all in command staff at the time, and I</p> <p>5 couldn't give you the date, but it would be on the</p> <p>6 minutes, whatever it was, but then Lieutenants Brame</p> <p>7 and Meeks were one and two, I believe, on the captains</p> <p>8 list, and they were up at staff, for some reason being</p> <p>9 congratulated on coming in one and two or perhaps for</p> <p>10 another reason, but it was brought up that they were</p> <p>11 one and two.</p> <p>12 And Chief Arcoia made the comment, "Now if I can</p> <p>13 just get some of these gray-haired old captains to</p> <p>14 leave, we can get you guys here at the table." And</p> <p>15 that brought some immediate comment, and the chief</p> <p>16 immediately apologized and said, of course, he meant</p> <p>17 nothing by it and there was no offense, but I know for</p> <p>18 a fact at least Captain Olsen and I took offense.</p> <p>19 Q Okay. Do you recall any other instances where any of</p> <p>20 the named defendants in the lawsuit treated senior</p> <p>21 officers or older officers different than younger</p> <p>22 officers?</p> <p>23 A Well, Chief Brame treated me very differently, and I</p> <p>24 could only attribute it to my age because I have no</p> <p>25 other reason for it.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q Captain, have you ever seen this self-branding list</p> <p>2 that is Exhibit 6?</p> <p>3 A Yes.</p> <p>4 Q Is this a publication distributed by the city to all</p> <p>5 personnel in the police department?</p> <p>6 A Well, this is just a list that I have right now.</p> <p>7 Q Right.</p> <p>8 A I mean, the city has sent it out, but I can't say this</p> <p>9 is from the publication, or it could have been from a</p> <p>10 magazine. It's a fairly popular thing, but yes, it has</p> <p>11 been included in city correspondence, "Health Line" or</p> <p>12 something of that nature.</p> <p>13 Q Has it been circulated among the police department with</p> <p>14 a positive endorsement?</p> <p>15 A It was given to everybody, and let me -- no one</p> <p>16 specifically said, "Boy, this is" -- "this particular</p> <p>17 piece of this document is great." However, the entire</p> <p>18 thing is handed out to all city employees, so I have to</p> <p>19 assume the city believes it to be of value or they</p> <p>20 would withhold it.</p> <p>21 Q In your opinion, do these listed qualities -- are these</p> <p>22 listed qualities desirable qualities in a leader in the</p> <p>23 police department?</p> <p>24 A To me, they are desirable qualities. I don't believe</p> <p>25 they are desirable qualities under the current</p>
<p style="text-align: right;">Page 63</p> <p>1 Q How did he treat you differently?</p> <p>2 A Again, when he became an assistant chief, there were</p> <p>3 two -- actually, three captains in office at the time,</p> <p>4 but although my office was next door to his, I was</p> <p>5 rarely involved in discussions while he spent immense</p> <p>6 amounts of time with Captain Meeks, for example, and I</p> <p>7 felt I was held to a much higher standard.</p> <p>8 I was publicly criticized in staff for some things</p> <p>9 that I felt were wholly unjustified, out of line and</p> <p>10 inexcusable to prune me for that.</p> <p>11 I was subsequently counseled for the same items,</p> <p>12 and I wrote a response to that that I thought it was</p> <p>13 totally unfair, and I think it was the fact that Chief</p> <p>14 Brame was very uncomfortable with people senior to</p> <p>15 himself and was doing his very best to control them and</p> <p>16 dominate.</p> <p>17 Q What is your age?</p> <p>18 A I am 50.</p> <p>19 Q Is Brame younger than you?</p> <p>20 A Yes.</p> <p>21 Q Do you know his age?</p> <p>22 A 42 perhaps. 43.</p> <p>23 MR. MESSINA: Okay. Will you mark that as</p> <p>24 the next exhibit, please?</p> <p>25 (Exhibit No. 6 marked for identification.)</p>	<p style="text-align: right;">Page 65</p> <p>1 administration.</p> <p>2 Q Okay. Looking at the 15 items, how would you rate Joe</p> <p>3 Kirby on those 15 items?</p> <p>4 A One by one or totally?</p> <p>5 Q Go totally and then if there are any special ones that</p> <p>6 jump out at you.</p> <p>7 A Well, I would rate Joe rather in the high end of</p> <p>8 most -- almost all of these, if not all of them, and,</p> <p>9 in fact, again, I said already I find these admirable.</p> <p>10 I try to find them in myself. I have been -- I fit</p> <p>11 many of those or at least have in the past. However,</p> <p>12 they are no longer a productive way to be.</p> <p>13 Q Why not?</p> <p>14 A Because the department does not want people like this.</p> <p>15 Q They don't want people who are focused, passionate,</p> <p>16 risk seekers?</p> <p>17 A No. They want people who are obedient, who will do</p> <p>18 nothing without asking for permission or will not do</p> <p>19 anything without forming a study group or TQ group and</p> <p>20 analyzing it to death.</p> <p>21 Q If you were comparing Joe Kirby to Captain Woodard, who</p> <p>22 was promoted over him, on this list of 15, who would</p> <p>23 you rate higher?</p> <p>24 MS. KERSLAKE: Objection; lack of foundation.</p> <p>25 A I would rate Kirby higher on this.</p>

17 (Pages 62 to 65)

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<p>1 Q As a result of what?</p> <p>2 A The immense pressure in the way he has been treated.</p> <p>3 He is -- I would characterize Joe fairly as a</p> <p>4 relatively highly ended -- high-end stress person. I</p> <p>5 don't mean that in any way as a dysfunction. I mean</p> <p>6 some people are far more energetic. They're</p> <p>7 hyperactive, and I don't mean that in a medical sense.</p> <p>8 I'm not a doctor. I mean they're very energetic. They</p> <p>9 do a lot, more than other people who are much more</p> <p>10 phlegmatic and some who are downright sluglike.</p> <p>11 But Joe's energy has always been positive energy,</p> <p>12 in my opinion. He's passionate. He's concerned with</p> <p>13 what he does. He is very, very concerned for the sake</p> <p>14 of his troops. And where he has erred in the past,</p> <p>15 it's usually been on behalf of his troops, I mean,</p> <p>16 going to their defense.</p> <p>17 I don't mean those as big deals. I mean where</p> <p>18 he's perhaps taken issue with the department, it's been</p> <p>19 on behalf of someone else, not for himself.</p> <p>20 Now, over the last few years, the combination of</p> <p>21 the way he's been treated by Mr. Arreola and</p> <p>22 Mr. Arreola's successors and the death of William Lowry</p> <p>23 I think have definitely created a strain on him. I</p> <p>24 have been worried about him.</p> <p>25 Q Do you still think he's fit to be working as an</p>	<p>1 conversations with union members?</p> <p>2 A I may have erred in my last statement, because this is</p> <p>3 perhaps a different one, Joe having been in more than</p> <p>4 one.</p> <p>5 He -- in addition to the Seahawk ticket case,</p> <p>6 there was a totally different matter, and this perhaps</p> <p>7 revolves around that, although I don't think that was</p> <p>8 conducted by the Washington State Patrol.</p> <p>9 Q Look at the last page -- it will help you -- at the top</p> <p>10 of that page.</p> <p>11 A Okay. Yes. This is the Washington State Patrol issue.</p> <p>12 Q Okay.</p> <p>13 A Well, again, I'm -- the other issue I'm thinking of</p> <p>14 also involved his duties, I believe, as a union officer</p> <p>15 and union business. I don't know, but I believe this</p> <p>16 is the state patrol case with the divulgence of</p> <p>17 information to a reporter.</p> <p>18 Q Does that one grievance mention, though, the city's</p> <p>19 action with respect to this interview in which</p> <p>20 Lieutenant Kirby was interrogated regarding past</p> <p>21 activities as a union officer?</p> <p>22 A Yes. That's No. 2.6 there.</p> <p>23 Q All right. And then why don't you look at Exhibit 10.</p> <p>24 P-E-R-C is Public Employment Relations Commission;</p> <p>25 is that correct?</p>
<p>1 officer?</p> <p>2 A Yes, I do.</p> <p>3 MR. MESSINA: Let me have these marked as</p> <p>4 Exhibits 9 and 10.</p> <p>5 (Exhibit Nos. 9-10 marked for identification.)</p> <p>6 Q Take a look at No. 9, would you, please?</p> <p>7 A Yes.</p> <p>8 Q That's the other one you've got in your hand.</p> <p>9 Do you know what that is?</p> <p>10 A Yes. It's a complaint charging unfair labor practice</p> <p>11 from Police Local Union 6.</p> <p>12 Q Did you have any role in this investigation?</p> <p>13 A I did.</p> <p>14 Q What was that?</p> <p>15 A Well, this in general is in reference to the Washington</p> <p>16 State Patrol investigation acting on behalf of the</p> <p>17 Tacoma Police Internal Affairs at the behest of Chief</p> <p>18 James O. Hairston into the release of documents to a</p> <p>19 reporter on the issue regarding the Seahawk tickets.</p> <p>20 And my role in that, I was Joe Kirby's advocate, and</p> <p>21 the complaint specifically is that the city was</p> <p>22 disciplining him -- or investigating him, rather, for</p> <p>23 his actions stemming from his duties as a union</p> <p>24 executive board member.</p> <p>25 Q And was there a complaint that he refused to divulge</p>	<p>1 A That's correct.</p> <p>2 Q Are you familiar with this PERC notice?</p> <p>3 A I am.</p> <p>4 Q And what does it essentially constitute?</p> <p>5 A In the wake of a prior case wherein the union president</p> <p>6 was interrogated as to discussions with a union member</p> <p>7 in the wake of a dispute on the Use of Force Board.</p> <p>8 Union grieved it, ULP'd it, whatever it is.</p> <p>9 PERC came back with a notice that the city will</p> <p>10 not interrogate employees concerning discussions</p> <p>11 between union officers and union members, in this case,</p> <p>12 Local 6, which was the only commissioned office --</p> <p>13 union at the time.</p> <p>14 Q Who signed it? Who is the authorized --</p> <p>15 A Well --</p> <p>16 Q Is that Ray Corpuz's signature?</p> <p>17 A Based on my experience, from what I see in the past, I</p> <p>18 would say that's Ray E. Corpuz, Jr., but I can't really</p> <p>19 tell because not all the letters are there, but I would</p> <p>20 say it's Ray Corpuz. I don't know about the junior,</p> <p>21 though.</p> <p>22 Q Do you know of any incident where Lieutenant Kirby was</p> <p>23 ordered to answer questions regarding union activities?</p> <p>24 A Yes.</p> <p>25 Q And how did that come about?</p>

22 (Pages 82 to 85)

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1 why can't you do better?" Well, of course, the reality  
 2 was, he had made a point to do that.  
 3 He once asked me three times in five minutes for a  
 4 statistical answer, and the first time, I said, "Jeez,  
 5 I don't know, but I'll get that information for you,"  
 6 do some general discussion about the topic. "Well,  
 7 Charles, what do you think? What do you think the  
 8 numbers would be?"  
 9 I said, "Jeez, I still don't know because I've  
 10 been in the room since you asked the first time, but  
 11 I'll get it for you," and there's more discussion.  
 12 The third time, he says, "Well, Charles, just  
 13 what's your guess what the number is?" And I said,  
 14 "Chief, I didn't know the first two times, and I'm not  
 15 going to take a guess now just so you can pick me apart  
 16 because you probably know the answer already," and he  
 17 dropped it. But that was the way he did things to any  
 18 number of us, but -- so I'm sure that Joe took it for  
 19 what it meant. It was veiled in humor, but it was just  
 20 a little shot.  
 21 Q You obviously have the opinion that Arreola mistreated  
 22 his subordinates.  
 23 A Did I convey that impression? Yes, I did.  
 24 Q I'm asking you if you think he treated Joe Kirby even  
 25 worse than he did --

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1 Milwaukee, and I think we saw it here.  
 2 Q Do you have an opinion as to why you think Joe was  
 3 targeted?  
 4 A Yes. He was -- the Chinese have an expression that the  
 5 peg that stands up is the ones hammered down.  
 6 He was one of the first to speak up. At a  
 7 meeting, I believe, at the Quality Meal Expeditors, the  
 8 chief asked us all why we were there. What is our  
 9 role? What do we do on the police department? And Joe  
 10 said, "My job here is, I am the balancer. My job is to  
 11 call bullshit when I see it and to keep people honest.  
 12 I represent the troops."  
 13 Q Was he doing that in the context of his union role?  
 14 A Precisely.  
 15 Q How did Arreola react to that?  
 16 A I think he took offense to it. He would ask after,  
 17 "How dare do people think they can talk to me like  
 18 that."  
 19 He would make comments quite commonly, and you  
 20 could ask the other chiefs this, obviously. That's  
 21 your choice, but Darland, Hairston, whoever the other  
 22 chiefs were at any given time. He always wanted to  
 23 talk to someone mano a mano, Spanish for man to man,  
 24 i.e., we're going to get together and we'll settle this  
 25 as men, but he always wanted to do it in his office,

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1 A Most assuredly. I think he picked Joe Kirby as an  
 2 example.  
 3 If you were to look at Mr. Arreola's track record  
 4 in Milwaukee, you would find a consistent pattern of  
 5 discipline above the curve, and by that, I mean more  
 6 than the case deserved, where the officer would  
 7 subsequently get a reduction, discipline by civil  
 8 service or had their job restored or whatever, but bear  
 9 in mind what I said earlier.  
 10 Being under the gun is in and of itself a  
 11 punishment. If I could suspend you for ten days, but  
 12 instead I fire you, yes, the civil service board will  
 13 give you your job back, but in the interim, you will  
 14 have to hire an attorney. You'll have to worry about  
 15 mortgage payments, losing your house, getting an extra  
 16 job.  
 17 So let's say you get your job back and they  
 18 restore all of your pay except the ten days they should  
 19 have given you, are you still whole? I don't think so.  
 20 You've had all that additional stress, strain, concern,  
 21 fear for your family, your job and the lost monies  
 22 you'll never recoup from attorney's fees or what have  
 23 you, but you will probably never transgress again  
 24 because you're going to be afraid it will be even worse  
 25 next time, and this was a pattern that was in

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1 which would bring with it all the trappings of the  
 2 chief.  
 3 He did that in reference to a situation with  
 4 Dennis Quilio. He said it about Joe Kirby, mano a  
 5 mano, and the obvious implication is, to me, that is,  
 6 it's we're going to see who's the toughest guy here.  
 7 There's a certain message of physical menace, and  
 8 as Mr. Arreola was known to become physical with his  
 9 subordinates, it was not altogether untoward to be  
 10 aware of that.  
 11 Q Just kind of one last area of inquiry here and Shelley  
 12 can get out of here.  
 13 When I deposed Chief Hairston, he said that if Joe  
 14 wanted to know why he was passed over for captain, he  
 15 could have requested the reasons in writing.  
 16 Do you think that's evidence of dysfunction in the  
 17 department, the fact that he said he had to ask for it  
 18 in writing?  
 19 A Well, it's evidence of the general depressive state of  
 20 the department. I don't know if that in itself  
 21 particularly categorizes dysfunction because some  
 22 people are much more comfortable doing things in  
 23 writing than verbally, especially if they're not  
 24 comfortable discussing the topic with you. It's easier  
 25 to hand you a piece of paper.

30 (Pages 114 to 117)

## I N T E R O F F I C E   M E M O R A N D U M

Date: 08-Apr-1999 12:05 PST  
 From: David Brame  
 BRAMEDA  
 Dept: TPD Investigations  
 Tel No: (253) 591-5938  
 Number: 019060

O: Charles Meinema

( MEINEMA )

C: James Hairston

( HAIRSTON )

Subject: Administrative Report Directive

Captain Meinema,

It has come to my attention that you authorized Lt. Kirby to participate in an interview for the Meth Team. This interview occurred while Lt. Kirby was on disability/sick leave due to mental or emotional stress.

As you were already aware, Lt. Kirby surrendered departmental property per MRP. Further, MRP restricts access to police facilities while on this type of leave.

This type of leave is sensitive to say the least. Not only is an officer relieved of taking proper police action while on-duty (hence the surrendering of departmental equipment), but also an officer is relieved of taking proper police action while off-duty as well.

This issue calls into question your decision in allowing Lt. Kirby to report for duty for the Meth Team interview. The issue questions your performance specifically.

You are directed to prepare an administrative report detailing your reasons for deciding to allow Lt. Kirby to interview for the Meth Team. Further, you are to include your reasons for not notifying me of this issue.

This administrative report is due on or before Monday, April 12, 1999. No overtime is authorized in preparing this report.

At this point, this issue may result in disciplinary action up to a formal written reprimand.

