

Exhibit A



124 Cedar Drive
Colts Neck, New Jersey 07722
Web: www.colts-neck.nj.us
E-mail: twpcnts@optonline.net

Phone: (732) 462-5470
Fax: (732) 431-3173
TDD-TTY: (732) 462-6090

January 14, 2016

Chief Kevin Sauter
Township of Colts Neck
124 Cedar Drive
Colts Neck, NJ 07722

Dear Chief Sauter:

The professional integrity of a police chief must be beyond reproach. He should hold himself to the highest of ethical standards, adhere to the proscriptions of the Employee Handbook, comply with directives promulgated by the Township Committee as "appropriate authority" and set an example for subordinate officers. Recent events caused the Township Committee to conclude that you compromised the professional integrity of your position.

Chapter 51-2 of the Colts Neck Township ordinances was amended by Ordinance 2014-11 on May 14, 2014 as a result of which the Township Committee became the "appropriate authority" as defined in N.J.S.A. 40A:14-118. You were provided notice of the change. As the result, you became "directly responsible" to the Township Committee "for the efficiency and routine day to day operations" of the Department "pursuant to policies established by the [Township Committee]".

On November 14, 2014, the Township Committee issued a written directive mandating that you "not attend any conferences or training events which require the expenditure of public funds without the **express written consent of the Township Committee.**" (Emphasis supplied). As was explained to you, the directive was issued because you have historically expended a disproportionate amount of money from both the forfeiture fund and training budget on your personal attendance at police chiefs' association events many of which were out of state with little evidence of any benefit being derived by the Township of Colts Neck.

On May 28, 2015, you sent a memorandum to Interim Township Administrator Thomas Antus advising him of your intent to attend the IACP conference in Chicago from October 23-28, 2015. You submitted an invoice for attendance at the conference thereby requiring the expenditure of public funds. Your time sheet for that week reflects that you did not take vacation time for your attendance at the conference but; rather, asked to be paid by the Township thereby requiring the expenditure of additional public funds. Further, it was subsequently discovered that you ordered an on-duty Colts Neck Township police officer to pick you up at Newark Airport in a Colts Neck Township police car on your return from the conference thereby requiring the expenditure of yet additional public funds. Because

public funds were expended, you were required to obtain the "express written consent of the Township Committee". Your failure to do so constitutes a willful refusal to comply with a directive by the "appropriate authority"

The Employee Handbook for which you signed on July 16, 2010, contained the following relevant provisions:

G. Use of Vehicles Policy:

Township owned vehicles shall be used **only** on official business and all passengers must be on Township business

. . . Any violation of this policy constitutes cause for disciplinary action.

O. Employee Discipline Policy:

This policy covers non-union employees. . . .

An employee may be subject to discipline, including termination, for any of the following reasons:

- Violating any Township rules, procedures, regulations or policies.
- Conduct unbecoming a public employee.
- Misuse of public property, including motor vehicles.

These are mere examples and are not exhaustive or binding on the Township. Additionally, the Township reserves the right to use any and all forms of discipline on a case-by-case basis and is not obligated to use progressive discipline.

You violated the "Use of Vehicles Policy" because you were not "on official business" when you ordered a Colts Neck Township police car to pick you up at Newark Airport after returning from the conference especially under these circumstances in which you did not receive "express written consent of the Township Committee" to attend the event in the first place. We also understand that your wife accompanied you on the trip and was driven back from the airport in a Colts Neck police car. She was clearly not on "Township business" thereby constituting an additional violation of this policy. Your use of a Colts Neck police car essentially as a taxi to chauffeur you and your wife back from Newark Airport also constituted a misuse of public property in violation of the Handbook.

We also find that it was unbecoming of Colts Neck's police chief to order the on-duty police shift supervisor out of Colts Neck to Newark to provide you, your wife and another police chief with what was, in effect, a taxi ride. Colts Neck police officers are employed by the Township of Colts Neck to provide for the safety and well-being of the residents and businesses of the Township, not for your convenience and certainly not to save you the expense of a taxi ride. Your actions jeopardized the safety and well-being of the residents and the businesses of the Township solely for your benefit.

By letter dated June 2, 2014 you were reprimanded by the Township Committee for serious transgressions including interfering with a police investigation involving a complaint by your brother and by taking action that had the capacity to intimidate a civilian witness. The Township Committee expected that the letter of reprimand would serve as notice to you that the integrity of the Township's police chief must be beyond reproach. However, your recent actions which included disregarding a directive from the "appropriate authority", violations of the Employee Handbook and use of an on-duty police officer for an inappropriate purpose suggest that the message was not received. Accordingly, you

are hereby SUSPENDED for a period of five (5) days without pay. During the period of suspension, you will surrender your badge and weapon to Lt. Leccese who shall assume command over the Department until your return. You shall not have use of any Township vehicles during the term of your suspension. You may not exercise in any activity which could be construed as being in your capacity of police chief during the term of your suspension. Unless otherwise notified, your suspension shall begin the day following your receipt of this letter and continue continuously and uninterrupted for five (5) consecutive business days.

You are hereby admonished to refrain from taking any retaliatory action against any employee or resident of the Township of Colts Neck for any actions arising out of the conduct recited herein. Any retaliation shall result in the immediate termination of your employment with the Township of Colts Neck.

The Township Committee is also in receipt of an email directed to then Mayor Schatzle on December 30, 2015 in which you wrote: "I am also advising my attorney and the NJSACOP that I am still being treated to retaliatory and discriminatory acts and demand that this hostile work environment cease". Demand is hereby made that you provide the Township Committee with answers to the following questions upon return from your suspension:

1. Why are you asserting that the practice of requiring you to account for your time is "retaliatory", "discriminatory", or creates a "hostile work environment" when you and your representative, Chief Ray Hayducka, agreed to the practice?
2. What actions did you take for which the Township Committee is allegedly retaliating?
3. Are you alleging that you are being treated discriminatorily and/or being subjected to a "hostile work environment" based upon membership in a statutorily protected class recognized by the New Jersey Law Against Discrimination? If so, identify to what protected class(es) you belong and provide all facts supporting your contention that you are being treated in a discriminatory manner due to your membership in a protected class(es).

Failure to provide responses to the questions within the time provided may result in additional disciplinary action. Please be guided accordingly. Further, failure to adhere to the previously communicated directives and/or the policies and procedures as detailed in the Township's Employee Handbook and/or any other rules and regulations promulgated by the Township Committee may result in additional corrective action up to and including termination. You are further reminded that the contents of this letter will be made part of your permanent file and are to remain confidential.

Sincerely,

Michael Fitzgerald
Police Liaison, Township Committee

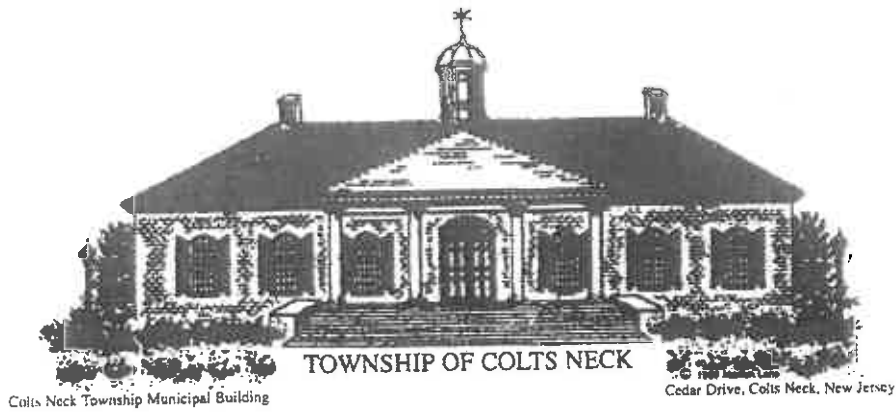
Thomas Orgo
Mayor

Please acknowledge receipt and understanding via signature below.

Kevin Sauter

Date

Exhibit B



124 Cedar Drive
Colts Neck, New Jersey 07722
Web: www.colts-neck.nj.us
E-mail: twpcn@optonline.net

HAND DELIVERED

Phone: (732) 462-5470
Fax: (732) 431-3173
TDD-TYY: (732) 462-6090

September 8, 2014

Chief Kevin A. Sauter
Colts Neck Police Department
124 Cedar Drive
Colts Neck, NJ 07722

RE: Rice Notice – September 10, 2014 - CONFIDENTIAL

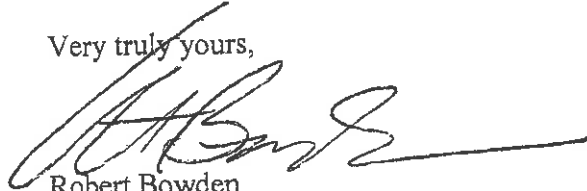
Dear Chief Sauter:

Mayor Macnow has requested you prepare a list of meetings or events you may attend that would be outside of Colts Neck and that you believe would still satisfy the 40 core hours of Colts Neck Police Department work pursuant to the Mayor's directive in this regard. The Mayor has requested this information be forwarded to his attention by 4:00 p.m. on September 10, 2014, with a copy to my office.

As this information and the four directives may be discussed in Executive Session on September 10th by the Township Committee, this letter shall serve as a Rice Notice that this discussion may affect the terms and conditions of your employment. This discussion will be held in Executive Session unless you give prior written notice at least 48 hours in advance that you request the Township Committee's discussion be held in public session.

Thank you for giving this matter your immediate time and attention.

Very truly yours,



Robert Bowden
Township Administrator

cc: Township Committee
James L. Plosia, Esq., Labor Attorney

Exhibit C

Colts Neck Township Police Department
Colts Neck, New Jersey

MEMORANDUM

To: Mayor Macnow
From: Chief Sauter 
Date: September 10, 2014
Regarding: Department meetings/events.

As per your request, I have listed the events that I will or may attend. I consider these events part of my duties as the Chief of Police of Colts Neck because it directly benefits the agency and residents:

1. NJSACOP Monthly Meeting - 1 Regular.
2. NJSACOP Board/Committee Meeting – on occasion and only as necessary, especially this year if required as president.
3. County Chiefs Monthly Meetings – 1 Regular & 1 Executive Board.
4. County and State Chief events.
5. Local Events - Dinners or awards ceremonies for emergency services as related to my position as Colts Neck Chief.
6. Meeting w/ other law enforcement agencies such as the Monmouth County Prosecutor and surrounding communities.
7. Meetings with Township vendors and other vendors to examine products.
8. Taking phone calls related to Colts Neck from employees, officials, other emergency services and residents.
9. Work reviewed and done at my residence.
10. Training events outside the Township (In-Service and Training Conferences).

I would like to note that I am available 7 days a week and work almost every day. It is rare if on my scheduled day off I do not receive a phone call or have to do something in my role as the Chief of Police. In my role as Chief of Police, it is imperative that I participate in law enforcement activities and meetings with other law enforcement leaders. These networking opportunities provide access to information and policing strategies. It also allows the sharing of information related to crime trends and juvenile matters. In my opinion, I consider hours worked to be all time spent in the physical or mental exertion, weather burdensome or not, which is controlled or required by the employer. In addition, any work activity that benefits the employer, I deem hours worked. I fully understand that I

am not entitled to or expect additional compensation for work performed outside normal hours because I am an "Exempt Employee" under FSLA. I am basing this opinion on my 21 years' experience as the Chief of Police, training, education, and case law.

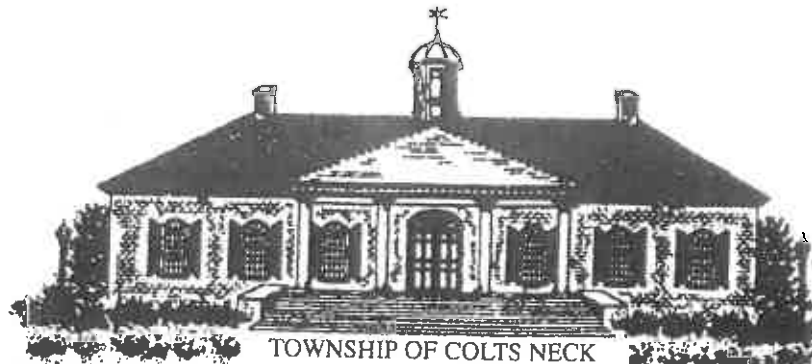
I never have been a clock watcher in my 30 year law enforcement career and there is no doubt that I have worked and continue to work more than 2080hrs per year at no additional compensation.

I am available if you have any questions or would like to discuss this matter further.

Thank you --

CC: Robert Bowden

Exhibit D



Colts Neck Township Municipal Building

TOWNSHIP OF COLTS NECK

Cedar Drive, Colts Neck, New Jersey

124 Cedar Drive
Colts Neck, New Jersey 07722
Web: www.colts-neck.nj.us
E-mail: twpcn@optonline.net

Phone: (732) 462-5470
Fax: (732) 431-3173
TDD-TYY: (732) 462-6090

November 14, 2014

Mr. Kevin Sauter
Chief of Police
Township of Colts Neck
124 Cedar Drive
Colts Neck, NJ 07722

SUBJECT: Police Chief's Directive No. 2014-6
Conferences and/or Training Events

Dear Chief Sauter:

The Police Chief shall not attend any conferences or training events which require the expenditure of public funds without the express written consent of the Township Committee. At least thirty (30) days before the conference or event, the Police Chief shall provide the Township Committee with a detailed, written report setting forth:

1. The nature of the event;
2. The cost of the event;
3. The duration of the event;
4. The location of the event;
5. The means of travel to be utilized;
6. How the event will benefit the Colts Neck Police Department;
7. How the event will benefit the residents of Colts Neck; and
8. Whether a subordinate officer could attend and, if not, why.

Within five (5) business days of returning from the event, the Police Chief shall provide the Township Committee with a detailed, written report setting forth:

1. The educational sessions attended;
2. The duration of each session attended;
3. What was learned in each session;
4. How the lessons learned will benefit the Colts Neck Police Department;
5. How the lessons learned will benefit the residents of Colts Neck;

6. How the lessons learned will be communicated to subordinate officers;
7. Whether the purchase of new equipment is recommended and, if so, the nature of the equipment, its cost and the reason for the recommendation; and
8. Provide copies of any literature provided in conjunction with the training sessions.

This directive is effective immediately.

Very truly yours,



Russell Macnow, Mayor
On Behalf of the Township Committee
Township of Colts Neck

Exhibit E

SAUTER0001



Colts Neck Township Police Department

124 Cedar Drive
Colts Neck, NJ 07722



Kevin A. Sauter
Chief of Police

MEMORANDUM

To: Thomas Amus
Township Administrator

From: Kevin Sauter
Chief of Police

Date: May 28, 2015

Regarding: Police Department Training.

Chiefs attendance at the following training/conference:

1. IACP, Chiefs Training Conference and Expo.
2. Township Cost: \$350.00
Additional funded through LETA and Monmouth County Chiefs Association.
3. October 23rd to October 28th.
4. Chicago, Illinois.
5. Airlines
6. Contemporary policing issues, law enforcement policy. Expo.
7. Better educated and informed Chief of Police.
8. Any Association member or non-member law enforcement officer can attend.

In my absence Lt. Frank Luccese shall be in command of the department.

I will be available via phone and through my secretary Rae, if needed.

Any questions please contact me at your convenience.

Thank you

Administrative Offices: 732-780-7323 Fax: 732-780-0226 24hr. Dispatch: 732-462-4343
Department E-Mail: cnpd@coltsneckpolice.com



SAUTER0001

USE THIS FORM TO SAVE ON REGISTRATON FEES UNTIL SEPTEMBER 9, 2015.
BEGINNING SEPTEMBER 10, 2015 ONLY ONLINE REGISTRATIONS WILL BE ACCEPTED.

Discounted Advance Registration Deadline: Must be Postmarked by September 9, 2015.

CHECK ONE:

☒ I am an IACP Member: Membership Number 1546208 ☐ I am a Non-Member

☐ I am applying now for Membership (Use Box "B" below to Join)

☐ I am the spouse or family member of _____ Their Member# _____

Full Name Kevin Sauter

First Name for Badge Kevin

Title Chief of Police

Agency/Organization Colts Neck Township Police

Agency Address 124 Cedar Drive

City Colts Neck

State NJ

Zip/Postal Code 07722

Country USA

Phone # 732-780-7323

Fax # 732-462-6240

E-mail Address ksauter@coltsneckpolice.com

FAMILY — complete a duplicate registration form if using different payment method.*

Name _____

Children (Under 18) Name(s) & Age(s) _____

CHECK APPROPRIATE REGISTRATION TYPE

☒ IACP Member: \$350

☐ First Time IACP Member: \$295

☐ Non-member: \$525

☐ Family Member*: \$125

☐ Children 6-18*: \$45

☐ Children 5 & under: FREE

☐ Expo Pass for Public Safety Personnel: FREE

1-DAY PASS & 2-DAY PASS REGISTRATION WILL OPEN ON-LINE SEPTEMBER 10TH.

B. IACP DUES

YES! I would like to join the IACP and take advantage of the First Time Member Registration Rate of \$295.

☐ Join ☐ Renewal (See the IACP website for membership benefits and criteria)

☐ Active Member: \$150

☐ Associate Member - General: \$150

☐ Associate Member - Leader of Tomorrow Sworn Officer: \$75

☐ Associate Member - Academic: \$150

☐ Associate Member - Service Provider: \$250

C. (OPTIONAL) BANQUET & FOUNDATION GALA TICKETS

☐ YES! I would like to Purchase Tickets for the 2015 IACP Foundation Gala to be held on Saturday, October 24, 2015.

Tickets \$200 each # of tickets: _____

No refunds. Pre-Conference ticket sales end October 21, 2015.

☐ YES! I would like to Purchase Tickets for the Annual Banquet to be held on Tuesday, October 27, 2015.

Tickets \$100 each # of tickets: _____

No refunds. Pre-Conference ticket sales end October 21, 2015 and will continue on-site October 23, 2015.

PAYMENT (No Registrations will be processed unless accompanied by payment in full.)

TOTAL AMOUNT TO BE CHARGED (Add A, B & C): \$ 350.00

☒ Check. Make checks payable to IACP (U.S. dollars, drawn on U.S. banks only) and mail full payment (no cash) with completed form to: IACP Conference Registration, P.O. Box 62564, Baltimore, Maryland USA

☐ Please charge my credit card: ☐ Visa ☐ MasterCard ☐ American Express ☐ Discover

Cardholder's Name _____

Signature _____

Fax completed form with credit card information to 703-636-4543. Do NOT mail and fax form — charges may be duplicated. Mail purchase order & registration form to: IACP Conference Registration, 44 Canal Center Plaza, Suite 200, Alexandria, VA 22314 USA. E-mail forms to conf2015@theiacp.org.

Source Code: WEB

PLEASE COMPLETE THE FOLLOWING QUESTIONS.

The information is being requested to enhance your experience at conference and will be used by the IACP and exhibitors to better understand your interests.

1. How many sworn officers in your agency?

☐ A. 1-5

☐ B. 6-15

☒ C. 16-25

☐ D. 26-49

☐ E. 50-99

☐ F. 100-249

☐ G. 250-499

☐ H. 500-999

☐ I. 1,000 & above

☐ J. N/A

2. What is the approximate population size of your city/ jurisdiction?

☐ A. Under 2,500

☐ B. 2,500-9,999

☒ C. 10,000-49,999

☐ D. 50,000-99,999

☐ E. 100,000-249,999

☐ F. 250,000-499,999

☐ G. 500,000 & above

☐ H. N/A

3. What best describes your function/assignment?

☒ A. Administration

☐ B. Field Operations

☐ C. Information Technology

☐ D. Patrol/Investigations/ Tactical

☐ E. Communications

☐ F. Training

☐ G. Fleet Management

☐ H. Purchasing

☐ I. Medical/Psychological

☐ J. Legal

☐ K. Retired

☐ L. Other (please specify)

☐ M. N/A

4. What best describes your purchasing authority?

☒ A. Approve purchases

☐ B. Evaluate & recommend purchases

☐ C. Develop specifications for purchases

☐ D. Make suggestions to others

☐ E. End user only

☐ F. N/A

5. Which best describes your Agency/Organization?

☒ A. Local

☐ B. State

☐ C. County/Regional/ Special District

☐ D. Tribal

☐ E. College/University

☐ F. Transportation

☐ G. Federal Government Agency/Military

☐ H. Medical/Psychological

☐ I. Non-profit

☐ J. Consultant

☐ K. Security

☐ L. Legal

☐ M. Training

☐ N. Company

☐ O. Other

☐ P. N/A

6. In the next 12 - 24 months, which of these products or services does your organization plan to purchase/lease? (Check ALL that apply):

☐ A. Aircraft

☒ B. Armor/Protective Equipment

☒ C. Awards/Badges/ Challenge Coins

☐ D. Communications Equipment

☒ E. Education/Training

☐ F. Investigation/ Surveillance/Detection

☐ G. Less-Lethal Weapons

☐ H. Lighting

☒ I. Mobile Technology

☐ J. New Products

☐ K. Personal/Tactical Equipment

☐ L. Professional/Consulting Services

☐ M. Publication/Trade Journal

☐ N. Restraints

☒ O. Software

☒ P. Testing Equipment

☒ Q. Uniforms

☐ R. Unmanned Vehicles/ Robotics

☒ S. Vehicle Accessories

☐ T. Vehicles/Motorcycle/ ATV

☐ U. Weapons/Firearms

☐ V. N/A

7. How did you hear about IACP 2015?

☒ A. Have attended in the past

☐ B. Received brochure

☐ C. Received an e-mail

☐ D. A colleague told me about the conference

☐ E. Other (please specify) _____

☐ YES! I would like to receive e-mails from IACP exhibitors regarding their conference activities and products.

*Full conference registration fee includes access to all general sessions, workshops, reception, lunch and coffee break.

*Family rates for spouses or family members are available for field law enforcement colleagues. Only one family member name, city and state will appear on this receipt. Family members will receive discounted rates for workshop.

Exhibit F

COLTS NECK TOWNSHIP

124 CEDAR DRIVE

SAUTER0002

COLTS NECK, NJ 07722

TEL (732)462-5470 EXT 2 FAX (732)431-3173

REQUISITION

NO.

RS-00801

SHIP
TOV
E
N
D
O
R

VENDOR #: IAC

IACP CONFERENCE REGISTRATION
44 CANAL CENTER PLAZA
SUITE 200
ALEXANDRIA, VA 22314

ORDER DATE: 06/03/15

DELIVERY DATE:

STATE CONTRACT:

F.O.B. TERMS:

QTY/UNIT	DESCRIPTION	ACCOUNT NO.	UNIT PRICE	TOTAL COST
1.00	ADVANCE REGISTRATION FOR IACP CONFERENCE IN CHICAGO 10/24 THRU 10/27.	5-01- -017-281	350.0000	350.00
			TOTAL	350.00

9/8/15
REQUESTING DEPARTMENT6/4
DATE

SAUTER0002

Exhibit G

Kevin Sauter

From: Kevin Sauter [ksauter@coltsneckpolice.com]
Sent: Wednesday, September 09, 2015 13:24
To: Antus
Subject: Training PO

Tom,

When you get a chance can you please check on my training PO that is still on Kelly's desk, she was told to hold it from processing.

Requisition # R5-00801 was done back in June.

It only came to my attend last month, that the IACP had not received my registration yet.

Deadline for the early registration (\$350.00) is Postmarked by today 9/9/15, after today it goes up to \$425.00

Thanks-
Kevin

Kevin A. Sauter
Chief of Police
Colts Neck Township

2014-2015 Past President, New Jersey State Association of Chiefs of Police
2002 Past President, Monmouth County Police Chiefs Association
170th Session, FBI/NA
Main: 732-780-7323
Fax: 732-462-0240

CONFIDENTIALITY NOTICE: This electronic message contains information from the Colts Neck Township Police Department. This e-mail and any files attached may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please forward same to sender and destroy the original transmission and its attachments without reading or saving in any manner.

Kevin Sauter

From: Thomas Antus [tantus.coltsneck@gmail.com]
Sent: Wednesday, September 09, 2015 14:01
To: Kevin Sauter
Subject: Re: Training PO

will see if I can get an answer

On Wed, Sep 9, 2015 at 1:23 PM, Kevin Sauter <ksauter@coltsneckindia.com> wrote:

Tom.

When you get a chance can you please check on my training PO that is still on Kelly's desk, she was told to hold it from processing.

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Thanks-

Kevin

Exhibit H

COLTS NECK TOWNSHIP SAUTER0007

124 CEDAR DRIVE

COLTS NECK, NJ 07722

TEL (732)462-5470 EXT 2 FAX (732)431-3173

S H E T T O V E N D O R	COLTS NECK POLICE DEPT 124 CEDAR DRIVE COLTS NECK, NJ 07722
	VENDOR # IAC IACP CONFERENCE REGISTRATION 44 CANAL CENTER PLAZA SUITE 200 ALEXANDRIA, VA 22314 Phone: (703)836-6767 Fax: (703)836-4543

PURCHASE ORDER	
THIS NUMBER MUST APPEAR ON ALL INVOICES, PACKING LISTS, CORRESPONDENCE, ETC.	
NO.	15-01075

ORDER DATE: 06/05/15
REQUISITION NO: R5-00801
DELIVERY DATE:
STATE CONTRACT:
ACCOUNT NUM:

PAYMENT RECORD	
CHECK NO.	
DATE PAID	

NOTICE: TAX ID #21-6000057 - TAX EXEMPT

QTY/UNIT	DESCRIPTION	ACCOUNT NO.	UNIT PRICE	TOTAL COST
1.00	ADVANCE REGISTRATION FOR IACP CONFERENCE IN CHICAGO 10/24/15 THRU 10/27/15 ATTENDEE: CHIEF KEVIN SAUTER MEMBER # 1546208	5-01- -017-281	350.0000	350.00
			TOTAL	350.00

Approved by:

James Schatzle
Michael Fitzgerald
Tarrett Engel
9/9/15
Paul Kamm,
Municipal Clerk

CLAIMANT'S CERTIFICATION & DECLARATION	OFFICER'S CERTIFICATION	APPROVAL TO PURCHASE
I do solemnly declare and certify under penalties of the law that the within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any person or persons within the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one. X VENDOR SIGN HERE OFFICIAL POSITION DATE TAX ID NO. OR SOCIAL SECURITY NO.	I, having knowledge of the facts, certify that the materials and supplies have been received or the services rendered; said certification being based on signed delivery slips or other reasonable procedures. <i>7/1</i> <i>9/9</i> DEPT. HEAD DATE VENDOR MUST SIGN CERTIFICATION STATEMENT ON THIS VOUCHER. MAIL VOUCHER & ITEMIZED BILLS TO: COLTS NECK TOWNSHIP 124 CEDAR DRIVE COLTS NECK, NJ 07722	DO NOT ACCEPT THIS ORDER UNLESS IT IS SIGNED BELOW. CLERK BUSINESS ADMINISTRATION FINANCE CHAIRPERSON

SAUTER0007

Exhibit I

SAUTER0006

Kevin Sauter

From: Thomas Antus (tantus.coltsneck@gmail.com)
Sent: Thursday, September 10, 2015 09:49
To: Kevin Sauter
Subject: Training approved

On its way over to you to sign.

SAUTER0006

Exhibit J

RESOLUTION 2016-108

**AUTHORIZING THE ACCEPTANCE OF OPINION OF HEARING OFFICER IN
THE MATTER OF COLTS NECK TOWNSHIP COMMITTEE V. CHIEF KEVIN
SAUTER, A DISCIPLINARY MATTER, DECIDED AUGUST 15, 2016**

WHEREAS, the Colts Neck Township Committee has instituted disciplinary charges against Chief of Police Kevin Sauter; and

WHEREAS, Chief Sauter pleaded not guilty to the charges and requested a hearing regarding those charges; and

WHEREAS, the Township Committee designated retired Superior Court Judge Robert W. O'Hagan to act as hearing officer in this matter; and

WHEREAS, a hearing in the case was held on April 28, 2016; and

WHEREAS, Judge O'Hagan has issued written decision finding Chief Sauter guilty as charged and also recommending that the Township's penalty is appropriate;

NOW, THEREFORE BE IT RESOLVED this 24TH day of August, 2016, that the Colts Neck Township Committee hereby accepts Judge Robert O'Hagan's recommended decision and issues it as a final decision; and

BE IT FURTHER RESOLVED that Chief Sauter is hereby suspended without pay for five days, effective on dates to be determined by the Township Personnel Committee.

I, Beth Kara, do hereby certify the foregoing to be a true and accurate copy of a Resolution passed by the Township Committee of the Township of Colts Neck during a special meeting held on the 24th day of August 2016.


Beth Kara, Municipal Clerk

RECORD OF VOTE					
Committeeman	M S	Yes	No	NV	Ab
Mayor Orgo		X			
Deputy Mayor Fitzgerald		X			
Macnow	M	X			
Bartolomeo				X	
Eastman	S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent					

Exhibit K

PLOSIA COHEN LLC
Chester Woods Complex
385 Route 24, Suite 3G
Chester, New Jersey 07930
(908) 888-2547
Attorneys for Township of Colts Neck

IN THE MATTER OF
TOWNSHIP OF COLTS NECK,

and

CHIEF KEVIN SAUTER

LOCAL DISCIPLINARY HEARING

BEFORE THE HONORABLE
ROBERT O'HAGEN

**CERTIFICATION OF
RUSSELL MACNOW**

I, Russell Macnow, do hereby certify as follows:

1. I am an elected member of the Colts Neck Township Committee. The Committee consists of 5 elected Committeepersons. I have served as a Township Committeeperson at all times relevant to this matter.
2. The Township Committee is the "appropriate authority" for the Township of Colts Neck.
3. Prior to November of 2014 the Committee had significant concerns with the breadth and cost of the Colts Neck Chief of Police's travel to and attendance at conferences and seminars. A meeting was held between the Committee and the Chief, Kevin Sauter, in 2014, at which this topic (among others) was addressed with the Chief.
4. As a result of that meeting the Chief was given a November 14, 2014 letter with the subject of "Conferences and/or Training Events". See Exhibit A attached. The letter was

signed by me; as of that date, I was the Mayor of Colts Neck. That letter stated in pertinent part that “[t]he Police Chief shall not attend any conferences or training events which require the expenditure of public funds without the express written consent of the Township Committee”. It was made clear to the Chief at the aforementioned meeting that the Committee deemed “public funds to be expended” (in the guise of the Chief’s salary) if Chief Sauter attended such events while being paid by the Township and without utilizing his accrued time (as in vacation or personal time) to attend such conferences or training events. The 11/14 directive makes it clear beyond cavil that the Chief was not to attend any conferences or training events which necessitated the expenditure of public funds without the prior written consent of the Township Committee (as appropriate authority).

5. Chief Sauter attended an overnight conference in Chicago in October of 2015. None of the 5 Township Committee members had any prior knowledge of the Chief’s attendance at this conference. The Committee did not learn until after the conference that the Township’s then interim Administrator, Thomas Antus, had been advised by the Chief in May of 2015 of the Chief’s planned attendance at the conference in October. The Committee later learned that it had approved payments for the cost of the Chief’s attendance at the Chicago conference, but none of the Committee members associated the approved expenditures with the Chief’s attendance at a conference in Chicago.

6. In mid-November of 2015, I learned that an on-duty Colts Neck police officer, using a Colts Neck Police Department vehicle, had driven from Colts Neck to Newark Airport and back in October of 2015 to shuttle the Chief, his wife, and a Chief of Police from a neighboring town from the airport to Monmouth County. This was the first time any Committee

members had notice that the Chief had in fact attended an out-of-state conference in October of 2015. The Chief had not complied with the 11/14/14 directive requiring him to obtain written consent of the Committee to take such a trip, nor had the Chief provided a “detailed, written report” about the conference to the Committee within 5 days of his return from the conference.

7. As a Township Committeeperson I was concerned that an on-duty Colts Neck police officer, driving a Police Department vehicle, had, per the Chief’s direction, provided shuttle service for the Chief, his wife, and a Chief of a neighboring town wife from Newark Airport back to Monmouth County. I spoke to then Mayor James Schatzle about the issue. He sent a text message to Chief Sauter asking him if the information about the shuttle service by the on-duty Township police officer was true, and the Chief replied to then Mayor Schatzle that the information was in fact accurate.

8. The Mayor then directed the Township’s labor counsel, James L. Plosia Jr., to write a letter to Monmouth County Prosecutor Christopher Gramiccioni (after Mayor Schatzle and I had consulted with Mr. Plosia about the issue). Exhibit D attached to the Sauter Motion. The letter briefly stated the facts as the Mayor knew them to be, and asked the County to investigate the episode. Note that the letter stated that the Chief “utilized his accrued time” to attend the Chicago conference in October of 2015. Because the Township had not fully investigated the incident at the time Mr. Plosia wrote to the County, the Township at of 11/24/15 believed that, consonant with the 11/14/14 Directive, the Chief had in fact used accrued time to attend the conference so that he was not “expending public funds” by being paid his salary for attending an out-of-State conference for which had not received the Committee’s approval.

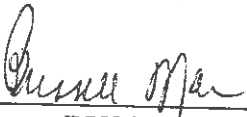
9. On December 3, 2015, Prosecutor Gramiccioni wrote back to Mr. Plosia, stating that the allegations presented to the County did not constitute “criminal allegations”, and directing the Township Committee to take what administrative action was deemed appropriate. Once then Mayor Schatzle received a copy of this letter, he began to investigate further into the incident. Working with Township Administrator Kathleen Capristo, the Mayor discovered the May 2015 memo from the Chief to then Interim Administrator Antus (which memo was neither copied upon the Committee or provided to it prior to the Chief’s attendance at the conference. The Township also ascertained (by reviewing the Chief’s weekly timesheet for the week in question (which the Committee had mandated the Chief to create) that the Chief had not expended his own time to attend the conference, but, rather, had designated his attendance at the conference as “work time”. This information was not learned by the Township Committee (or any of the 5 members thereof) until after the Township had received the 12/3/15 letter from Prosecutor Gramiccioni and investigated the matter in much great depth.

10. Once this investigation was completed, the Township determined that the Chief should be charged and suspended for 5 days without pay for his actions. The bases for the charges, as outlined in the January 14, 2016 letter from Township Mayor Orzo to the Chief, were three-fold:

a. Failure of the Chief to comply with the 11/14/14 Directive, to wit: failure of the Chief to obtain written approval from the Township Committee for his 10/15 attendance at the Chicago convention and failure of the Chief to submit a written report to the Committee re the conference.

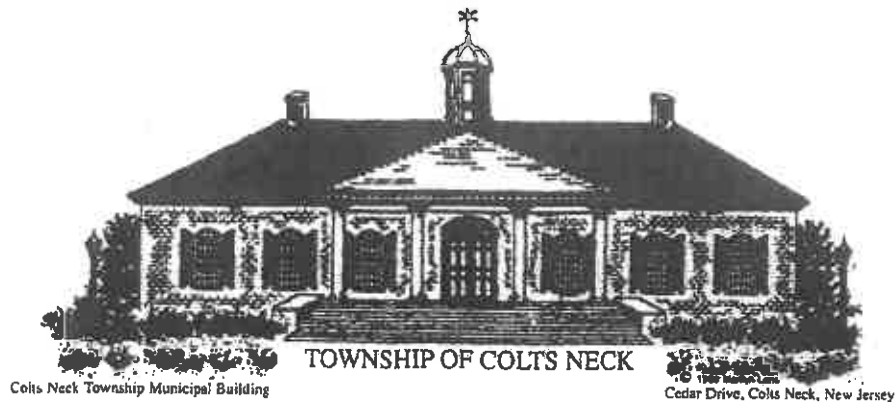
- b. Failure of the Chief to utilize his own accrued time for attending the conference.
- c. The Chief's use of an on-duty police officer in a Police Department vehicle to drive himself, his wife, and the Chief of a neighboring town from Newark Airport to Monmouth County upon their return from the Chicago conference.

I hereby certify that the foregoing statements are true to the best of my knowledge. I understand that if any of the foregoing statements are willfully false, I am subject to punishment.



RUSSELL MACNOW

Dated: 4-19-16



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Colts Neck, New Jersey 07722
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November 14, 2014

Mr. Kevin Sauter
Chief of Police
Township of Colts Neck
124 Cedar Drive
Colts Neck, NJ 07722

SUBJECT: Police Chief's Directive No. 2014-6
Conferences and/or Training Events

Dear Chief Sauter:

The Police Chief shall not attend any conferences or training events which require the expenditure of public funds without the express written consent of the Township Committee. At least thirty (30) days before the conference or event, the Police Chief shall provide the Township Committee with a detailed, written report setting forth:

1. The nature of the event;
2. The cost of the event;
3. The duration of the event;
4. The location of the event;
5. The means of travel to be utilized;
6. How the event will benefit the Colts Neck Police Department;
7. How the event will benefit the residents of Colts Neck; and
8. Whether a subordinate officer could attend and, if not, why.

Within five (5) business days of returning from the event, the Police Chief shall provide the Township Committee with a detailed, written report setting forth:

1. The educational sessions attended;
2. The duration of each session attended;
3. What was learned in each session;
4. How the lessons learned will benefit the Colts Neck Police Department;
5. How the lessons learned will benefit the residents of Colts Neck;

6. How the lessons learned will be communicated to subordinate officers;
7. Whether the purchase of new equipment is recommended and, if so, the nature of the equipment, its cost and the reason for the recommendation; and
8. Provide copies of any literature provided in conjunction with the training sessions.

This directive is effective immediately.

Very truly yours,



Russell Macnow, Mayor
On Behalf of the Township Committee
Township of Colts Neck

Exhibit L

-----X
TOWNSHIP OF COLTS NECK,

Claimant,

vs.

KEVIN SAUTER, CHIEF OF POLICE,

COLTS NECK POLICE DEPARTMENT,

Respondents.
-----X

124 Cedar Road

Colts Neck, New Jersey

Thursday, April 28, 2016

10:06 A.M.

BEFORE:

ROBERT O'HAGEN, HEARING OFFICER

MARIANNE D'AMICO CANDILLOS, CCR, CRR, CLM

D'AMICO CERTIFIED REPORTING, LLC

P.O. Box 360

Berkeley Heights, New Jersey 07922

908.546.7650 • 908.546.7651 (Fax)

damico.reporting@verizon.net

 ORIGINAL

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2

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4 Attorneys for Chief Kevin Sauter
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6 Clifton, New Jersey 07013
7 BY: CHARLES J. SCIARRA, ESQ.
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10 LAW OFFICES OF PLOSIA & COHEN
11 Attorneys For Township of Colts Neck
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1	INDEX		
2	WITNESS	EXAMINATION BY	PAGE:LINE
3	K. Capristo	Mr. Flosia - Direct	41:20
4		Mr. Sciarra - Cross	79:16
5	K. Sauter	Mr. Sciarra - Direct	120:11
6		Mr. Flosia - Cross	190:06
7			
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10	----- INFORMATION REQUESTS -----		
11	DIRECTIONS NOT TO ANSWER		(NONE)
12	REQUESTS FOR INFORMATION		(NONE)
13	MOTIONS		(NONE)
14	RULINGS		8:07
15			(NONE)
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TOWNSHIP EXHIBITS			
	Number	Description	Page:Line
1			
2			
3	16	Colts Neck Township	
4		Employee Handbook	
5	1	Three-page letter	48:15
6	13	Weekly Time Sheets	67:23
7	15	Memorandum to Ms. Capristo	68:13
8		From Chief Sauter	
9	2	Township of Colts Neck	70:20
10		Ordinance 2014-11	
11	3	Township of Colts Neck Code Book	71:19
12	4	Directive 2014-4 dated August 19,	72:06
13		To Chief Sauter signed by then	
14		Mayor Russell Macnow	
15	5	Letter dated September 8, 2014,	72:13
16		From Township Administrator to	
17		Chief Sauter	
18	6	Memorandum to Mayor Macnow from	73:02
19		Chief Sauter, dated September	
20		10, 2014	
21	7	November 14, 2014, memorandum to	73:17
22		Chief Sauter from Mayor Russell	
23		Macnow, regarding Directive 2014-6	
24			74:06
25			

1	TOWNSHIP EXHIBITS		PAGE:LINE
2	Number	DESCRIPTION	
3	8	Memorandum dated February 12, 2015, To Township Administrator Robert Bowden from Chief Sauter	75:10
4			
5		Memorandum dated February 13, 2015, From Township Administrator Robert Bowden to Chief Sauter	75:21
6	9		
7		Letter from Chief Sauter to Mayor Schatzle, dated February 16, 2015	76:07
8			
9	10	Letter to Chief Sauter from Mayor Jim Schatzle, dated March 11, 2015	76:21
10			
11		Memorandum to Interim Township Administrator, Tom Antus, dated May 28, 2015, from Chief Sauter	77:15
12	11		
13		Letter to Chief Sauter from Mayor Macnow dated June 2, 2014	78:17
14	12		
15		Document	166:22
16			
17	17	Time Records	220:07
18			
19	14	TOWNSHIP EXHIBITS RECEIVED IN EVIDENCE	141:04
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25			

1	CHIEF SAUTER EXHIBITS		
2	NUMBER	DESCRIPTION	PAGE:LINE
3	1	Purchase Order, Bates 00007	85:02
4	2	Document Bates 0001	87:14
5	3	Document Bates stamped 0002	
6		And 0003	87:16
7	4	Document Bates Stamped 0006	
8	5	Email, Bates stamped 005	120:23
9	6	Document Bates stamped 00012	
10		And 00013	167:01
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PROCEEDINGS, 10:06 A.M.

HEARING OFFICER O'HAGEN: This case is in the matter of The Township of Colts Neck versus Chief Sauter. My name is Robert O'Hagen, I am the hearing officer appointed by the township of Colts Neck. I'd ask that counsel now enter their appearances.

MR PLOSIA: James L. Plosia from Plosia & Cohen on behalf of the Township of Colts Neck.

HEARING OFFICER O'HAGEN: Thank you.

MR. SCIARRA: Charles Sciarra, S-C-I-A-R-R-A, on behalf of Chief Sauter, who is present with me here today.

HEARING OFFICER O'HAGEN: There's a threshold issue I have to resolve first, when and if we get to proceed with witnesses, they will be sworn. If they wish to affirm, they may do that; I'll ask them that question, and then this will proceed on the basis of a question and answer and so forth. If there are objections made, I'll rule upon the objections.

First, Mr. Sciarra, you have an application as it concerns a recusal motion.

1 MR. SCIARRA: I do.

2 MOTION HEARING OFFICER O'HAGEN: Let's hear
3 from you.

4 MR. SCIARRA: Well, Mr. Hearing
5 Officer, as you are aware, we had a telephone
6 conference I believe it was some time in February
7 when we discussed several issues. And then the
8 threshold that you're raising --

9 HEARING OFFICER O'HAGEN: Wait a
10 minute, that you raised; that I'm addressing.

11 MR. SCIARRA: That I raised.

12 HEARING OFFICER O'HAGEN: Right.

13 MR. SCIARRA: However is whether or
14 not it would be appropriate for you to act as the
15 hearing officer in this case. Now I fully briefed
16 the matter --

17 HEARING OFFICER O'HAGEN: I read all
18 the cases.

19 MR. SCIARRA: -- and I know that
20 Mr. Plosia responded, but I want to take the
21 opportunity to put it on the record as we are here
22 today because I think creating a record in this
23 matter is important.

24 And you indicated that we would
25 convene today and then an initial decision would be

1 made.

2 I think it's important, especially
3 since we have an open public hearing, I know there's
4 a record being created and this matter may end here
5 today or after the issuance of a final decision by
6 The Township or we move forward and we'll have a
7 record. But I'll expound a little bit on the
8 application that I made.

9 I represent -- the vast majority of
10 the my practice is the representation of police
11 officers. In this particular case, I'm representing
12 a chief of police. I spoke to him recently about his
13 salary, what the sergeant makes, so I'm comfortable
14 representing him here today in terms of as a matter
15 of policy representing the chief in his disciplinary
16 defense with regard to this matter. And there's a
17 trend that's developed where under the statute, which
18 gives full authority to the labor counsel or The
19 Township to make a unilateral selection of a hearing
20 officer, and unilaterally pay that hearing officer,
21 there's a trend to employ the services of retired
22 Superior Court judges.

23 HEARING OFFICER O'HAGEN: Can I
24 interrupt you for a minute?

25 MR. SCIARRA: Sure.

1 HEARING OFFICER O'HAGEN: Should I be
2 interested in the trend or should I be interested in
3 the law that pertains to this?

4 MR. SCIARRA: I think creating the
5 record now is important and I would ask you to just
6 to bear with me.

7 HEARING OFFICER O'HAGEN: Go ahead,
8 but I mean, the trend may not be as important to me
9 as the guidelines, which I read, the case law and the
10 statutes.

11 MR. SCIARRA: Well, and this is why I
12 think -- this is why I think the trend is important
13 as well.

14 We're in a non-Civil Service
15 jurisdiction, and so any decision that is made here
16 today that is adopted by The Township that makes any
17 finding of responsibility against my client for any
18 of these charges is not appealed de novo to the Civil
19 Service Commission; instead, it is appealed under the
20 statute on the record with permissibly permitted to
21 augment the record in Superior Court.

22 Now, in that instance, I'm going to be
23 going before a Superior Court judge, a sitting
24 Superior Court judge, and the record below of which I
25 had no opportunity to make a selection of, or engage

1 in paying, as I might in an arbitration setting where
2 we go to PERC and Mr. Plosia and I would agree on an
3 arbitrator and share the cost, the record below
4 before that Superior Court judge is going to be that
5 of a retired Superior Court judge.

6 Now, I say this in the highest level
7 of respect, I have absolutely no -- I'm not making
8 any assertion whatsoever that there is a conflict by
9 way of Your Honor's knowledge of the parties or any
10 other thing that would raise a quote-quote ethical
11 specter.

12 The reason I'm raising the issue is
13 because that Court, the Superior Court judge is
14 required to look at it on the record below including
15 all evidentiary decisions made, anything else that
16 may occur, and they're going to be looking at a
17 retired brethren, who they once certainly in Monmouth
18 County shared the bench with and they proceeded to
19 have a relationship with.

20 I believe that that, based upon the
21 case law, the rules, which --

22 HEARING OFFICER O'HAGEN: Excuse me,
23 which case are you referring to now?

24 MR. SCIARRA: I briefed it.

25 HEARING OFFICER O'HAGEN: I know, I

1 read them, but I didn't seem a case that seemed to
2 address this.

3 MR. SCIARRA: There is no -- let me be
4 clear: There is no case directly on point on this
5 issue.

6 HEARING OFFICER O'HAGEN: Oh,

7 MR. SCIARRA: My concern is that there
8 are rules, for instance, I believe the rule says that
9 the retired court should not -- the retired court
10 judge should not act as an expert in a matter. You
11 are essentially, having been brought in here as an
12 expert to use your experience being on the bench,
13 making credibility determinations, making evidentiary
14 decisions and you're being employed unilaterally by
15 The Township with regard too that and then I then
16 have the burden of persuading another Superior Court
17 judge, albeit one that is sitting, that the decision
18 made was an error.

19 Now, that burden I believe is higher
20 in all practical senses as it relates to the fact
21 that it's not The Township administrator or another
22 chief of police brought in from another town, but
23 instead someone held, as the Court's say, in the
24 highest esteem with regard to the issue of being a
25 retired superior court judge.

1 And so --

2 HEARING OFFICER O'HAGEN: That's your
3 feeling, that someone would have that thought
4 process?

5 MR. SCIARRA: Yes, it's the feeling I
6 have and it's also -- it not just a feeling, it's a
7 concern I have, that going in front of a sitting
8 Superior Court judge in Monmouth County with a record
9 that you've created puts me at a disadvantage in
10 terms of the review that that would get; as opposed
11 to another chief of police, a hired hearing officer
12 who's a lawyer, that kind of thing.

13 That is the concern I have. I am
14 creating a record now. I have created this exact
15 record in other matters because this trend by labor
16 to -- by management to employ retired Superior Court
17 judges, I think retired Superior Court judges should
18 be mediators in disputes, Discovery Masters where
19 they're assigned by the assignment judge, I have no
20 problem with any of those issues. The problem I have
21 is when we're sitting here in the capacity of you
22 making credibility determinations, evidentiary
23 decisions, which then go before a sitting Superior
24 Court judge and they say, oh, well, sure, Judge
25 O'Hagen was on this and it gets less review just as a

1 matter of instinct and human nature than it would if
2 something else played out.

3 So, again, with no respect in any way,
4 shape or form or no --

5 HEARING OFFICER O'HAGEN: There's none
6 taken.

7 MR. SCIARRA: -- aspersions cast --
8 good -- and no aspersions cast whatsoever with regard
9 to your skills, abilities, and your adherence to the
10 ethics rules, I am creating a record and asking that
11 based upon the judicial candidates, the case we have
12 presented and the arguments we've made and I I've
13 briefed and I don't want to submit all of the other
14 briefs; I can just read my brief, you have all of
15 that, and I'm asking you to recuse yourself under
16 those tenets.

17 HEARING OFFICER O'HAGEN: In one way
18 or another, don't the guidelines seem to relate the
19 to circumstances where a retired judge, whether
20 directly or indirectly, is in the role of an
21 advocate, there's some advocacy involved, and the
22 rule, they don't do that. Isn't that the main thrust
23 of those rules?

24 MR. SCIARRA: Sure.

25 But I think as part of it, there's the

1 expertise aspect of it as well, but the problem is
2 that you are paid, you are chosen and paid for
3 unilaterally by them. I have absolutely no -- if I
4 go to Superior Court or I go to any other court, I go
5 to Federal Court or anywhere else, the wheel turns
6 and that's the judge we get or the docket get marked
7 and that number goes to X, Judge Y, Judge Z, whatever
8 it may be.

9 Here there has been a purposeful
10 search --

11 HEARING OFFICER O'HAGEN: But excuse
12 me --

13 MR. SCIARRA: Search and retention of
14 your services.

15 HEARING OFFICER O'HAGEN: -- aren't
16 you speaking of the statute? Your argument is with
17 the statute, I gather the appointment was in accord
18 with the statute or at least in accord with
19 practices, according to --

20 MR. SCIARRA: The statute says they
21 can -- they can hear it themselves, I could've sat
22 before five or seven council members, however many
23 there are in town, or their appointed designee who
24 then makes a quote-unquote recommended decision.

25 HEARING OFFICER O'HAGEN: So then your

1 argument, at least in part, is to the effect that the
2 statute should be changed.

3 MR. SCIARRA: No. My argument is that
4 the statute does not speak to every issue, to every
5 contingency, to every potential issue and that it is
6 not the statute that needs to be changed, it's not
7 the statute that needs to be addressed; it is the
8 presence and the hiring of a retired Superior Court
9 judge, as I've just described it; that is, that
10 offends the statute and not the other way around.

11 HEARING OFFICER O'HAGEN: Are there
12 circumstances of which you are aware where a Court
13 might appoint an expert to be The Court's expert in a
14 family court matter; for instance, psychologist,
15 psychiatrist or whatever the case may be?

16 MR. SCIARRA: Absolutely, I'm familiar
17 with family court related matters; I don't practice
18 generally in that area, but they do best interest for
19 the children.

20 HEARING OFFICER O'HAGEN: And don't
21 they do it in terms of accounting, a forensic
22 accountant, and so forth?

23 MR. SCIARRA: Sure, a selection is
24 made by a Superior Court judge, a sitting Superior
25 Court judge.

1 HEARING OFFICER O'HAGEN: I
2 understand, but then that judge has to rule on those;
3 they just don't accept them.

4 MR. SCIARRA: I concur, but the judge
5 made that selection; neither party got to pick that
6 judge; that judge was selected as a result of --

7 HEARING OFFICER O'HAGEN: That would
8 be self-evident given the question I just put to you,
9 that The Court selects someone.

10 MR. SCIARRA: Correct.

11 HEARING OFFICER O'HAGEN: Excuse me.

12 That would be self-evident, wouldn't
13 it, and then there's nothing that says the judge has
14 to follow the direction of the expert?

15 MR. SCIARRA: That's correct.

16 HEARING OFFICER O'HAGEN: Often they
17 disregard it.

18 MR. SCIARRA: That's correct.

19 HEARING OFFICER O'HAGEN: Excuse me,
20 excuse me.

21 MR. SCIARRA: I'm sorry, go ahead.

22 HEARING OFFICER O'HAGEN: Often they
23 disregard it, that would be so, wouldn't it?

24 MR. SCIARRA: I'm seen family court
25 judges take or not take the advice of a best interest

1 analysis from a psychiatrist, from a psychiatric
2 professional, absolutely.

3 HEARING OFFICER O'HAGEN: And there
4 are times when The Courts, Supreme Court and trial
5 court and so forth will appoint a Master to make
6 findings of fact and conclusions and then a
7 recommendation.

8 MR. SCIARRA: Absolutely.

9 HEARING OFFICER O'HAGEN: And then
10 they accept it or they don't.

11 MR. SCIARRA: Correct.

12 HEARING OFFICER O'HAGEN: O.K.

13 But you say in this particular
14 instance, you don't have enough confidence in a
15 Superior Court judge to decide this the way the
16 statute and the rules require de novo on the record.

17 MR. SCIARRA: To be clear, in this
18 instance, my confidence is with -- my lack of
19 confidence is with the fact that management, not just
20 in this case, but all across the board, and I'm
21 contesting this hoping to get it published decision
22 at some point, is unilaterally selecting and paying
23 for the services of a retired Superior Court judge.

24 HEARING OFFICER O'HAGEN: So your
25 argument is with following the statute and your

1 argument, I gather, is to the effect that in your
2 view, a sitting judge, you don't have much confidence
3 in their following the requirements, deciding this
4 case anew, afresh, The Court decisions, say, de novo
5 on the record.

6 MR. SCIARRA: I believe that there is
7 a legitimate concern that if a record comes up, if
8 the identical record comes up, one from a retired
9 Superior Court judge and another from a non-Superior
10 Court judge, the scrutiny will be different. And I
11 think that's human nature. I think that's clear and
12 obvious. That's why we have some of the candidates.
13 This is not directly spoken to; this is a new
14 phenomenon that management has engaged in.

15 HEARING OFFICER O'HAGEN: Have you
16 said everything that you want to?

17 MR. SCIARRA: I have, that's my
18 argument on that issue.

19 HEARING OFFICER O'HAGEN: Do you wish
20 to be heard?

21 MR PLOSIA: Briefly.

22 HEARING OFFICER O'HAGEN: Just very
23 briefly.

24 MR. PLOSIA: This is not a new thing
25 as the cases in our brief points out. This has been

1 going on for some 30 years. Other than that, Your
2 Honor understands the issues and I'd like you to deny
3 this motion, let's move on and have the hearing.

4 HEARING OFFICER O'HAGEN: There are
5 many, many cases that have been brought to my
6 attention where there was a Superior Court, a retired
7 Superior Court judge who was retained to do just what
8 I've been retained to do here. And that never seemed
9 to be an issue, or at least The Court didn't address
10 it in their decision-making.

11 Now, it could be that no one thought
12 of it before Mr. Sciarra in this instance, but it is
13 fair and accurate to say that the guidelines do not
14 specifically address this issue. In fact, they speak
15 mostly of a retired judge should not be somewhat of
16 an advocate, whether directly or indirectly, in any
17 proceeding, they don't deal with this.

18 In this particular case, there's just
19 at least one step removed. If I make a decision, I
20 would make a recommendation -- I would make findings
21 of facts and a recommendation and then I would report
22 to The Township committee. Then they would decide
23 whether or not to follow my recommendation.

24 It would be that decision that would
25 generate the appeal, if there be an appeal, not mine,

1 sure, there would be reference to me in my findings
2 in the matter. It's my hope, anyway, that some
3 people might respect my judgment, but it is my belief
4 that a few judges now sitting -- by the way, I'm
5 retired since July of 2005. It's my belief that few
6 judges would say, well, gee, this guy decided it this
7 way, then therefore, I should decide it this way.

8 The rules say that it should be a
9 trial de novo on the record, which may be
10 supplemented in accordance with the rules of evidence
11 and it's kind of hard for me to think that some
12 Superior Court judge would just rubberstamp
13 something, I would find it hard to believe.

14 And, in fact, I have a lot more
15 confidence in the integrity of the judges than to
16 even suspect they would do that.

17 There's no basis in my view to do
18 anything, but to deny the application; therefore, I
19 do that.

20 Are we ready now to proceed --

21 MR. SCIARRA: We are.

22 HEARING OFFICER O'HAGEN: -- with the
23 case?

24 By the way, do either of you think it
25 appropriate to make an opening statement?

1 MR PLOSIA: I generally wouldn't in
2 this case, you're here --

3 HEARING OFFICER O'HAGEN: Yes, I read
4 everything.

5 MR PLOSIA: Right, so unless
6 counsel --

7 MR. SCIARRA: I'd like the opportunity
8 to frame the issues so that when we go forward, we
9 have at least a bare bones framing of the issues.
10 And then at the end, I don't know if you'll want to
11 confer the briefing with the transcript or if you
12 want to hear oral summation at the end. I guess that
13 would be something we can discuss then.

14 HEARING OFFICER O'HAGEN: First, let
15 me ask you this: If you were to do that, is there
16 any problem in your mind with Mr. Plosia being heard
17 at that point?

18 MR. SCIARRA: Being heard at what
19 point?

20 HEARING OFFICER O'HAGEN: After you
21 make your statement in terms of the framing of the
22 issues.

23 MR. SCIARRA: Well, I mean, it's his
24 burden, he normally goes first. If he's waiving, then
25 I would open, we have evidence and whatever he wants

1 to say at the end would be his call.

2 MR PLOSIA: I'll go first briefly. If
3 counsel is going to do it, I'll do it.

4 Obviously you've read much of this
5 already, Your Honor --

6 HEARING OFFICER O'HAGEN: Excuse me,
7 I've read it all.

8 I've read the cases, I've read the
9 guidelines, and so forth.

10 MR PLOSIA: Thank you.

11 This is a somewhat unique situation.
12 At least in my limited experience, most of the time,
13 the appropriate authority in a municipality in
14 New Jersey is either The Township Administrator or
15 the Mayor of The Town, and I think The Township
16 Administrator is more common. In Colts Neck, and we
17 have documents to show this, that's not the case.
18 The entire Township Committee, which consists of five
19 members, is the appropriate authority.

20 In 2014, there were significant
21 concerns that The Township Committee had with Chief
22 Sauter taking trips, the money spent on trips, where
23 the money was come from, the amount of money for
24 training that was allotted for the police department
25 being disproportionately used by Chief Sauter on

1 taking trips. Based upon that, there were a series
2 of meetings. I was involved; Chief Sauter had
3 representation as well. And what arose out of those
4 meetings were a series of directives. One of the
5 directives specifically concerns attendance at
6 conferences, training events and the like.

7 And The Township Committee made it
8 very clear that if public funds were to be expended
9 in Chief Sauter's attendance at these conferences,
10 there to be a prior request to attend the conference
11 and The Township Committee had to approve it.

12 What you'll see here, and I don't
13 think it's disputed, is that that didn't happen here.
14 There was the chief, and by the way, I know the chief
15 a long time. If I slip and call him Kevin, I hope
16 Kevin, you won't mind, you can call me anything you
17 want, I'm sure you will.

18 HEARING OFFICER O'HAGEN: I prefer you
19 call him Chief.

20 MR PLOSIA: I will try and do that.

21 HEARING OFFICER O'HAGEN: That is his
22 title.

23 MR. PLOSIA: But, again, I do know him
24 for some time. If I slip, my apologies.

25 There was some communication between

1 the chief and township administrator; there was
2 actually three of them involved. There was Bob
3 Bowden who is a long-time administrator. There was a
4 man Tom Antus, who was the interim administrator who
5 was retired and coming back temporarily re-called,
6 and then there's the person to my left Kathleen
7 Capristo, who's the current administrator. And
8 you'll learn there was some communication between the
9 chief and the administrators about attending a
10 conference in Chicago in October of 2015.

11 There was not any communication in
12 writing to The Township Committee, which I believe
13 counsel and the chief will concede, is supposed to
14 have happened and, in fact, has been happening since
15 this issue came up. So that's the first issue: The
16 failure to seek prior approval. And it's not an
17 academic failure to seek approval because there are
18 some money related outcomes of this.

19 The chief was paid for the five days
20 he was in Chicago and didn't use any accrued time.

21 And it was our understanding, looking
22 backwards at this, that the chief was going to use
23 vacation time to go to this conference because this
24 was not an approved conference, and that didn't
25 happen.

1 In, I believe, September, The Township
2 Committee did approve the cost of the conference
3 itself. It did not approve the cost of the hotel, it
4 did not approve the cost of airfare, and it did not
5 approve that he would be on duty for those five days,
6 and we have documents which will show, and I don't
7 think there's any dispute that the chief went to the
8 conference and was paid by The Township Committee and
9 the chief didn't have to use his accrued time.

10 The third issue, and probably the most
11 significant from the township's point of view, is
12 that when the chief returned from the trip, he was --
13 an on-duty police officer from Colts Neck drove in a
14 police vehicle to Newark Airport to pick him up and
15 to return him to Colts Neck. That was -- the chief
16 was in the car, the chief's wife and a chief from a
17 neighboring municipality. I don't think it matters,
18 we're not going to be using names, I think it's
19 irrelevant. I don't think it's in dispute, I think
20 Kevin, the chief, has already conceded that it is a
21 fact that a third person was in the car.

22 Now, if this were a trip that as a
23 matter of course was part and parcel of the chief's
24 duties as a chief and it was understood by all that
25 this was, if you will, an employer approved trip, one

1 can certainly understand that if The Township was
2 paying for the conference costs, for hotel, for
3 airfare, for expenses related thereto, that having
4 someone on-duty pick up the chief and his wife and
5 even another person and drive them back from Newark
6 Airport might actually be saving The Township money.
7 Because if this were a completely approved trip and
8 all expenses were being assumed by The Township, then
9 that might actually be cheaper than hiring a limo or
10 Uber service to drive back from the airport.

11 The distinction here, though, Judge,
12 is that this was not an approved trip, and there is
13 actually an Employee Handbook, which the chief signed
14 for, which has a very circumspect exception to the
15 general rule that police vehicles and township
16 vehicles should not be used for non-township
17 purposes. And from The Township point of view, this
18 is clearly not a township purpose.

19 So you can see this room is filled
20 with folks here. The chief is a well-known and very
21 popular individual in the county. And if you were to
22 go around and talk to these folks, most of these
23 folks would say, what's the big deal, we go on trips
24 all the time, everything is paid for. We have a
25 common practice of actually having an on-duty officer

1 drive us to try and save us our employer money.

2 The difference here is that since
3 2014, The Township Committee has made it very clear
4 that they are not just approving any trip and paying
5 all expenses for any trip that the chief is going to
6 take.

7 Now, one would argue about the merits
8 of that. One could say, you know what, The Township
9 Committee is being unduly cheap about this or they
10 really shouldn't be exercising that kind of oversight
11 over what the chief does.

12 The flip side would be, and The
13 Township Committee would say, well, that's our job,
14 this is not our money, this is public tax dollars,
15 and in our judgment, we needed to exercise more
16 control over what the chief is doing, where he was
17 going and how much money was being spent.

18 The Township submits, Your Honor, that
19 that is not an issue for you to resolve. The
20 relative propriety, morality or merits of The
21 Township Committee's decision in 2014 is not before
22 you today.

23 What is before you, and it's going to
24 be undisputed, is that The Township Committee has had
25 significant concerns with the amount of money being

1 spent by the trips that the chief was taking. They
2 put some steps in place, they put some directives in
3 place to exercise control over that.

4 Those directives were not followed.

5 And, again, we have three issues: One
6 is the failure to seek prior approval. The second is
7 the use of -- the non-use of vacation time when he
8 was on the trip. And third, and again most
9 significantly from our point of view, having an
10 on-duty police officer in a police vehicle in a very
11 small town, by the way, this is not the City of
12 Newark, this is not even Neptune where we've got six,
13 seven, eight police officers on patrol; this is a
14 very small place, we don't have that many people on
15 duty. You take one car away, you're going from 100
16 percent of road coverage to 50 percent of road
17 coverage.

18 HEARING OFFICER O'HAGEN: So there's
19 two cars, there's two squad cars?

20 MR PLOSIA: I wouldn't say that; I
21 believe that's the case but...

22 MR. SCIARRA: That's the math you did.

23 MR PLOSIA: It is the math I did, thank
24 you for pointing that out, counsel, I was remedial at
25 math.

1 MR. SCIARRA: It's the math you did.
2 50 percent -- 100 percent divided by 2 is 50 percent.
3 We know there's more than that.

4 MR PLOSIA: And to have that happen
5 when this is in effect a trip that is not approved
6 for the expenditures of any public funds with the
7 exception of the actual cost of the registration for
8 the seminar, for the conference, that is clearly
9 violative of the directives that The Township
10 Committee had set out in 2014 and we would ask that
11 Your Honor so rule.

12 Thank you.

13 HEARING OFFICER O'HAGEN: O.K.

14 MR. SCIARRA: Sir --

15 HEARING OFFICER O'HAGEN: You don't
16 have to stand unless you want to.

17 MR. SCIARRA: It's just habit.

18 HEARING OFFICER O'HAGEN: O.K.

19 MR. SCIARRA: Quite frankly, this case
20 is bizarre. Mr. Plosia has the document we submitted
21 dated September 9, 2015. It is signed by the
22 municipal clerk.

23 HEARING OFFICER O'HAGEN: Who is the
24 municipal clerk? I saw that, I couldn't figure out
25 who all those people were. I know Antus I gather was

1 the acting administrator.

2 Who are the other people?

3 MR. SCIARRA: Ms. Kara, Beth, Kara
4 municipal clerk.

5 So let's be clear because reputations
6 are being toyed with here. You are correct, The Town
7 Council can expend or not expend money as it deems
8 appropriate. There is no argument that is their
9 function.

10 Here in Colts Neck, it appears they
11 don't expend a lot, be that as it may, that is their
12 prerogative. They submit to the chief an instruction
13 that the chief follow eight guidelines, eight
14 guidelines prior to taking a training related
15 session.

16 Chief submits in May and June, late
17 May and then another submission in early June, a
18 Township Purchase Order for advanced registration for
19 the IACP conference, International Association of
20 Chiefs of Police in Chicago, October 24, '15 through
21 October 27, '15. That was submitted and I have it
22 here if you want to --

23 HEARING OFFICER O'HAGEN: No, I have
24 it.

25 MR. SCIARRA: That was submitted in

1 May.

2 The chief also laid out the eight
3 criteria upon which he was basing this trip. The
4 eight things that were requested to be demonstrated
5 by the chief in a submission he made in May.

6 In September, summer comes and goes,
7 in September, the chief gets an email, are you coming
8 to this conference? The chief calls the interim
9 administrator, emails back and on September 9th, the
10 interim administrator says, trip approved. Training
11 approved, O.K.

12 The town then puts the \$350 in to
13 action and paid the bill.

14 You have before you in previous
15 paperwork the Certification of a Russell Macnow, who
16 apparently is a council member. I believe he
17 perjured himself. He says in Paragraph 5, "Chief
18 Sauter attended an overnight conference in Chicago in
19 October 2015. None," underlined, "None of the five
20 Township Committee members had any prior knowledge of
21 the chief's attendance at this conference."

22 Oh? Well, let's go to the document
23 signed by Ms. Municipal Clerk. She indicates three
24 committee members signed off on and approved this
25 conference: A Mr. Schatzle, a Mr. Fitzgerald and a

1 Mr. Engel on 9/9/15, that was a date of a
2 subcommittee, a law enforcement subcommittee.

3 Macnow has provided a false
4 Certification.

5 He continues: "The committee later
6 learned that it had approved payments for the costs
7 of the Chief's attendance at the Chicago conference,
8 but none of the committee members associated with the
9 approved expenditures with the chief's attendance at
10 the conference in Chicago," that was right in the
11 paperwork that they produced.

12 So Mr. Plosia said it was not
13 approved. I've got an email from the administrator
14 and I've got a purchase order from -- signed by the
15 municipal clerk with the names of three county
16 commissioners, municipal commissioners approving that
17 action, that conference.

18 O.K., so what happened? The chief
19 attends this approved conference. Now, the
20 suggestion is that something inappropriate happened
21 with regard to calling the Colts Neck patrolman or
22 Colts Neck law enforcement officer to go pick him up.
23 It's an approved conference. It's dated, it's
24 approved, he puts on his time sheets, conference,
25 that's on his time sheets. Because they don't have

1 these conferences on weekends; they have them during
2 the week. And he was approved to go, so if he's
3 there, he can't be here. And if it's approved by the
4 municipal body, then it's an activity that they have
5 given sanction to and said, yes, you can do this.

6 What are his options with regard to
7 transport? For years, Mr. Plosia don't want to use
8 names, O.K., for years, the chiefs go to these
9 conferences, maybe someone takes the ride up, a
10 patrolman rides him up or someone else drives up and
11 then they get a ride back, take one guy off the road,
12 everybody travels together and we'll do it that way.
13 What are the options, we're talking about the money,
14 what are the options? He could take the car that
15 he's assigned to, leave it in a parking lot \$32 a
16 day, I know what the cost is, \$32 a day, pay that and
17 submit that voucher, he could take a limo and submit
18 that voucher, he could leave that thing up there
19 unsecured and computers and NCI access and the rest
20 of it, and what does he do? He did what he's done
21 for years: Calls a guy, they come, they pick up him,
22 another chief and his wife took the trip with him,
23 maybe she wanted to see Chicago, they get a ride
24 back.

25 Retroactively, we falsify

1 certifications, we say that it wasn't approved, and
2 then to save face, we come here and attack the man's
3 integrity saying he's stealing time, he's stealing
4 money, he's diverting resources and keeping Colts
5 Neck unprotected.

6 Bizarre.

7 And, let's be clear, on the other part
8 of these charges, there's a -- on the second part of
9 these charges, there's an allegation, before you --
10 sign me up, believe me, if there's a lawsuit, we'll
11 pursue it, before you sign me up, there's an
12 allegation that, he said, you know, this seems
13 retaliatory, gee, why can't we seem to work this out?

14 You know what they didn't do in this
15 case? They didn't do an investigation. They kicked
16 it to the Prosecutor's Office, the Prosecutor's
17 Office kicked it back, there's no criminality here,
18 what are you talking about? They didn't sit him
19 down, they didn't bring somebody in and say, chief,
20 you got documents that says this was approved? No.
21 So one hand doesn't know what the other hand is doing
22 because Macnow could not have signed -- his name was
23 not on this list, he wasn't at that meeting, but he
24 says none of them knew, so he'll have to answer to
25 this in a different forum.

1 But the reality of the situation is
2 that we are here now besmirching his reputation,
3 spending money on Mr. Plosia, spending money on the
4 hearing office, spending money on the court reporter,
5 and on the air conditioning, so that they can save
6 face and not say, oops, we blew this one, let's
7 communicate better, let's make sure we have
8 everything squared away.

9 Their motivations for that I think are
10 retaliatory. Under Winters versus North Hudson
11 Regional, I am not bringing a retaliatory action in
12 this forum. That will wait for a big, expensive
13 Superior Court litigation if this thing is not
14 squashed today. But be that as it may, that is
15 what's going on here, that's the issue. Their case
16 does not survive cross-examination and the entry of
17 evidence on the facts as we know them today. And I
18 will ask you then, although you're paid by them, to
19 recommend the dismissal of these charges.

20 HEARING OFFICER O'HAGEN: Just so that
21 you are clear, you've mentioned that about three or
22 four times as to my pay. I will decide this case on
23 the facts in accordance with the law. I wouldn't
24 accept an assignment without any other -- with no
25 other basis and that's how I will decide this and

1 everything that I do.

2 Are you ready to call your first
3 witness?

4 MR PLOSIA: I am.

5 I would want one point of
6 clarification. Counsel mentioned the Winters case
7 and apparently he wants to have it both ways: He
8 wants to raise the specter of retaliation, which he
9 has just done thrice in his opening, and now he says
10 ignore it because I'm not raising it. I would ask
11 that Your Honor completely ignore that part of the
12 closing -- the opening because counsel is saying I'm
13 not raising the issue.

14 HEARING OFFICER O'HAGEN: I'm not
15 going to consider that. I should consider the issues
16 raised in this case, not something else, not another
17 case.

18 MR PLOSIA: Thank you.

19 MR. SCIARRA: If I may, just to be
20 clear, in the charges --

21 HEARING OFFICER O'HAGEN: I read it.

22 MR. SCIARRA: -- they say that my
23 client claims retaliation. They raised the issue of
24 retaliation, not me in this forum, they did in the
25 very charges that are here and now.

1 HEARING OFFICER O'HAGEN: Excuse me,
2 you may address that after this is resolved, isn't
3 that what they said at the end of --

4 MR. SCIARRA: They put it in the
5 charges, right in the body of the charges.

6 HEARING OFFICER O'HAGEN: But didn't
7 they say in the charges itself, wasn't the language,
8 you address these issues following resolution of this
9 issue?

10 MR. SCIARRA: I can assure you we'll
11 address the issue following the resolution of this
12 issue.

13 HEARING OFFICER O'HAGEN: Wasn't that
14 in the --

15 MR. PLOSIA: It is, in addition, they
16 are in the charges only because the specter of
17 retaliation was raised by the chief. It wasn't like
18 we thought it up; he raised it in writing before that
19 so...

20 HEARING OFFICER O'HAGEN: I think I
21 should hear evidence as it concerns the charges here,
22 and not something that may or may not occur in the
23 future, what would be the point?

24 MR. PLOSIA: We're fine with that,
25 judge.

1 HEARING OFFICER O'HAGEN: Are you
2 ready to call your first witness?

3 MR PLOSIA: We are. Do you want to just
4 do it this way or put her here?

5 HEARING OFFICER O'HAGEN: How are you
6 comfortable --

7 THE WITNESS: I'm comfortable.

8 HEARING OFFICER O'HAGEN: -- coming
9 over here --

10 THE WITNESS: Sure.

11 HEARING OFFICER O'HAGEN: -- and
12 facing that way?

13 HEARING OFFICER O'HAGEN: Sure, if
14 you'd like, sure, sure.

15 HEARING OFFICER O'HAGEN: Let me help
16 you with a chair.

17 What I would like to do is swear you
18 in as a witness. Do you wish to swear or affirm?

19 THE WITNESS: Swear, please.
20

21 KATHLEEN CAPRISTO, called as a
22 witness, having been duly sworn by a Notary
23 Public (HEARING OFFICER O'HAGEN), was
24 examined and testified as follows:
25

1 HEARING OFFICER O'HAGEN: State your
2 full name and then spell your last name.

3 THE WITNESS: Sure. Kathleen Capristo,
4 C-A-P-R-I-S-T-O.

5 MR. SCIARRA: May I be heard?
6 May I just ask for a brief voir dire
7 on the witness?

8 HEARING OFFICER O'HAGEN: We haven't
9 heard anything from her yet.

10 MR. SCIARRA: I understand. She's not
11 -- she's not -- here's the rationale for my request:
12 She's not mentioned on any of the papers or any of
13 the time frames giving rise to the allegations
14 herein. If she's being presented as a management
15 resource person or the management representative to
16 address issues that she has no personal knowledge and
17 she has documents, and so on, I think we need to
18 address that. So we're clear, I can make my
19 objections and make it abundantly clear.

20 HEARING OFFICER O'HAGEN: Well, why
21 don't you make your objections as appropriate when
22 the testimony comes?

23 MR. SCIARRA: O.K.

24 HEARING OFFICER O'HAGEN: There's no
25 basis for me to consider that.

1 MR. SCIARRA: So I'm asking -- I'm
2 requesting a voir dire, are you not permitting it?

3 HEARING OFFICER O'HAGEN: I'm not
4 permitting it --

5 MR. SCIARRA: O.K.

6 HEARING OFFICER O'HAGEN: -- because
7 there's no legal basis for it.

8 MR. SCIARRA: O.K.

9 HEARING OFFICER O'HAGEN: O.K.

10 MR. PLOSIA: Your Honor, I've handed
11 you a book, which is an exhibit book. The witness
12 has a copy; it's identical to the one you have and
13 the one I have. A copy of the book was provided to
14 counsel, I want to say I sent it on Friday, he's had
15 it for three or four days.

16 MR. SCIARRA: This one (indicating)?

17 MR PLOSIA: Yes, sir.

18 MR. SCIARRA: Got it.

19

20 DIRECT EXAMINATION

21 BY MR PLOSIA:

22 Q. Good morning, Ms. Capristo.

23 A. Good morning.

24 Q. Where are you employed?

25 A. Colts Neck Township.

1 Q. In what capacity?

2 A. Township Administrator.

3 Q. How long have you been so employed?

4 A. Since September 28th, 2015.

5 MR. SCIARRA: I object, Your Honor, to
6 any further testimony from the witness. She was not
7 a party to any of these proceedings in terms of the
8 underlying action related to the approval of this
9 trip. She has no firsthand knowledge. Anything she
10 could say about anything prior to September 28th,
11 2015 when she was hired is completely hearsay. Under
12 the residual rule, there had would have to be some
13 showing that there's admissible evidence, which she
14 could support. The entire presentation up to that
15 date by this witness, and Mr. Plosia's indicated that
16 that's his only witness, maybe he's not bound by
17 that, but that's what he told me, is entirely
18 hearsay.

19 HEARING OFFICER O'HAGEN: I have no
20 idea what her testimony will be. I couldn't possibly
21 rule upon that.

22 Go ahead.

23 MR PLOSIA: Thank you.

24 I just would like to say one thing,
25 maybe it will help, maybe it won't.

1 The purpose of a local hearing is to
2 provide the charged employee; in this case, Chief
3 Sauter, an opportunity to present his case to try and
4 convince the employer, in this case, The Township of
5 Colts Neck, that you really shouldn't do what you're
6 doing. That's the purpose of it. It's a due process
7 case. It is not a trial, it is not an arbitration,
8 there are no rules of evidence. And that's why, Your
9 Honor, when you said you wanted to come down here, I
10 actually kind of appreciated that. It is supposed to
11 be an informal hearing for you to hear both sides.

12 HEARING OFFICER O'HAGEN: Yes, but
13 burden is with The Township.

14 MR PLOSLIA: The burden is with The
15 Township, but that burden is not burdened, if you
16 will, by the rules of evidence, hearsay or the like;
17 it's a chance for both parties to have their say and
18 for you to decide.

19 And in that light, it would be a lot
20 easier if we can just go ahead without thinking this
21 is a Supreme Court which it is not.

22 HEARING OFFICER O'HAGEN: Do you share
23 the view that the rules of evidence don't necessarily
24 apply?

25 MR. SCIARRA: Absolutely not. They

1 are, quote-unquote, relaxed. Mr. Plosia just turned
2 the burden on to me in a disciplinary proceeding;
3 that doesn't happen. It's not my opportunity to
4 say --

5 HEARING OFFICER O'HAGEN: Excuse me, I
6 know he did.

7 MR. SCIARRA: O.K.

8 HEARING OFFICER O'HAGEN: But the
9 burden is on The Township.

10 MR. SCIARRA: Well, so then, let's be
11 mindful of other tenets of law that are suggested by
12 Mr. Plosia.

13 The rules of evidence are relaxed in
14 these proceedings; they are not disregarded and
15 ignored and out the window and, you know, south for
16 the winter.

17 They exist here, although they have a
18 somewhat relaxed setting; they still govern what
19 transpires as we move forward. You swore in the
20 witness.

21 MR PLOSIA: What is the basis of that,
22 counsel?

23 MR. SCIARRA: What is the basis for
24 what?

25 MR PLOSIA: That the rules of evidence

1 that apply to a local hearing under N.J.S.A.
2 48.14:147 and 150, what is your basis for saying
3 there's any rules of evidence that apply?

4 MR. SCIARRA: The case law says the
5 rules of evidence are relaxed and that hearsay is
6 permissible, but it has to be supported by the
7 residual rule. So you want to adjourn the hearing so
8 I can get 500 cases that say that, if I get 500 cases
9 that say that, you'll dismiss the case, let's do
10 that.

11 MR PLOSIA: So you're saying there are
12 cases in which there has been discussion of the rules
13 of evidence applying in a relaxed forum in a local
14 disciplinary hearing when you have a right to a de
15 novo trial on the record below in Superior Court?

16 MR. SCIARRA: That's right, "the
17 record below," which requires evidentiary decisions
18 being made: What comes in, what doesn't, who
19 testified, who doesn't, yes, that's what I'm stuck
20 with going with the Superior Court, "the record
21 below." Not -- why don't you just send a letter to a
22 judge, to a Superior Court judge. We are having a
23 hearing because he's entitled to one because he's
24 elected to have one and now it has to have some
25 framework that includes your burden, the relaxed

1 rules of evidence and the requirements that
2 something, something be presented here that survives
3 a residual rule challenge.

4 MR PLOSIA: Judge, if there is going
5 to be repeated objections based upon the rules of
6 evidence, I would certainly like to see a case in
7 which a local disciplinary decision was overturned
8 or reversed because the rules of evidence somewhat
9 relaxed were not followed. I'm not aware of a single
10 case that says that; I don't think counsel is either.

11 HEARING OFFICER O'HAGEN: First of
12 all, I don't know what the witness will say yet, so I
13 can't possibly rule upon that. But it has to be
14 reliable evidence and this is the time to do it.

15 And I think it has to be a witness who
16 knows what he or she is speaking about and has some
17 involvement in it. I don't -- I don't see how it
18 works otherwise.

19 Especially, if the Superior Court is
20 bound by the, although they may supplement it, but
21 bound by the record below. I just don't see how that
22 will work, so you're going to have to comply as far
23 as I'm concerned, to get a witness who has, and I'm
24 not saying Ms. Capristo doesn't, there may very well
25 be a lot of information that she has that should be

1 brought to my attention. It may be that you're going
2 to have to call some more witnesses, I have no idea;
3 maybe you intend to. I have no idea.

4 But I will rule on the objections when
5 they're made. I'd like them to have sometimes a
6 little bit more basis than thus far, but I will rule
7 upon them when made.

8 MR. SCIARRA: I will object, I was
9 really going to make a blanket objection and let the
10 matter proceed, but if you want them to be made when
11 you want them made per question, I'll do that.

12 HEARING OFFICER O'HAGEN: There may be
13 questions that you can't possibly object to, I have
14 no idea.

15 MR. SCIARRA: I didn't object to her
16 name, where she's employed, I didn't object to that.

17 HEARING OFFICER O'HAGEN: No, you
18 didn't. That's about the first thing, that's about
19 the only thing you haven't objected to, that's fine.

20 MR. SCIARRA: Everything else is
21 objectionable.

22 MR PLOSIA: You don't know Mr. Sciarra,
23 you should see him in a deposition, you think this is
24 bad.

25 HEARING OFFICER O'HAGEN: It's not

1 making any sense to do it that way. Let's try to do
2 it in a businesslike way and object when it's
3 appropriate. But when you say when before the
4 witness even takes the oath, that you want to -- that
5 you're objecting and you wish to conduct a voir dire,
6 that's not exactly in my view doing this, resolving
7 this as it should be.

8 Are you ready to go?

9 MR PLOSIA: We are.

10 HEARING OFFICER O'HAGEN: Go ahead.

11 BY MR. PLOSIA:

12 Q. Ms. Capristo, would you turn to Tab
13 16.

14 Township Exhibit 16, Colts Neck
15 Township Employee Handbook, marked for
16 identification, as of this date.)

17 HEARING OFFICER O'HAGEN: We've taken
18 Ts, Your Honor.

19 BY MR. PLOSIA:

20 Q. This will be Exhibit T-16, and can you
21 tell us what that is.

22 A. The Township's Employee Handbook.

23 Q. O.K.

24 And turning to the last page of the
25 document, can you tell us what that is.

1 A. It's the Receipt Acknowledgement Form
2 for the Employee Handbook signed by Chief Sauter.

3 Q. O.K.

4 And the page before that? And by the
5 way, what's the date of that, I'm sorry?

6 A. July 16 of 2010.

7 Q. And the page before that?

8 A. It is --- appears to be an identical
9 document, again, signed by Chief Sauter, signed July
10 10 of 2008.

11 Q. And then the page before that?

12 A. Again, appears to be similar, receipt
13 of Employee Handbook.

14 MR. SCIARRA: I will stip that the
15 signatures are his and that the dates are things he
16 signed.

17 MR PLOSIA: There aren't any more, but
18 thank you.

19 MR. SCIARRA: I'm just trying to get
20 to the issues.

21 MR PLOSIA: I know.

22 BY MR. PLOSIA:

23 Q. Can you turn to page 19 of the
24 document, please.

25 A. Page 19?

1 Q. Yes, ma'am.

2 And is there a Section G contained
3 therein?

4 A. There is.

5 Q. O.K.

6 Could you read the first paragraph for
7 us,

8 A. "Township-owned vehicles shall be used
9 only on official business and on passengers must be
10 on Township business. An employee who is also
11 employed by another governmental entity may use a
12 Township vehicle for that employment only if the
13 employment is pursuant to an interlocal agreement
14 between The Township and other jurisdiction."

15 Q. Thank you.

16 All right, when did you first meet
17 Chief Sauter?

18 A. As I said, I joined September 28th.
19 Within the first couple of weeks, I met with all of
20 the department heads. According to my calendar, I
21 met with the chief on or about October 7th.

22 Q. O.K., had you known him before?

23 A. Yes.

24 Q. Before you came here?

25 A. Yes.

1 Q. You had, O.K.

2 Can you tell us what happened at that
3 meeting in October.

4 A. It was an introductory meeting to
5 really just discuss any current or near future issues
6 going on in the police department. It was really
7 more for my getting to know the department and the
8 various happenings.

9 Q. O.K.

10 And then what was discussed in that
11 meeting with the chief?

12 A. I can't recollect exactly, but again,
13 like I said, just current activities that were
14 ongoing within the department.

15 Q. And was there any discussion about any
16 of the chief's upcoming trips?

17 A. He did mention that he was going to
18 Chicago.

19 Q. O.K.

20 And did he say why he was going to
21 Chicago?

22 A. For a conference.

23 Q. All right, was there any discussion
24 about the conference having been approved by anyone?

25 A. No.

1 Q. Was there any discussion about --

2 MR. SCIARRA: Objection as to hearsay,
3 I know you're going to permit it, I'm objecting to
4 the hearsay as it relates to the merits of the very
5 specific testimony about to be given as to the merits
6 of the charge.

7 HEARING OFFICER O'HAGEN: And by
8 hearsay, you're saying an out-of-court declaration
9 offered to prove the truth of the matter?

10 MR. SCIARRA: Yes.

11 HEARING OFFICER O'HAGEN: Isn't this
12 an exception?

13 MR. SCIARRA: It would be if --

14 HEARING OFFICER O'HAGEN: You able to
15 cross-examine him here, he'll say, well, I never
16 discussed that with her.

17 MR. SCIARRA: I don't have an
18 obligation to put him on the --

19 HEARING OFFICER O'HAGEN: No, you may
20 not, you don't have to unless you have the
21 opportunity.

22 There's no basis for that. I will
23 overrule your objection.

24 MR PLOSIA: Thank you.

25 HEARING OFFICER O'HAGEN: Excuse me.

1 Now, the way I got it was the chief
2 said he was going to Chicago for a conference and
3 then I forgot the next question.

4 MR PLOSIA: Sure. I had asked was
5 there any discussion between the two about whether
6 the conference had been approved, necessity for
7 approval and Ms. Capristo said no.

8 HEARING OFFICER O'HAGEN: O.K.

9 BY MR. PLOSIA:

10 Q. Was there anything else discussed
11 about the attendance at the conference that the chief
12 talked to you or you talked to him about?

13 A. No, it was anecdotal. We discussed
14 that his wife Susan would be doing some shopping; I'm
15 from Chicago so it was more of an informal
16 conversation about, you know, a shared like of the
17 town of Chicago.

18 Q. Was there any discussion about who was
19 going to take the trip?

20 A. No. I recollect that the chief did
21 indicate that the practice with Colts Neck was that
22 he was not eligible for submitting his expenses for
23 reimbursement, but again, it was just --

24 HEARING OFFICER O'HAGEN: The chief
25 said he was not eligible?

1 THE WITNESS: For getting reimbursed
2 for the expenses he incurred on the trip.

3 BY MR. PLOSIA:

4 Q. Do you recall what he said? It
5 doesn't have to be exact? You just summarized it.
6 Could you say if you were the chief, what he said.

7 A. Yes, I would characterize it as that
8 he expressed frustration that that was the policy
9 under which he was --

10 Q. Frustration?

11 A. That it was not reimbursable.

12 Q. O.K.

13 A. That the town did not pay for it.

14 Q. Was there any discussion of vacation
15 time?

16 A. He indicated that part of the policy
17 was that he would have to use his own vacation to go
18 -- his vacation time to attend the conference.

19 Q. And when you say policy, what did you
20 understand that to mean?

21 A. I don't know if he said policy or if
22 that was my interpretation.

23 Q. O.K.

24 A. Again, it was first week on the job, I
25 really didn't give it much thought other than --

1 Q. Sure.

2 A. -- that's probably the policy for any
3 department head participating.

4 Q. So as of that date, did you have any
5 understanding that The Township was paying for any
6 part of this trip?

7 A. I did not.

8 Q. O.K.

9 So the chief, did he go on the trip?

10 A. Yes.

11 Q. O.K.

12 When did this topic come to your
13 attention again, the chief's attendance on the trip?

14 A. The next I heard about it would've
15 been November 25, when Committeeman Macnow came to me
16 to inform me that the chief had ordered an on-duty
17 officer to pick he and other individuals up at the
18 airport.

19 Q. O.K., had you been aware that that had
20 occurred prior to November 25th?

21 A. (No verbal response.)

22 Q. I'm sorry, you need to say no?

23 A. Sorry.

24 Q. She doesn't get nods.

25 A. No.

1 Q. Had that issue been discussed at all
2 during your discussion with the chief in October?

3 A. No.

4 Q. O.K., anything else happen in that
5 conversation that you with Committee person Macnow?

6 A. No, he indicated that he and the
7 committee were the appropriate authority, that there
8 was no action necessary on my part, that he was in
9 consultation with yourself to investigate the matter
10 further.

11 Q. O.K.
12 When was your next involvement or
13 discussion about this topic?

14 A. I was asked to attend a meeting with
15 Mayor Schatzle and Committeeman Macnow on December
16 14th at Mayor Schatzle's office.

17 Q. And did you do so?

18 A. I did.

19 MR. PLOSIA: For the record, Mayor
20 Schatzle was the mayor through the end of 2015, Your
21 Honor; he is no longer the mayor, he is no longer a
22 committee person.

23 BY MR. PLOSIA:

24 Q. O.K., what happened at the meeting?

25 A. They indicated --

1 MR. SCIARRA: I'm going to object,
2 this is hearsay.

3 HEARING OFFICER O'HAGEN: Yes, when
4 you tell us what they said, unless there's some
5 exception that you can bring, to my attention, Mr.
6 Plosia, it sounds like hearsay to me.

7 MR PLOSIA: Well, almost all of it is
8 going to be hearsay, judge, at some point or another.

9 Again, I would submit there are no
10 hearsay rules that apply here whatsoever. We could
11 engage in a rather arcane discussions of potential
12 exceptions to this.

13 HEARING OFFICER O'HAGEN: Well, why
14 don't you.

15 MR PLOSIA: I would like to have a
16 proffer first, under what authority with respect to
17 you as a local hearing officer have the right to
18 enforce any hearsay rules in this case. Before
19 counsel said it's 500 cases, I would like to see one
20 in which a Superior Court judge said that we're going
21 to overturn this discipline based upon a local
22 hearing at which the hearsay rules were not followed,

23 I'm not aware of any such law.

24 HEARING OFFICER O'HAGEN: Let's do it
25 the other way. Is there some authority that you have

1 to support your position? You say this never
2 happened before; that doesn't make it right.

3 MR. PLOSIA: Right.

4 HEARING OFFICER O'HAGEN: Is there
5 some authority that you have to support that?

6 MR PLOSIA: To support the proposition
7 that there are no rules of evidence, I don't think
8 can prove a negative, Your Honor.

9 HEARING OFFICER O'HAGEN: But what
10 you're asking me to do is to decide this case based
11 upon some -- this witness hearing some other witness
12 say this, that or the other thing.

13 It may not even be necessary for your
14 case, but I don't see how I can do it. It doesn't
15 sound like reliable evidence for me to resolve this
16 case.

17 MR PLOSIA: Well, Your Honor --

18 HEARING OFFICER O'HAGEN: Excuse me
19 for just one moment.

20 MR PLOSIA: Yes.

21 HEARING OFFICER O'HAGEN: In my view,
22 I should have the responsibility of making a record,
23 and that record should be based upon the law, and
24 therefore, as it stands now to that question, I will
25 sustain the objection.

1 MR PLOSIA: Let me just state one more
2 thing for the record because you did ask me.

3 In an arbitration, which I would say
4 this is most akin to although I would say it's even
5 more informal than an arbitration, the rules of
6 evidence do not generally work, and there is a lot of
7 case law or at least arbitration decisions, they
8 don't work to exclude testimony.

9 What the arbitrator will say is I will
10 give it the weight that it deserves or I will take it
11 for what it's worth, and they will make credibility
12 determinations in part by factoring in the hearsay
13 component of it. And I would submit respectfully
14 that is what I would ask you to do it in this case,
15 not just simply say, I don't want to hear it but, in
16 fact, if you don't find to it be reliable, to use
17 your word, or credible, you would say I am not going
18 to rely upon that because in part it's hearsay
19 because they could've called someone else, that's
20 fair. But to exclude testimony, I think it gives you
21 less than a full picture, but it's Your Honor's call.

22 HEARING OFFICER O'HAGEN: When I used
23 the word reliable, it had nothing to do with
24 Ms. Capristo.

25 MR PLOSIA: Obviously.

1 HEARING OFFICER O'HAGEN: But you
2 speak of arbitrations, our rules and our case law is
3 to the effect that the, and except in very, very rare
4 circumstances, the decision of the arbitrator is not
5 subject to being overturned. The nature of this
6 hearing is that there's a hearing, I make findings of
7 facts and conclusions, it gets reported to The
8 Township Committee, they say yes, no, or whatever
9 they want to say, and then it goes -- there can be an
10 appeal to the Superior Court on the record below.

11 So I just don't see a basis to do
12 this, other than having testimony that's -- you know,
13 I can see your reason to relax the rules in part, but
14 not to that extent. You're basically asking that
15 everything come in through Ms. Capristo at least so
16 far.

17 MR PLOSIA: I am. And I will say for
18 the record, that again, it's your Your Honor's call,
19 I have on behalf of The Township, I have no qualms
20 whatsoever about you issuing a decision based in part
21 on hearsay testimony. And I have no doubt whatsoever
22 that no Superior Court judge is going to overturn
23 your decision based on that.

24 With that, Your Honor is going to
25 rule, I'll move on.

1 HEARING OFFICER O'HAGEN: That doesn't
2 make -- what I should to is follow the law as I
3 understand it.

4 MR PLOSIA: Well, and I'm submitting
5 there is no law that applies to local hearing, judge.
6 This is an opportunity for you to hear the story and
7 it's hearing the story without the imprimatur of the
8 rules of medieval evidence, which is what the hearsay
9 rule is; it's a medieval rule. And I submit it has
10 no play, no applicability in a local hearing.

11 Obviously, your Your Honor disagrees.
12 I'll move on.

13 HEARING OFFICER O'HAGEN: Just so it's
14 clear, the rules of evidence are primarily based on
15 common sense, but go ahead now.

16 MR PLOSIA: Your Honor and I should
17 have lunch and we can talk about that but that will
18 waste everybody's time.

19 HEARING OFFICER O'HAGEN: But in any
20 event, the witness said, I was asked to attend a
21 meeting at Mayor Schatzle's office.

22 MR. PLOSIA: Yes.

23 BY MR. PLOSIA:

24 Q. What was discussed at the meeting?

25 MR. SCIARRA: Again, objection.

1 HEARING OFFICER O'HAGEN: Well, she's
2 not telling us exactly what someone says; she's
3 telling us the subject matter.

4 MR PLOSIA: What was the subject
5 matter?

6 HEARING OFFICER O'HAGEN: That's not
7 --

8 MR. SCIARRA: It's a back door.

9 HEARING OFFICER O'HAGEN: Whatever.
10 It's in accordance with the rules of evidence. He
11 can do that.

12 MR. PLOSIA: Thank you.

13 HEARING OFFICER O'HAGEN: What was
14 discussed.

15 BY MR. PLOSIA:

16 Q. What was discussed?

17 HEARING OFFICER O'HAGEN: Without
18 telling us who said what.

19 BY MR. PLOSIA:

20 A. O.K.

21 It was discussed that at the time
22 there was a Rice notice that had been presented to
23 Chief Sauter in connection with his attendance at or
24 the discussion of his terms of employment at an
25 executive session to be held I believe that following

1 day. At that point, Chief Sauter had conveyed to The
2 Township Committee his interest in having that
3 discussion held in public.

4 So the purpose of the meeting was to
5 really discuss, you know, how to address the terms of
6 employment discussion in the public forum. It had
7 been the first time the committee had been presented
8 with someone being Rice'd and asking for that
9 discussion to be held in public.

10 Q. O.K.

11 Were there concerns about Chief
12 Sauter's attendance at the conference in October?

13 A. Yes.

14 Q. What were those concerns?

15 MR. SCIARRA: Objection. Again,
16 hearsay.

17 HEARING OFFICER O'HAGEN: Well, she's
18 not telling us what somebody said; she's just, I
19 think, I think it is setting the underpinnings, so to
20 speak, of the issuance of that letter. And it's
21 obvious, there were some discussions. This is -- I
22 don't think this is an out-of-court statement; she's
23 just characterizing for us the nature of the
24 meetings.

25 MR. SCIARRA: The question was what

1 was said.

2 MR PLOSIA: No.

3 HEARING OFFICER O'HAGEN: No, he

4 didn't say that, he said what was discussed.

5 MR. SCIARRA: Oh, I'm sorry, what was

6 discussed?

7 MR PLOSIA: I didn't say that; I don't

8 think I said that either.

9 MR. SCIARRA: Can you just read it

10 back.

11 HEARING OFFICER O'HAGEN: Just reframe

12 it.

13 MR. PLOSIA: Yes.

14 BY MR. PLOSIA:

15 Q. Were there concerns raised --

16 MR. PLOSIA: How about the word

17 raised, can I use the word raised?

18 BY MR. PLOSIA:

19 Q. -- raised at the meeting with respect

20 to the chief's attendance at the conference in

21 October?

22 A. Yes.

23 Q. What were those concerns?

24 MR. SCIARRA: That's my objection.

25 HEARING OFFICER O'HAGEN: Well, is

1 this just designed to set a basis for the issuance
2 ultimately of the charges?

3 MR. PLOSIA: Correct.

4 HEARING OFFICER O'HAGEN: All right.

5 MR PLOSIA: This is clearly not for the
6 truth of matter asserted; this is what we're saying
7 the basis for the charge is. You're not being asked
8 to say the charges are true because someone said it;
9 you're just being asked to hear the concerns that
10 were expressed that lead to the filing of the
11 charges.

12 MR. SCIARRA: If I may, then, the
13 charges speak for themselves, why do we need all the
14 background of the charges?

15 MR PLOSIA: Well, the answer -- the
16 question could've been answered five minutes ago if
17 we're trying to save time, but counsel is clearly
18 not.

19 HEARING OFFICER O'HAGEN: So then I
20 guess you've stipulating the charges speak for
21 themselves.

22 MR. SCIARRA: I'm saying those are the
23 charges; those are the jurisdictional -- that's the
24 jurisdictional document that starts us here in the
25 first place. What was discussed, who said what, what

1 the concerns were is all hearsay, and that is the
2 concerns I have. The charges are the jurisdictional
3 document, the quote-unquote indictment, the
4 complaint, whatever you want to call it, in this
5 setting, it's disciplinary charges that lay out
6 notice to my client of what he's being alleged to
7 have violated. That would be the appropriate to say
8 these are the charges.

9 To get into, well, what do we think
10 about this, that or the rest of is, I think is
11 inappropriate.

12 HEARING OFFICER O'HAGEN: I guess what
13 he's trying to establish is this was not a decision
14 that was a willy-nilly decision, so to speak. It was
15 discussed and there was thought to be a basis both,
16 in fact, and in township business to support the
17 charges.

18 That's basically your thrust of this,
19 be isn't it?

20 MR PLOSIA: Yes, sir, it is.

21 HEARING OFFICER O'HAGEN: Yes, well,
22 in that light, I think you've pretty much done it,
23 but if you want to ask a few more questions along
24 those lines, I will allow you to do it.

25 MR PLOSIA: Same question.

1 BY MR. PLOSIA:

2 Q. Were concerns raised about the chief's
3 attendance at the October 2015 conference during the
4 meeting?

5 A. Yes.

6 Q. And what were those concerns?

7 A. The use of The Township vehicle and
8 whether the trip was, in fact, authorized in advance.

9 HEARING OFFICER O'HAGEN: Can I make a
10 suggestion to you, Mr. Plosia?

11 MR PLOSIA: Yes.

12 HEARING OFFICER O'HAGEN: You have the
13 letter that was ultimately sent where the charges
14 were made, right?

15 MR PLOSIA: We do.

16 HEARING OFFICER O'HAGEN: Can you show
17 this to the witness --

18 MR PLOSIA: Sure.

19 HEARING OFFICER O'HAGEN: -- and ask
20 her if this is the subject matter of the discussions.

21 MR PLOSIA: Sure.

22 (Township Exhibit T-1, Three-page
23 letter, marked for identification, as of this date.)

24 BY MR. PLOSIA:

25 Q. Can you turn to Exhibit T-1,

1 Ms. Capristo. And this is a three-page letter, and
2 without reading the entire document --

3 HEARING OFFICER O'HAGEN: But you have
4 previously read it, haven't you?

5 THE WITNESS: I have, yes, Your Honor
6 I have.

7 BY MR. PLOSIA:

8 Q. Are the concerns that you were just
9 alluding to expressed in Exhibit T-1 in terms of the
10 charges?

11 A. Yes.

12 (Township Exhibit T-13, Weekly Time
13 Sheets, marked as of this date.)

14 BY MR. PLOSIA:

15 Q. Can you turn to Tab 13, please, which
16 is Exhibit T-13.

17 Can you tell us what that is.

18 A. It's a weekly time sheet submitted by
19 Chief Sauter.

20 Q. And do you know how this time sheet
21 came to be created, what's the basis for the chief
22 doing it?

23 A. My understanding was it's in
24 connection with a previously issued directive whereby
25 the chief was instructed to submit time sheets to The

1 Township Committee.
2 Q. O.K.
3 And do you recall the dates of the
4 conference in Chicago in October?
5 A. October 23rd through the 27th or '8th.
6 Q. All right, there's two pages to this
7 document, correct?
8 A. There is.
9 Q. And is there any personal time being
10 used for the dates of the 23rd through the 28th --
11 A. There is not.
12 Q. -- inclusive?
13 O.K.
14 And this conference did include
15 attendance on Saturday and Sunday, did it not? If
16 you turn to the second page.
17 A. Yes.
18 Q. O.K., can you turn to Exhibit T14.
19 And tell us what that is.
20 A. I believe this is an attachment to the
21 time sheet just detailing various tasks and dates and
22 times of those tasks by the chief of police.
23 HEARING OFFICER O'HAGEN: I'm sorry,
24 would you say it again, please, it's an attachment to
25 --

1 THE WITNESS: It's an attachment to
2 the time sheet, page 2.

3 MR PLOSIA: I probably should have done
4 it that way, Judge, but I did it by separate
5 exhibits. It's really an attachment to pages of
6 Exhibit T13.

7 HEARING OFFICER O'HAGEN: O.K.

8 BY MR. PLOSIA:

9 Q. And are the same dates in question
10 there for attendance at the conference?

11 A. They are.

12 Q. And there are entries for what was
13 going on on those five days?

14 A. That's correct.

15 Q. And what does it say?

16 A. Training -- well, "Training
17 conferences noted for the dates October 23rd through
18 October 28th."

19 (Township Exhibit T-15, Memorandum to
20 Ms. Capristo from Chief Sauter, marked for
21 identification, as of this date.)

22 BY MR. PLOSIA:

23 Q. Great, thank you.

24 Can you look at Exhibit T-15, tell
25 what that is.

1 A. It is a memo to my attention from
2 Chief Sauter detailing in summary his participation
3 in the IACP training conference.

4 Q. Did you -- do you know why the chief
5 gave this to you?

6 A. I do now; at the time I didn't.

7 Q. And sitting here today, why did he
8 give it to you?

9 A. It was, again, in response to a
10 directive that was issued by The Township Committee
11 to post any type of training or participation at a
12 conference, detail in summary what the conference
13 was, and the benefits to the department.

14 Q. O.K.

15 Were you aware of that directive on
16 November 4th?

17 A. I was not.

18 (Township Exhibit T-2, Township of
19 Colts Neck Ordinance 2014-11, marked for
20 identification, as of this date.)

21 BY MR. PLOSIA:

22 Q. O.K., can you turn back to Exhibit
23 T-2, please. Can you tell us what that is.

24 A. This is a Township of Colts Neck
25 Ordinance 2014-11, whereby the appropriate authority,

1 it looks like this was an amendment, to the
2 appropriate authority previously being The Township
3 administrator and changing it to The Township
4 Committee.

5 (Township Exhibit T-3, Township of
6 Colts Neck Code Book, marked for identification, as
7 of this date.)

8 Q. Thank you.

9 And Exhibit T-3?

10 A. This is the summary of that said
11 ordinance; that's in The Township Code Book.

12 (Township Exhibit T-4, Directive
13 2014-4 dated August 19, to Chief Sauter signed by
14 then Mayor Russell Macnow, marked for identification,
15 as of this date.)

16 BY MR. PLOSIA:

17 Q. Thank you.

18 All right, can you turn to Exhibit
19 T-4, tell us what that is.

20 A. This is directive 2014-4 dated August
21 19, to Chief Sauter signed by then Mayor Russell
22 Macnow.

23 Q. Is this the directive that you had
24 previously referred to in terms of the time sheet?

25 A. It appears to be.

1 (Township Exhibit T-5, letter dated
2 September 8, 2014, from Township Administrator to
3 Chief Sauter, marked for identification, as of this
4 date.)

5 BY MR. PLOSIA:

6 Q. Thank you.

7 All right, can you turn to Exhibit
8 T-5, tell us what that is.

9 A. Letter dated September 8, 2014, to
10 Chief Sauter by the then township administrator
11 Robert Bowden in connection with Mayor Macnow's
12 request for detailing -- I believe it is, yes.

13 Q. O.K.

14 A. Yeah, detailing his summaries of post
15 conference.

16 (Township Exhibit T-6, Memorandum to
17 Mayor Macnow from Chief Sauter, dated September 10,
18 2014, marked for identification, as of this date.)

19 BY MR. PLOSIA:

20 Q. All right, can you turn to Exhibit
21 T-6?

22 A. Memorandum from then Mayor Macnow --
23 I'm sorry, to Mayor Macnow from Chief
24 Sauter, September 10, 2014, in response to a request
25 to detail various training and/or conferences that he

1 may be attending in the near future or upcoming.

2 Q. This is in response to the previous
3 exhibit?

4 A. Yes,
5 (Township Exhibit T-7, November 14,
6 2014, memorandum to Chief Sauter from Mayor Russell
7 Macnow, regarding Directive 2014-6, marked for
8 identification, as of this date.)

9 BY MR. PLOSIA:

10 Q. Thank you.

11 And can you turn to Exhibit T-7,

12 A. November 14, 2014, memo, to Chief
13 Sauter from then Mayor Russell Macnow, again, I
14 believe this is one of the directives, 2014-6
15 requesting the chief detail in advance, his request
16 to participate in training or conferences.

17 Q. O.K.

18 And who is that request to be made of,
19 who was the chief to make the request to?

20 A. It says, "Police Chief shall provide
21 The Township Committee with a detailed written report
22 setting forth the details."

23 Q. All right, you've looked at two
24 directives, am I right, the one you did before and
25 this one?

1 A. Correct.

2 Q. Have you seen those as of November 4,
3 2015?

4 A. No.

5 Q. When did you first see them?

6 A. December 4th.

7 Q. December 4 of 2015?

8 A. Right.

9 (Township Exhibit T-8, Memorandum
10 dated February 12, 2015, to Township Administrator
11 Robert Bowden from Chief Sauter, marked for
12 identification, as of this date.)

13 BY MR. PLOSIA:

14 Q. Can you turn to Exhibit T-8,
15 Can you tell us what that is.

16 A. Memorandum dated February 12, 2015, to
17 then Township Administrator Robert Bowden from Chief
18 Sauter detailing a request to attend an GORE law
19 enforcement seminar.

20 (Township Exhibit T-9, Memorandum
21 dated February 13, 2015, from Township Administrator
22 Robert Bowden to Chief Sauter, marked for
23 identification, as of this date.)

24 BY MR. PLOSIA:

25 Q. O.K., and Exhibit T-9?

1 A. Memorandum dated February 13, 2015,
2 again, from Township Administrator Robert Bowden to
3 Chief Sauter, again, this is requesting participation
4 in the IACP State Association's Midyear Conference in
5 Texas.

6 (Township Exhibit T-10, Letter from
7 Chief Sauter to Mayor Schatzle, dated February 16,
8 2015, marked for identification, as of this date.)

9 BY MR. PLOSIA:

10 Q. And Exhibit T-10?

11 A. T-10 is a letter from Chief Sauter to
12 Mayor Schatzle dated February 16, 2015, I believe
13 dealing with the timeliness of putting in a request
14 to participate in a seminar.

15 Q. O.K., and what seminar was that?

16 A. This was the GORE seminar in Maryland.

17 Q. And that would be just referring back
18 to Exhibit T-8, is that correct?

19 A. That's correct.

20 (Township Exhibit T-11, Letter to
21 Chief Sauter from Mayor Jim Schatzle, dated March 11,
22 2015, marked for identification, as of this date.)

23 BY MR. PLOSIA:

24 Q. O.K., and Exhibit T-11?

25 A. Letter dated March 11, 2015, from

1 Chief Sauter -- I'm sorry, to Chief Sauter from then
2 Mayor Jim Schatzle acknowledging receipt of his
3 correspondence from February 16.

4 Q. All right, can you read the first
5 paragraph for us, please.

6 A. "This shall acknowledge receipt of
7 your correspondence dated February 16, 2015. The
8 Township Committee expects its police chief to abide
9 by the issued directive. Failure to abide by those
10 directives will result in disciplinary action.
11 Please be guided accordingly."

12 Q. Thank you.

13 Then Exhibit T-12.

14 (Township Exhibit T-12, Memorandum to
15 Interim Township Administrator, Tom Antus, dated May
16 28, 2015, from Chief Sauter, marked for
17 identification, as of this date.)

18 BY MR. PLOSIA:

19 A. Memorandum to the Interim Township
20 Administrator Tom Antus dated May 28, 2015, from
21 Chief Sauter detailing his request to participate in
22 the IACP chief's training conference and expo in
23 Chicago.

24 Q. All right, and in Paragraph 2, what
25 does it say in terms of -- can you just read No. 2

1 for us.

2 A. "Township costs \$350."

3 Q. And does that amount ring a bell to
4 you in terms of what The Township had to pay for the
5 attendance at the conference?

6 A. I think that's the registration fee.

7 Q. O.K., is there anything else in that
8 memo which suggests that The Township is going to
9 have to expend any other moneys besides the \$350?

10 A. No.

11 MR. PLOSIA: O.K., and last, judge, I
12 would, just for purposes of progressive discipline,
13 and I'll stipulate that you wouldn't get to that
14 question until and unless you find the chief guilty
15 would be Exhibit T-17.

16 (Township Exhibit T-17, Letter to
17 Chief Sauter from Mayor Macnow dated June 2, 2014,
18 marked for identification, as of this date.)

19 BY MR. PLOSIA:

20 Q. If you can just identify that for us,
21 Ms. Capristo.

22 A. This is a letter to Chief Sauter from
23 then Mayor Rus Macnow dated June 2, 2014.

24 Q. And can you turn to the last page of
25 the document, what does it state that the letter is

1 or what does it do?

2 A. The last page of the document?

3 Q. Yes.

4 A. "For the foregoing reasons, The Colts
5 Neck Township Committee does hereby recommend a
6 reprimand. The reprimand shall be placed in your
7 file" --

8 Q. That's O.K.

9 MR. PLOSIA: Those are all the
10 questions I have. Thank you.

11 HEARING OFFICER O'HAGEN: Are you
12 ready for cross examination?

13 MR. SCIARRA: Most certainly.

14

15 CROSS EXAMINATION

16 BY MR. SCIARRA:

17 Q. Can you pronounce your name for me,
18 please.

19 A. Capristo.

20 Q. Capristo.

21 Ms. Capristo, you indicated that you
22 spoke with Sauter when you first came to work AT
23 Colts Neck, correct?

24 A. That's correct.

25 Q. And you indicated that you had some

1 chat with him that you say involved in some cursory
2 -- well, I don't want to characterize the testimony.

3 You had some chat about this
4 conference he was going to, correct?

5 A. That's correct.

6 Q. In fact, he said his wife was going to
7 go shopping, correct?

8 A. Correct.

9 Q. And you are the full-time Borough
10 Administrator here in Colts Neck, correct?

11 A. That's correct.

12 Q. Is it a township or Borough?

13 A. Township.

14 Q. Township, O.K.

15 And The Township Committee at some
16 point hired you to oversee the day-to-day events here
17 in Colts Neck, correct?

18 A. That's correct.

19 Q. Provision of governmental services,
20 correct?

21 A. Yes.

22 Q. In fact, we went over some documents,
23 and we looked at the time sheets submitted by Chief
24 Sauter.

25 Do you recall looking at those with

1 Mr. Plosia's questions just a few minutes ago?

2 A. Yes.

3 Q. All right.

4 And right on there, he lists where he
5 is and what he's doing, correct?

6 A. Correct.

7 Q. O.K.

8 Did you ever get questioned with
9 regard to this matter by any party?

10 A. Which matter?

11 Q. Well, there's an Internal Affairs --
12 strike that.

13 There's a disciplinary complaint filed
14 against Chief Sauter that you're sitting here today
15 testifying about, correct?

16 A. That's correct.

17 Q. Was there an investigation?

18 HEARING OFFICER O'HAGEN: What period
19 are you speaking of?

20 BY MR. SCIARRA:

21 Q. Well, you talk about a Rice notice,
22 you talk about various meetings that were held, I'm
23 talking about everything after, I guess after the
24 conference October 23rd, at the time he was charged,
25 let's try it that way.

1 A. As I testified, Russell -- excuse me,
2 Committeeman Macnow approached me on November 25th,
3 and informed me that an investigation was underway.

4 Q. Who was investigating?

5 A. What I was told was that he and Mayor
6 Schatzle were in consultation with our labor counsel,
7 Jamie Plosia.

8 Q. O.K.

9 Were you ever questioned in any way
10 with regard to that investigation?

11 A. I was not.

12 Q. Do you know of any person who ever sat
13 down and answered questions pursuant to the Attorney
14 General guidelines or any other guidelines about
15 whether they knew regarding this matter?

16 MR PLOSIA: Objection. It's a compound
17 question.

18 HEARING OFFICER O'HAGEN: Yes, it is.

19 MR. SCIARRA: Withdrawn.

20 BY MR. SCIARRA:

21 Q. Do you know of any party that was
22 questioned with regard to the Attorney General
23 guidelines in this matter?

24 MR PLOSIA: Again, objection. You
25 asked the witness a question that assumes a

1 foundation that she knew anything about the
2 guidelines.

3 HEARING OFFICER O'HAGEN: And I
4 sustain the objection.

5 BY MR. SCIARRA:

6 Q. Do you know what the Attorney General
7 guidelines are?

8 A. Excuse me?

9 Q. Do you know what the Attorney General
10 guidelines are?

11 A. Generally, yes.

12 Q. O.K., good.

13 Do you if anybody -- from your general
14 knowledge of the Attorney General's guidelines, do
15 you know if anybody questioned you or any part with
16 regard to that?

17 A. I do not have knowledge of that.

18 Q. Did you ever see a statement from
19 anybody?

20 A. A written statement?

21 Q. Yes.

22 A. In connection with the investigation?

23 Q. The investigation.

24 A. No.

25 Q. Did you ever listen to a taped

1 statement of anybody?

2 A. No.

3 Q. Do you know if anybody asked the
4 chief, chief, was this trip authorized?

5 A. I don't know.

6 Q. I'm sorry, what?

7 A. I know there was some discussion with
8 the chief about it, but I don't have firsthand
9 knowledge, no.

10 Q. So when you say you know there was
11 some discussion, you weren't involved in any
12 discussion with the chief?

13 A. I was not.

14 Q. So you don't know what he said with
15 regard to anything related to this being authorized
16 or not, correct?

17 A. No.

18 MR. SCIARRA: I'm going to mark a
19 document, I can mark it as Employee 1, Sauter 1, what
20 would you like, sir?

21 HEARING OFFICER O'HAGEN: I think we
22 should -- Sauter 1 would be good.

23 MR. SCIARRA: O.K.

24 HEARING OFFICER O'HAGEN: I thought
25 your name was Sauter; he said Souter.

1 [Sauter Exhibit S-1, Purchase Order,
2 Bates 00007, marked for identification, as of this
3 date.]

4 HEARING OFFICER O'HAGEN: I would ask
5 that you call him chief, that's his role, he's the
6 chief.

7 MR. SCIARRA: The chief.

8 BY MR. SCIARRA:

9 Q. The chief.

10 HEARING OFFICER O'HAGEN: For this
11 purpose, he's the chief.

12 MR. SCIARRA: Correct.

13 BY MR. SCIARRA:

14 Q. I'd ask you to take a look as Chief

15 1 --

16 MR. SCIARRA: Are we marking it Chief
17 1.

18 HEARING OFFICER O'HAGEN: You said
19 Sauter 1, that's O.K. with me.

20 MR. SCIARRA: O.K., fine.

21 BY MR. SCIARRA:

22 Q. Take a look, if you would, at what we
23 Bates stamped and submitted as 00007, and I'd like to
24 mark it as Sauter S-1.

25 MR. SCIARRA: I'll give a copy to you

1 sir and I'll give a copy to the witness.

2 May I approach the witness?

3 HEARING OFFICER O'HAGEN: Yes.

4 BY MR. SCIARRA:

5 Q. I ask you to take a look at S-1.

6 I'd ask if you can tell me if you
7 recognize that document.

8 A. I do.

9 Q. When is the first time you saw it?

10 A. I saw this as part of the documents
11 that were submitted by your office.

12 Q. Yesterday?

13 A. I don't know if it was yesterday or
14 the day before.

15 Q. Did you see it prior to that?

16 A. I did not.

17 Q. Did you know it existed?

18 A. I did not.

19 Q. I see.

20 O.K., well, let's -- let's -- I'll
21 tell you what we'll do, we'll go through some kind of
22 succession because there's writing, there's
23 handwriting on that document, correct?

24 A. There is.

25 Q. That looks like an original document,

1 was it a purchase order, is that correct?

2 A. It is.

3 Q. And when a township in the State of
4 New Jersey is going to spend money, they're going to
5 put in a purchase order, correct?

6 A. That's correct.

7 Q. A record of expenditures?

8 A. That's correct.

9 Q. All right.

10 Let's do it this way.

11 MR. SCIARRA: S-2 is Bates 1 and S-3
12 will be Bates 2 and 3:

13 {Sauter Exhibit S-2, Bates 0001,
14 marked for identification, as of this date.)

15 {Sauter Exhibit S-3, Bates stamped
16 0002 and 0003, marked for identification, as of this
17 date.}

18 HEARING OFFICER O'HAGEN: Do you have
19 clear copies, Ms. Capristo? Because this one is not
20 clear.

21 THE WITNESS: No, I do not.

22 MR. SCIARRA: You can read it, though,
23 correct?

24 THE WITNESS: Yes, I can read it.

25 MR. SCIARRA: Do you want a break?

1 I'll make a copy, a clearer copy?

2 HEARING OFFICER O'HAGEN: No, you
3 didn't have to.

4 MR. SCIARRA: Oh, O.K.

5 HEARING OFFICER O'HAGEN: I just want
6 to be sure she can read it.

7 BY MR. SCIARRA:

8 Q. You can read it?

9 A. I can read it.

10 Q. Take a look at what's been marked as
11 S-2, and S-3, and this is a two-page document, and
12 this is a one-page document (indicating).

13 Take a look at S-2, tell me if you've
14 seen that before yesterday.

15 MR PLOSIA: I'm sorry, can I see it?
16 Because I don't --

17 MR. SCIARRA: I'm sorry, Bates 0001.

18 THE WITNESS: S-2 or S-3 am I looking
19 at?

20 BY MR. SCIARRA:

21 Q. S-2.

22 A. Yes.

23 MR PLOSIA: I'm sorry, hold on a
24 second. I got it.

25 So 001 is S-2.

1 MR. SCIARRA: Yes.
2 BY MR. SCIARRA:
3 Q. O.K., you're familiar with this
4 document?
5 A. Yes. I just referenced it in this
6 exhibit book.
7 Q. You did.
8 Where is that in the exhibit book, can
9 you take a look at P-12?
10 MR PLOSIA: T actually.
11 MR. SCIARRA: I'm sorry, binder 12,
12 Tab 12.
13 MR PLOSIA: No, just called it T for
14 Township.
15 MR. SCIARRA: Township 12.
16 MR. PLOSIA: Right.
17 BY MR. SCIARRA:
18 Q. Tab 12.
19 A. Yup, looks to be at same document.
20 Q. Same document, correct?
21 And it lays out eight, I won't call
22 them paragraphs, but eight numbered lines, correct?
23 A. Correct.
24 Q. And there are -- there was this 2014
25 directive, do you remember testifying about that

1 earlier?

2 A. Yes.

3 Q. The one marked 7?

4 T-7.

5 A. Yup.

6 Q. So you have eight numbered paragraphs,
7 correct?

8 A. Correct.

9 Q. In T-7, and then in what we marked as
10 P2, S-2, but also what you have here in Tab 12,
11 you've got eight responding paragraphs, correct?

12 A. Yes.

13 Q. All right.

14 HEARING OFFICER O'HAGEN: Well, are
15 you asking her do these --

16 MR. SCIARRA: I was going to get to
17 that, I was going to get to that.

18 HEARING OFFICER O'HAGEN: --
19 correspond specifically?

20 MR. SCIARRA: Sure.

21 BY MR. SCIARRA:

22 Q. Did the documents in Sauter's May 28,
23 2015 memo respond to the eight things being sought by
24 the council in their November 2014 directive?

25 A. They do.

1 Q. They do, O.K.
2 And that's dated the 28th, correct?
3 A. 28th of May, 2015, correct.
4 Q. All right.
5 Now, what we marked as S-3, is a
6 two-page document, you have that, right?
7 A. Yes.
8 Q. When did you see those?
9 A. Again, just yesterday or the day
10 before.
11 Q. Just yesterday or the day before.
12 So, to your knowledge, no one ever
13 brought to your attention that Sauter had put in a
14 purchase order requesting the money for the
15 conference, correct?
16 A. Not to my attention, no.
17 Q. In fact, he did that late May, and
18 then the 28th with the document and then it looks
19 like June 4th is the purchase order, correct?
20 A. Correct.
21 Q. I'm sorry, purchase requisition or
22 what is it called?
23 A. Purchase order.
24 Q. Purchase order.
25 O.K.

1 A. I think -- well, actually, this is the
2 requisition; this is the purchase order (indicating).

3 Q. "This" being what?

4 A. Your document S-3 is the actual
5 requisition that I believe comes out of our admin
6 system that Chief Sauter would develop and then
7 ultimately goes into a purchase order for the finance
8 department to authorize.

9 Q. O.K.

10 Now, so what does it say he's
11 requesting?

12 A. "Advanced registration for IACP
13 conference in Chicago, October 24th through October
14 27th, attendee Chief Sauter."

15 Q. Where? Chicago? Chicago, right there
16 in the document that he submitted back in May, right?

17 MR PLOSIA: I'll stipulate that Chicago
18 says Chicago, counsel.

19 BY MR. SCIARRA:

20 Q. That's what the document says,
21 correct?

22 HEARING OFFICER O'HAGEN: She had read
23 it, she had read it before. I think that's why you
24 were smiling, wasn't it?

25 THE WITNESS: Yes.

1 BY MR. SCIARRA:

2 Q. And you had no idea this existed
3 before yesterday?

4 A. This document --

5 MR PLOSIA: Objection. Asked and
6 answered. I think the witness said no twice.

7 HEARING OFFICER O'HAGEN: We heard
8 her, we did hear her.

9 BY MR. SCIARRA:

10 Q. Is that right?

11 Well, go back to what we marked as
12 Sauter 1.

13 Do you recognize Sauter 1?

14 A. Yes.

15 Q. It's the one I showed you initially,
16 you said you saw it for the first time yesterday,
17 correct?

18 A. I -- to be honest, I said it was
19 either yesterday or the day --

20 Q. No problem.

21 A. -- before. Whenever the documents
22 came from Jamie Plosia's office to my office --

23 Q. All right, so?

24 A. -- in preparation for this.

25 Q. In preparation for the hearing to

1 determine discipline related to an unauthorized
2 training in Chicago, the first time you saw that
3 document was either yesterday or the day before?

4 MR PLOSIA: Objection, it's
5 argumentative, it sounds like a closing statement.

6 HEARING OFFICER O'HAGEN: Well, in
7 point of fact, this would be the third or fourth time
8 she said yes, I saw it --

9 MR. PLOSIA: That, too.

10 HEARING OFFICER O'HAGEN: -- the first
11 time yesterday or the day before.

12 So please move on.

13 MR. SCIARRA: O.K.

14 BY MR. SCIARRA:

15 Q. The document has some additional
16 typing on there, do you see that?

17 MR PLOSIA: You mean handwriting?

18 A. Handwriting or typing?

19 Q. Nope, this --

20 MR. SCIARRA: May I approach?

21 HEARING OFFICER O'HAGEN: Yes, sure.

22 BY MR. SCIARRA:

23 Q. This has got attendance registration
24 conference in Chicago, correct?

25 A. This is the requisition; this is the

1 purchase order (indicating).

2 Q. Oh, the purchase order.

3 Who types these documents up in Colts
4 Neck?

5 A. It's either coming from Chief Sauter's
6 office or the finance office.

7 Q. O.K., this has on it then some
8 handwriting, correct?

9 HEARING OFFICER O'HAGEN: When you say
10 "this," can you tell us what that is?

11 MR. SCIARRA: S-1.

12 HEARING OFFICER O'HAGEN: O.K.

13 BY MR. SCIARRA:

14 Q. Now, before we get to the handwriting,
15 I just want to go back to the charges.

16 T-1, my client was charged with an
17 unauthorized training, correct?

18 MR PLOSIA: I'm going to object, the
19 charges speak for themselves.

20 HEARING OFFICER O'HAGEN: Yes, they
21 do. If you want to refer to the specific paragraph
22 in the letter, you should do that in T-1.

23 MR. SCIARRA: O.K.

24 BY MR. SCIARRA:

25 Q. Well, let's do it this way.

1 Did you have the opportunity to review
2 the Certification of Russell Macnow?

3 A. Yes.

4 Q. Do you see in paragraph 5, when he
5 said, "Chief Sauter attended an overnight conference
6 in October of 2014," underlined, "None of the five
7 Township Committee members had any prior knowledge of
8 the chief's attendance at this conference."

9 Do you see that?

10 A. I did.

11 Q. You did, right.

12 What's the handwriting on the
13 September 9th document?

14 A. Did you want me to read it?

15 Q. Yeah, just tell me what does the first
16 line say?

17 A. "Approved by."

18 Q. "Approved," "Approved by," and then
19 there's additional lines there, correct?

20 A. Correct.

21 Q. And what's the next line?

22 A. James Schatzle.

23 Q. Who was Schatzle in September of 2015?

24 A. He would've been the mayor of The
25 Township of Colts Neck.

1 Q. Does that make him a member of the
2 committee?
3 A. Yes.
4 Q. Oh.
5 What's the next line?
6 A. Michael Fitzgerald.
7 Q. Who was he in September of 2015?
8 A. Committeeman.
9 Q. Committeeman as well.
10 What's the next line?
11 A. Jarrett Engel.
12 Q. Who's he?
13 A. Committeeman.
14 Q. Committeeman?
15 A. At the time.
16 Q. Approved, and it's got three names
17 written there, correct?
18 A. Correct.
19 Q. And then what's underneath?
20 A. 9/9/15.
21 Q. 9/9/15, was there a, I know you
22 weren't working here, but did you go back and check
23 to see if there was a public safety subcommittee
24 meeting on that day, or a regular committee meeting
25 on that day? Did you go back and check?

1 A. I did not.
2 Q. O.K.
3 Well, what's the next line then?
4 A. Beth Kara.
5 Q. Who's that?
6 A. Municipal court.
7 HEARING OFFICER O'HAGEN: I'm sorry,
8 what was the next name?
9 THE WITNESS: Beth, B-E-T-H, Kara,
10 K-A-R-A.
11 BY MR. SCIARRA:
12 Q. And who is that?
13 A. She's the municipal clerk.
14 Q. The municipal clerk.
15 And would it be her job to note
16 whether something was approved or not?
17 A. Not typically in this fashion, but in
18 this particular case, yes.
19 Q. You weren't working here in September,
20 so you don't know what fashion she was approving?
21 MR PLOSIA: Objection, first counsel
22 asked the question and now he's objecting to the
23 answer.
24 MR. SCIARRA: I'm going to withdraw
25 the question.

1 BY MR. SCIARRA:
2 Q. Do you know what fashion she was doing
3 things prior to you getting here?
4 A. Only because I discussed this with
5 her.
6 Q. You did?
7 A. I did.
8 Q. Yesterday?
9 A. Yesterday.
10 Q. What did you ask her?
11 A. I asked her the circumstances under
12 which this document, and did she recognize it and
13 where did this come from.
14 Q. And --
15 A. Having read Committeeman Macnow's --
16 Q. Certification saying that no one --
17 MR PLOSIA: I'm sorry, could the
18 witness --
19 MR. SCIARRA: Oh, I'm sorry, I thought
20 she was the done.
21 MR. PLOSIA: You want be to be the
22 witness, too, counsel, I'm not going to pay you,
23 counsel.
24 BY MR. SCIARRA:
25 A. I shared your surprise that

1 Committeeman Macnow indicated that no committeemen
2 knew and when I saw this, that begs an obvious
3 question. So I asked the municipal clerk what her
4 recollection was of September 9th.

5 Q. And?

6 A. The -- her recollection was --

7 MR. SCIARRA: Let me withdraw --

8 MR PLOSIA: Excuse me --

9 MR. SCIARRA: I'm withdrawing the
10 question.

11 BY MR. SCIARRA:

12 Q. Did she say she signed that?

13 HEARING OFFICER O'HAGEN: One way or
14 the other, we're going to hear it.

15 MR PLOSIA: I'm going to ask her on
16 redirect anyway.

17 HEARING OFFICER O'HAGEN: All right,
18 we're going to hear it.

19 BY MR. SCIARRA:

20 Q. That's her signature, correct?

21 A. It is.

22 Q. Is that her writing?

23 A. It is.

24 Q. O.K., so it's not like Sauter wrote
25 that and just whipped it out some place; that's --

1 that's the city -- The Township clerk, correct?

2 A. Correct.

3 Q. All right.

4 And so what did she say?

5 A. She said that Chief Sauter's assistant
6 approached the then accounts payable clerk, Kelly
7 McCormick, indicating that they were under a tight
8 deadline to pay the registration fee because the fee
9 was going to go up from \$350 to, I believe, \$425.

10 Q. O.K.

11 A. And at the time, they brought it to
12 Ms. Kara and asked if there was anything that she
13 could do to expedite at approval so that they could,
14 in fact, process the purchase order, make payment
15 prior to the increase in the cost of the conference.

16 Ms. Kara -- the interim administrator,
17 was not in the office that day since he was part
18 time. She said she used his office, now my office to
19 make a phone call to these three individuals.

20 Q. And?

21 A. And ask if they would approve the
22 payment for the conference.

23 Q. And?

24 A. And they said yes.

25 Q. Oh.

1 So, the committee approved the
2 conference, correct?

3 MR PLOSIA: Objection. It's not the
4 committee; it's three members of the committee.

5 HEARING OFFICER O'HAGEN: And there is
6 another problem that goes beyond this hearing. It's
7 he -- for this hearing, I know there is another big
8 problem with this type of action, isn't there? I
9 mean, bills get approved at a Township Committee
10 meeting, don't they, isn't that how you do it?

11 THE WITNESS: Again, I think they were
12 approving the attendance.

13 HEARING OFFICER O'HAGEN: I know, but
14 don't you have a part of your meeting --

15 THE WITNESS: We do.

16 HEARING OFFICER O'HAGEN: -- where you
17 say, there's bills and there's a resolution approving
18 the bills, is how you do it?

19 THE WITNESS: Uh-hum.

20 HEARING OFFICER O'HAGEN: Isn't that
21 how you do it?

22 THE WITNESS: Uh-hum.

23 HEARING OFFICER O'HAGEN: It's not for
24 me hearing, but...

25 MR. SCIARRA: I'm sorry.

1 HEARING OFFICER O'HAGEN: It's not for
2 this hearing.

3 MR. SCIARRA: Then why are we
4 discussing it in this hearing?

5 HEARING OFFICER O'HAGEN: Well, it
6 just seems like it's a little strange how this
7 happened.

8 MR. SCIARRA: It certainly does.

9 HEARING OFFICER O'HAGEN: Was there
10 anything that she could do to expedite that, so she
11 made a call and she spoke, I gather, to the mayor and
12 the two committee persons?

13 THE WITNESS: That's her recollection,
14 yes.

15 BY MR. SCIARRA:

16 Q. Take a look at S, we are going to mark
17 as S-4, that's Bates 06.

18 (Defendant's Exhibit S-4, Document
19 Bates Stamped 0006, marked for identification, as of
20 this date.)

21 MR. SCIARRA: With your permission,
22 I'm just going to show her what I just marked S-4.

23 BY MR. SCIARRA:

24 Q. Do you recognize S-4?

25 A. Yes.

1 Q. You saw that for the first time
2 yesterday or the day before as well, correct?
3 A. That's correct.
4 Q. Who's that from?
5 A. It's from Chief Sauter -- oh, I'm
6 sorry, from Tom Antus to Chief Sauter.
7 Q. Tom Antus was who?
8 A. The interim township administrator.
9 Q. Dated when?
10 A. September 10.
11 Q. What's the subject line?
12 A. Oh, "training approved."
13 Q. "Training approved."
14 And what is the -- there's a little, a
15 couple of words there in the narrative, what does it
16 say?
17 A. "On its way over to you to sign."
18 Q. And to your knowledge, before
19 yesterday or the day before, no one -- strike that.
20 Do you have any knowledge that anyone
21 ever asked the chief was this training approved?
22 A. I do not.
23 Q. You talked about vacation time, do you
24 remember that testimony on Mr. Plosia's questioning?
25 A. Yes.

1 Q. You said there was some conversation
2 that you had with the chief that you recall,
3 something to do with vacation time?

4 A. Just again, his expression of, you
5 know, I guess disappointment that The Township did
6 not allow him to go to the conference on company
7 time; that it was on -- he had to use vacation time.

8 Q. O.K.

9 You testified previously about other
10 conferences he went to in 2015 before this one,
11 correct?

12 A. Yes.

13 Q. O.K.

14 Anybody go back and look at those
15 records to see if he took vacation time or regular
16 time?

17 A. I did not.

18 Q. And you have no knowledge if anybody
19 else did, correct?

20 A. I did not.

21 Q. Now, Sauter submits to you a -- strike
22 that.

23 These time sheets, you get to see
24 those?

25 A. I do not.

1 Q. Who do they get submitted to?

2 A. I believe they're submitted to the
3 municipal clerk before they come to The Township
4 Committee as the appropriate authority.

5 Q. And right on there, they don't say
6 anything about taking vacation time, correct?

7 A. I'm not sure --

8 MR PLOSLIA: You mean the ones in
9 question that we introduced?

10 BY MR. SCIARRA:

11 Q. The time sheets were introduced say
12 nothing about him taking vacation time, is that
13 correct?

14 A. That's correct.

15 Q. If you would go back to the P7, I'm
16 sorry, Tab 7, Mr. Plosia's Tab 7.

17 A. O.K., yes.

18 Q. Now, this is the directive we talked
19 about earlier with the eight criteria that have to be
20 spelled out upon the request, correct?

21 A. Correct.

22 Q. You said you hadn't seen this prior to
23 November of 2015, right?

24 A. The directives? The directives were
25 brought to my attention in December of 2015.

1 Q. December 2015.

2 Where does it say anything in here
3 about taking vacation time when you go on an approved
4 training?

5 A. It does not address that issue.

6 Q. At all, correct?

7 MR PLOSIA: Well, you mean just a
8 little bit as opposed to not? Come on, counsel, no
9 means no. I object.

10 MR. SCIARRA: O.K.

11 BY MR. SCIARRA:

12 Q. What document, what policy, what
13 regulation, rule, what anything, have you seen in
14 writing that says if he goes on a training, that
15 chief of police training, he has to take vacation
16 time?

17 A. I have no knowledge of that.

18 Q. No knowledge whatsoever?

19 A. No.

20 Q. You didn't record that conversation
21 you had with the chief in October, correct?

22 A. No.

23 Q. It was, in fact, the first time you
24 were meeting with him as chief of police, correct?

25 A. That's correct.

1 Q. You were dealing with numerous issues,
2 correct?

3 A. Yes.

4 Q. And Colts Neck seems to watch every
5 penny, correct, is that fair?

6 A. I -- that's fair.

7 Q. And what chief doesn't want him and
8 himself to get paid more, right? You've run in to
9 that in your history, correct, everybody wants to get
10 more money, correct, everyone wants more training,
11 more equipment, more rest of it, correct?

12 MR PLOSIA: Objection, that's seven
13 questions, which one would you like her to answer,
14 counsel?

15 MR. SCIARRA: O.K.

16 HEARING OFFICER O'HAGEN: You're
17 making observations.

18 BY MR. SCIARRA:

19 Q. I'm making an observation.
20 In your time, this was not the first
21 place you ever worked in a municipal government,
22 right?

23 A. No.

24 Q. People are always looking for more
25 resources to run their department to do certain

1 things, correct?

2 A. Sure.

3 Q. And the chief was talking to you about
4 the fact that he didn't feel like he was getting
5 resources for various things, is that correct, isn't
6 that what he said, a lot of issues or was it just
7 one?

8 A. I'm not sure I follow your question.

9 Q. Sure.

10 Was the only thing he was upset about
11 was the fact that he wasn't getting enough resources
12 for training?

13 A. The conversation was specific to the
14 Chicago conference and the statement was more general
15 in that the policy for Colts Neck is that they do not
16 pay for participation in conferences --

17 Q. O.K.

18 A. -- and the requirement to use vacation
19 time to attend said conferences.

20 Q. You're saying that the chief indicated
21 to you he had some requirement to use vacation time,
22 you're saying that under oath here now?

23 A. I am.

24 MR PLOSIA: Objection, the witness
25 said it three times.

1 HEARING OFFICER O'HAGEN: Yes, she has
2 and she knows she's under oath.

3 BY MR. SCIARRA:

4 Q. O.K., so let's be clear.

5 When the chief submitted these time
6 sheets without them being on vacation, did anybody
7 ever say there's a policy, a procedure, a practice,
8 something that says he has to do it while he's on
9 vacation?

10 MR. PLOSIA: Did anyone ever say that
11 to anybody?

12 BY MR. SCIARRA:

13 A. I have -- I have no knowledge of that.

14 Q. And no one has ever asked -- I asked
15 before you if saw it in writing, you never heard
16 anything about that in any other way in terms of oral
17 or anything else, correct?

18 A. That's correct.

19 Q. O.K.

20 There is a question about the chief
21 having someone come pick him up, correct?

22 A. Correct.

23 Q. And the chief told you what with
24 regard to that in this meeting that you're saying
25 transpired with regard to this conference?

1 HEARING OFFICER O'HAGEN: Wait a
2 minute, wasn't the meeting --

3 A. We didn't have any discussion on that.

4 HEARING OFFICER O'HAGEN: -- prior to
5 the Chicago trip?

6 THE WITNESS: Yes, that's correct.

7 HEARING OFFICER O'HAGEN: Your initial
8 meeting.

9 THE WITNESS: October 7.

10 HEARING OFFICER O'HAGEN: O.K., right,
11 so you're asking him what did he say about that in
12 October?

13 BY MR. SCIARRA:

14 Q. He didn't say anything?

15 A. No.

16 Q. He didn't say maybe another officer or
17 the other guy maybe would share a ride, nothing like
18 that?

19 A. He did not.

20 Q. I see.

21 But he told you his wife was going?

22 A. He did.

23 Q. Knowing now that the training was
24 approved and, in fact, paid for by the town, was the
25 chief there on official business?

1 HEARING OFFICER O'HAGEN: Wait a
2 minute, are you asking her --

3 MR. SCIARRA: Yes.

4 HEARING OFFICER O'HAGEN: -- as a
5 matter of -- do you have a problem with that?

6 MR. PLOSIA: I do.

7 HEARING OFFICER O'HAGEN: I'll sustain
8 the objection.

9 It's not for her to say, it's for me
10 to say. It's not for her to say.

11 MR. SCIARRA: Wait, hold on, this
12 witness -- hold on, hold on, Mr. Hearing officer,
13 this witness learned for the first time yesterday
14 about the fact that this was an approved conference.

15 HEARING OFFICER O'HAGEN: But you're
16 asking her to make a legal determination, was he
17 there on official business or wasn't he? That's not
18 her role and that's not her job.

19 MR. SCIARRA: O.K.

20 BY MR. SCIARRA:

21 Q. What qualifies as official business?

22 MR. SCIARRA: Is that -- can I had ask
23 her that question?

24 HEARING OFFICER O'HAGEN: If you wish.

25 MR. SCIARRA: Either one of you

1 object?

2
3 MR PLOSIA: I guess you can answer, I
4 mean, the record speaks for itself here.

5 Q. What --

6 MR. PLOSIA: And let me just be clear,
7 so we're clear.

8 Judge, this is your decision; this is
9 not the witness' decision. You want to ask her; I
10 don't think it's relevant, but if you want to waste
11 time, counsel, let him go. It's not her decision;
12 it's your decision.

13 HEARING OFFICER O'HAGEN: I think he's
14 asking as to the practice in Colts Neck, what is it
15 that's determined to be business, The Township
16 business. I think that was the thrust of the
17 question.

18 MR PLOSIA: If he's asking that in
19 general, I do have a specific objection because here
20 we have specific ground rules in detail that was set
21 out just for Chief Sauter. Are there special rules
22 for the chief here? Absolutely. The township is
23 not denying that; we've just gone through that at
24 length.

25 So to say what happens when a DPW
director goes to an OEM meeting is not relevant to

1 what happened here in this case given the parameters
2 that we have in the documents, so I would object on
3 that basis.

4 HEARING OFFICER O'HAGEN: I wasn't
5 thinking about that.

6 Do you have a response to that
7 observation by Mr. Plosia?

8 MR. SCIARRA: Let me refine the
9 question.

10 BY MR. SCIARRA:

11 Q. What constitutes official business for
12 Chief Sauter?

13 A. I'm not the appropriate authority; I
14 would have a difficult time answering that question.
15 Q. I see.

16 So as you sit here now, you cannot
17 provide any testimony today that on behalf of Colts
18 Neck that tells us what constitutes official business
19 by Chief Sauter, correct?

20 A. Not specifically.

21 Q. Anything not specific?

22 A. No.

23 Q. So no?

24 A. No.

25 Q. Got it.

1 O.K.

2 The act of having someone grab the
3 chief and his wife, which he told you was going, from
4 the airport and another chief, had that been the
5 practice in the past?

6 A. I have no knowledge of that.

7 Q. So as you sit here now, you don't know
8 what the practice --

9 MR PLOSIA: Objection, does counsel
10 have to ask the same question twice? I mean --

11 MR. SCIARRA: Well, I like the answer
12 yes.

13 MR PLOSIA: Can I just finish?
14 If there was a jury here, maybe you
15 can say it. There's no jury here, Judge, you're
16 getting it the first time.

17 HEARING OFFICER O'HAGEN: I did hear
18 it, I'm not exactly sure it's relevant either, by the
19 way, but I did hear it. I heard it the first time
20 and I heard it the second time.

21 I think your answer would be the same,
22 wouldn't it?

23 THE WITNESS: Yes.

24 HEARING OFFICER O'HAGEN: O.K.

25 So I don't think I have to hear it two

1 times.

2 BY MR. SCIARRA:

3 Q. Go to the May 28, 2015, Tab 7.

4 MR PLOSIA: You're there.

5 A. Tab 7 is November 14, 2014.

6 Q. Yes, this was the request made of the
7 by the counsel, correct?

8 MR PLOSIA: That's not the exhibit,
9 counsel.

10 MR. SCIARRA: Tab 7.

11 MR PLOSIA: No, 12 is May 28.

12 HEARING OFFICER O'HAGEN: I think he's
13 talking about September 10.

14 BY MR. SCIARRA:

15 Q. Tab 7, November 7, 2014.

16 MR. PLOSIA: Right.

17 HEARING OFFICER O'HAGEN: Well, wait a
18 minute, this is my Tab 7. Oh, November 14, O.K.

19 MR. SCIARRA: O.K.

20 BY MR. SCIARRA:

21 Q. Again, you recall testifying about
22 this previously?

23 A. Yes.

24 Q. All right.

25 And then we go to the May 28

1 submission, which has been marked twice, but it's Tab
2 12. And it's got the eight bullet points that it
3 provides, correct?

4 A. Correct.

5 Q. It says at the end of the eight bullet
6 points, it says, "In my absence, Lieutenant Frank
7 Lecesse shall be in command of the department. I
8 will be available via phone and through my secretary
9 Rea if needed. Any questions, please contact me at
10 your convenience."

11 First, do you know if anybody ever
12 contacted the chief regarding any questions?

13 A. I do not.

14 Q. Second, do you know Lieutenant Frank
15 Lecesse?

16 A. I do.

17 Q. Who's that?

18 A. He's a lieutenant in the Colts Neck
19 Police Department.

20 Q. Second highest ranking officer?

21 A. Correct.

22 Q. O.K.

23 And this -- did you understand having
24 looked at this in retrospect, do you have an
25 understanding that this put the lieutenant in command

1 of the department at the time?

2 A. Yes.

3 Q. Go to the time sheets, if you could, P
4 -- Tab 14, do you see where at the time sheet each
5 entry has Review Incidents?

6 A. Yes.

7 Q. Are you aware that the chief was
8 calling in each day saying what's going on, keeping
9 in contact with the department?

10 A. I was not aware of that.

11 Q. O.K.

12 Anybody ever question him about that?
13 A. I have no knowledge of that.

14 Q. Is there a policy and procedure that
15 says if the chief is on vacation, he has to check in
16 with the department every day?

17 A. I have no knowledge of a policy to
18 that effect.

19 Q. Is there a policy or procedure that
20 says if he's on vacation, he shouldn't check in with
21 the department every day?

22 MR PLOSIA: He should not?

23 MR. SCIARRA: Yes.

24 BY MR. SCIARRA:

25 A. Not that I'm aware of.

1 Q. You have no knowledge either way,
2 correct?

3 A. Correct.

4 Q. By the way, just take a look at
5 Exhibit 3, the second page.

6 HEARING OFFICER O'HAGEN: You're
7 talking S-3.

8 MR. SCIARRA: S-3, I apologize, the
9 second page.

10 MR PLOSIA: I don't have a second page.
11 THE WITNESS: This (indicating).

12 MR. SCIARRA: Yes, that's there, it's
13 Bates T.

14 CHIEF SAUTER: It's right next to you.
15 MR PLOSIA: What's the number on the
16 bottom?

17 MR. SCIARRA: 003.
18 BY MR. SCIARRA:

19 Q. You recognize that document?

20 A. I do.

21 Q. And what do you understand that
22 document to be?

23 A. Recognize it, but I did not study the
24 document. Again, it was just brought to my attention
25 in the last couple of days.

1 HEARING OFFICER O'HAGEN: Is this what
2 you're talking about?

3 MR. SCIARRA: Yes.

4 BY MR. SCIARRA:

5 A. It looks like a registration form for
6 the Chicago conference.

7 Q. Registration for the Chicago
8 conference?

9 MR. PLOSIA: I'm sorry, just so I am
10 clear, that's the second page of what exhibit, S-2.

11 MR. SCIARRA: S-3.

12 THE WITNESS: S-3.

13 MR PLOSIA: O.K.

14 Yes, you got it, that's it.

15 BY MR. SCIARRA:

16 Q. For complete record, can you take a
17 look --

18 A. I'm sorry.

19 Q. Just take a look, if you would, at
20 what I would like to mark as S-5?

21 MR. SCIARRA: It's Bates 005.

22 (Sauter Exhibit S-5, email, Bates
23 stamped 005, marked for identification, as of this
24 date.)

25 BY MR. SCIARRA:

1 A. 5.

2 Q. Take a look at S-5 if you would.
3 Do you recognize S-5?

4 A. I do.

5 Q. What is S-5?

6 A. It's an email.

7 Q. Do you see that for the first time
8 yesterday or the day before yesterday?

9 A. That's correct.

10 Q. Who's the email from?

11 A. Interim township administrator Tom
12 Antus to Chief Sauter regarding training PO.

13 Q. And, in fact, is there a second email
14 on the bottom of that?

15 A. Yes, it's an email chain. So the
16 first one is from Chief Sauter, I believe, to Tom
17 Antus.

18 Q. And that's -- do you understand that
19 to be Chief Sauter in September of 2015, making
20 inquiry as to the training --

21 A. Right.

22 Q. -- and then Mr. Antus responding?

23 A. That's correct.

24 Q. So Mr. Antus and the chief directly
25 communicated on this, that's your understanding?

1 A. According to this email, yes.

2 MR. SCIARRA: If I could just have one
3 minute.

4 Are you going to make redirect?
5 MR PLOSIA: Very brief.

6 MR. SCIARRA: Can we take a quick
7 three-minute break, Mr. Hearing officer.
8

9 HEARING OFFICER O'HAGEN: Do you want
10 to?

11 MR. SCIARRA: Yes.

12 HEARING OFFICER O'HAGEN: Are you
13 saying it would expedite things if we do that?

14 MR. SCIARRA: Yes, thank you.

15 THE WITNESS: I need to use the
16 restroom.

17 (Whereupon, a recess was taken.)

18 MR. SCIARRA: May I continue, Mr.
19 Hearing Officer.

20 HEARING OFFICER O'HAGEN: Yes, sure.

21 MR. SCIARRA: Thank you.

22 BY MR. SCIARRA:

23 Q. Madam administrator, the time sheets
24 if you can go to the tab marked 13?

25 A. Yes.

Q. At the bottom of that time sheet, this

1 is Chief Sauter, it says, Kevin Sauter, Chief of
2 Police October 23, 2015, do you see that?

3 A. I do.

4 Q. All right, and then the next page has
5 weekending 10/30/2015, do you see that?

6 A. Yes.

7 Q. O.K.

8 At the bottom, there's an entry that
9 says time year-to-date plus/minus 40-hour week and
10 then it has on the first page 102.25, do you see
11 that?

12 A. I do.

13 Q. And then on the second one it states
14 time year-to-date plus minus 40-hour week 118.50, do
15 you see that?

16 A. I do.

17 Q. What is that, do you know?

18 A. I can guess, it appears --

19 HEARING OFFICER O'HAGEN: Well, we
20 don't want you to guess.

21 BY MR. SCIARRA:

22 A. I don't know then.

23 Q. Does the chief earn overtime?

24 A. I don't believe so.

25 Q. No.

1 So in terms of -- you're familiar with
2 the requirement demand to provide time sheets?

3 A. Yes.

4 Q. Are you familiar with the requirement
5 to say you work a 40-hour week?

6 A. Yes.

7 Q. In there's a fatal accident on Route
8 18 or some other requirement that he comes in, does
9 he get overtime for any of that?

10 A. He does not.

11 MR. SCIARRA: Thank you, that's all I
12 have.

13 HEARING OFFICER O'HAGEN: Any
14 redirect. counsel?

15 MR PLOSIA: Yes.

16
17 REDIRECT EXAMINATION

18 BY MR. PLOSIA:

19 Q. Ms. Capristo, if you can turn to
20 Exhibit T-7. This is the directive we talked about
21 previously, correct?

22 A. Correct.

23 Q. Pursuant to the directive, who is the
24 chief to request -- to make the request of to attend
25 conferences?

1 A. Township Committee.

2 Q. And The Township -- is The Township
3 Committee the appropriate authority?

4 A. They are.

5 Q. Can you turn to Exhibit T-12.
6 Who is that request made of, that memo
7 from the chief?

8 A. It's to Tom Antus.

9 Q. Are any members of The Township
10 Authority copied on that?

11 A. No.

12 MR PLOSIA: That's all I have, thank
13 you.

14
15 RE CROSS EXAMINATION

16 BY MR. SCIARRA:

17 Q. Just on that, Mr. Antus was your
18 predecessor in that position, correct?

19 A. The interim township administrator
20 prior to me, correct.

21 Q. O.K.

22 Are you familiar with -- in your own
23 practice since you've come here, do you routinely
24 converse with Township Committee members?

25 A. I do.

1 Q. Do department heads routinely
2 correspond with you relating to matters about which
3 Township Committee members have a need to see or be
4 aware?

5 A. Can you repeat that, please?

6 Q. Sure.

7 How many departments do you have here?

8 A. A dozen.

9 Q. A dozen.

10 Is it routine for department heads to
11 communicate to you issues that have to be addressed
12 and dealt with by The Township Committee?

13 MR PLOSLIA: Objection, relevance,
14 we're talking about a particular episode, this
15 episode with particular documents, which direct --
16 which particular directives, what happens generally
17 with the other department heads, I would submit is
18 not relevant.

19 MR. SCIARRA: If I may respond to that
20 objection, Mr. Plosia's last question looks
21 specifically at the language of the May 28 request,
22 which went to the administrator, which we now know
23 was approved by members of the committee. And the
24 suggested finding of the question is that there was
25 not compliance with the November 14, 2014 directive

1 because the request was not addressed directly to the
2 committee, which until yesterday or the day before
3 yesterday, this witness had no idea had approved the
4 training.

5 So I believe it would be relevant to
6 determine that, in fact, a department head would go
7 through the full time, professional educated
8 certified Borough administrator on issues that
9 require the part-time, living their lives, doing
10 their own work out there in the world making I think
11 \$1500 a year, committee members who appear once or
12 twice a month for meetings and so on.

13 That would be I think a relevant
14 factor as it relates to that.

15 MR PLOSIA: Same objection. What
16 happens generally without these directives is not
17 relevant.

18 HEARING OFFICER O'HAGEN: Don't you --
19 isn't this clerk, the secretary to the governing
20 body?

21 MR. SCIARRA: That's my understanding.

22 HEARING OFFICER O'HAGEN: All right.

23 Don't you normally direct, if you want
24 to address a person, you might send it to he or she;
25 failing that, you send it to the secretary to that

1 person, correct? I'm not sure how the administrator
2 really falls in to this, although Ms. Capristo did
3 say she handles the day-to-day affairs of The
4 Township, but there is a difference between your job
5 and the clerk's, right?

6 THE WITNESS: That's correct.

7 HEARING OFFICER O'HAGEN: Where does
8 it start and end as far as you're concerned?

9 THE WITNESS: Well, to your point, the
10 municipal clerk is the secretary to the governing
11 body, so...

12 HEARING OFFICER O'HAGEN: Meaning
13 what?

14 THE WITNESS: She's responsible for
15 attending all of the committee meetings, she
16 transcribes the committee meetings, to the extent
17 that they have correspondence, written correspondence
18 or email correspondence, she processes and delivers
19 that directly to them. So there are things that
20 could go directly from the municipal clerk to The
21 Township Committee that are not necessarily presented
22 to me.

23 HEARING OFFICER O'HAGEN: If I may
24 interrupt you.

25 If I were to correspond with The

1 Township Committee, with nothing more than just the
2 Colts Neck Township Committee, where would that
3 letter land when it arrived at The Township?
4

5 THE WITNESS: It would go to the
6 municipal clerk's office first.

7 HEARING OFFICER O'HAGEN: And then
8 where?

9 THE WITNESS: And she would then
10 direct it to the individual, the individual committee
11 person --

12 HEARING OFFICER O'HAGEN: O.K.

13 THE WITNESS: -- via hand delivery,
14 they have mailboxes, if it's an email, she would
15 forward it.

16 HEARING OFFICER O'HAGEN: O.K.

17 Given Mr. Plosia's objection in the
18 first instance, there was a specific directive here.
19 What may happen in other departments doesn't seem so
20 relevant. There was a directive to the chief saying
21 if you're requesting this, that or the other thing,
22 you need the express approval of The Township
23 Committee.

24 MR. SCIARRA: O.K., O.K., then -- O.K.
25 Let me just note my objection for the
record.

1 MR. SCIARRA: The defense is now
2 morphed in to some suggestion that we're in a huge
3 bureaucratic municipal environment where you better
4 send it to the right person, as if I'm in Paterson or
5 New York City in terms of it got to the wrong
6 department. But if I may, let me just, and it seems
7 that The Court is not permitting me to make an
8 inquiry of that because it just morphed to, gee, you
9 should've -- it was addressed to the BA and not to
10 The Township Committee so now I would like to ask
11 about the policy if I could.

12 HEARING OFFICER O'HAGEN: Excuse me a
13 moment. That was an aside.

14 The basis for my ruling was the
15 objection raised by Mr. Plosia. There was a specific
16 directive in this case. It's irrelevant for us to
17 hear what may happen with another department, the
18 road department or the Health Department or whatever.

19 MR. SCIARRA: O.K., let me just -- can
20 I just deal with the directive then?

21 HEARING OFFICER O'HAGEN: Well, you
22 can deal with it the way you want, just recognize the
23 chief is in a different category given that directive
24 of The Township Committee.

25 BY MR. SCIARRA:

1 A. Correct.

2 Q. All right, take a look at Tab 9.
3 Do you have Tab 9?

4 A. I do.

5 Q. That was a different conference,
6 correct?

7 A. Correct.

8 Q. Also addressed to The Township
9 administrator, correct?

10 A. That's correct.

11 Q. Go to Tab 8.

12 That was a different conference
13 addressed to The Township administrator, correct?

14 A. That is correct.

15 Q. And regardless of where this was sent,
16 not directly to the, quote-unquote, committee, I
17 guess -- strike that.

18 Does it say anything in the Tab 7 that
19 the actual request be addressed by email or
20 hand-delivered or anything else to the committee
21 members?

22 MR PLOSIA: You mean individual
23 committee members, counsel, as opposed to The
24 Township Committee, is that what you're saying?
25

MR. SCIARRA: Yes.

1 Q. Go to T-7 if you would, please.

2 A. 7?

3 Q. Tab 7.

4 Now, this says, "The police chief
5 shall not attend any conferences or training events
6 which require the expenditure of public funds without
7 the express written consent of The Township
8 Committee."

9 Do you see that?
10 A. I do.

11 Q. O.K., I showed you the other
12 documents, the clerk signed with the three names who
13 approved the conference.

14 Do you recall that testimony?
15 A. I do.

16 Q. O.K.

17 The next line says, "At least 30 days
18 before the conference or event, the police chief
19 shall provide The Township Committee with a detailed
20 written report setting forth," and then it lists
21 eight things, correct?

22 A. Correct.

23 Q. All right.

24 Now, No. 12, Tab 12 is directed to The
25 Township administrator, correct?

1 Q. Correct?

2 A. I'm not sure what I'm saying correct
3 to, what's the question again, please.

4 Q. It was approved by the members of the
5 committee?

6 MR PLOSIA: She's asking what is it?

7 MR. SCIARRA: Sauter 1. The --

8 MR PLOSIA: We know what that is. What
9 does that constitute approval of, which I'm objecting
10 and she's asking as well.

11 BY MR. SCIARRA:

12 Q. It says approved as it relates to the
13 conference, right?

14 MR PLOSIA: Well, the document speaks
15 for itself. What the document does is approve a
16 payment of \$350, that's what it does.

17 MR. SCIARRA: O.K.

18 MR. PLOSIA: It speaks for itself.
19 This witness is not going to shed any light on that.

20 MR. SCIARRA: She already attempted to
21 by way of her hearsay so I just --

22 MR PLOSIA: I object to your comment.
23 First of all, you're wrong. Second of all, it's
24 irrelevant.

25 HEARING OFFICER O'HAGEN: Move on.

1 MR PLOSIA: I'll stipulate it doesn't
2 say individual committee members.

3 MR. SCIARRA: O.K.
4 BY MR. SCIARRA:

5 Q. It doesn't say -- all it says, to be
6 clear, before the -- "30 days before the conference
7 or event, the chief police shall provide The Township
8 Committee with a detailed written report setting
9 forth," correct?

10 A. Correct.

11 Q. And no one else approved this but
12 members of The Township Committee, correct?

13 A. Approved what?

14 HEARING OFFICER O'HAGEN: Do you
15 understand his question?

16 THE WITNESS: I didn't understand.

17 HEARING OFFICER O'HAGEN: Please
18 rephrase.

19 BY MR. SCIARRA:

20 Q. This request, as you now know, based
21 upon Sauter 1 was approved by members of the
22 committee, correct?

23 A. What was Sauter 1?

24 Q. That's the one with the handwriting.

25 A. O.K.

1 MR. SCIARRA: I just want to ask this
2 question.

3 BY MR. SCIARRA:

4 Q. Was -- regardless of the fact that the
5 eight criteria were submitted to The Township
6 administrator, ultimately, it found its way to and
7 was approved by the committee?

8 MR PLOSIA: Well, I'm going to object.

9 MR. SCIARRA: Three members.

10 MR PLOSIA: It speaks for itself.
11 It's approval of payment for 350. This witness is
12 not going to interpret that; that's what he's asking
13 her to do.

14 HEARING OFFICER O'HAGEN: There were
15 three committeemen who signed it.

16 MR. SCIARRA: Right.

17 HEARING OFFICER O'HAGEN: I don't
18 think you're going to get any better than that.

19 MR. SCIARRA: I agree, O.K., thank
20 you.

21 HEARING OFFICER O'HAGEN: Is that it?

22 MR. SCIARRA: That's it.

23 HEARING OFFICER O'HAGEN: Any
24 redirect?

25 MR PLOSIA: Nothing further.

1 HEARING OFFICER O'HAGEN: Do you have
2 additional witnesses?

3 MR PLOSIA: We don't.

4 The Township rests subject to
5 rebuttal. We move in to evidence T-1 through T-17
6 insofar as we have to move them into evidence, sir.

7 HEARING OFFICER O'HAGEN: Any
8 objection to the exhibits coming in?

9 MR. SCIARRA: Yes. Let's go through
10 them.

11 HEARING OFFICER O'HAGEN: O.K.

12 MR. SCIARRA: Are we ready?

13 HEARING OFFICER O'HAGEN: All set.

14 MR. SCIARRA: I'm going to object to
15 No. 5; the witness had no -- doesn't deal with this
16 matter and the witness had no personal knowledge of
17 this issue.

18 MR PLOSIA: It certainly does have
19 something to do with it because you're talking about
20 40 core hours that you have to work and it refers to
21 the directive as well.

22 In terms of any other evidential
23 objection, Your Honor, if I can just -- in terms of
24 hearsay, insofar as they are hearsay, these are not
25 hearsay documents; these are official public records.

1 They are, therefore, an exception to the hearsay
2 rule. So it seems to be if there is any basis for
3 objection, it would only be relevance; it wouldn't be
4 hearsay.

5 HEARING OFFICER O'HAGEN: Well, you
6 didn't getting to her to qualify them on the basis
7 that they were part of the public record, did you?

8 MR PLOSIA: I think I did.

9 HEARING OFFICER O'HAGEN: I don't
10 remember that.

11 MR PLOSIA: You mean for this one or
12 for any one?

13 HEARING OFFICER O'HAGEN: I don't
14 remember your doing that; you may have, but I don't
15 remember it.

16 MR PLOSIA: I can certainly do that,
17 Your Honor. I don't think I have to, if I have a
18 witness who is working as township administrator
19 identifying documents, does it not go without saying
20 that those are official documents?

21 HEARING OFFICER O'HAGEN: Well, there
22 is another way of doing this, by the way. But if you
23 wish to re-call her to establish a record of business
24 record, I gather that's what you just said, a
25 business record, correct?

1 MR PLOSIA: Yes.

2 HEARING OFFICER O'HAGEN: Right.

3 Is there any doubt that he will be
4 able to do that?

5 MR. SCIARRA: What I -- then what I
6 would like to do is why don't we stipulate that she'd
7 get on the stand and say these are, quote-unquote,
8 records found in the file, and then I'd like to ask
9 her about records that were not found in the file.

10 MR PLOSIA: In other words, you rested
11 your cross and now you want to reopen cross based on
12 --

13 MR. SCIARRA: If you want.

14 MR. PLOSIA: Let me just finish,
15 please.

16 Thank you.

17 You want to reopen cross or voir dire
18 based upon my introduction of exhibits in to
19 evidence? I object.

20 HEARING OFFICER O'HAGEN: His
21 objection is that you didn't -- she testified she
22 didn't know anything about this. And you volunteered
23 now for the first time that you want to admitted or
24 you're seeking to have admitted because it's a
25 business record.

1 MR PLOSIA: Well --

2 HEARING OFFICER O'HAGEN: There wasn't
3 any testimony along those lines.

4 MR PLOSIA: Where else would she get
5 them, judge?

6 HEARING OFFICER O'HAGEN: I know, but
7 I think that's the basis for his, at least as I
8 understand it, that's the basis for your objection?

9 MR. SCIARRA: Right.

10 MR PLOSIA: I mean, counsel is not
11 willing to stipulate that Kathleen Capristo as The
12 Township administrator obtained these documents as
13 part of her job as The Township administrator?

14 HEARING OFFICER O'HAGEN: We'll
15 stipulate that, but what he wants to ask her is what
16 was not found in the documents, I gather in a
17 conclusory way.

18 MR. SCIARRA: Yes.

19 HEARING OFFICER O'HAGEN: Without
20 going through --

21 MR. SCIARRA: Correct.

22 HEARING OFFICER O'HAGEN: -- each and
23 every thing you think should be in there.

24 MR. SCIARRA: Correct.

25 MR PLOSIA: So counsel is not going to

1 introduce these documents in to evidence either then?
2

MR. SCIARRA: I am.

3 MR PLOSIA: Well, how are you going to
4 do that when I produced those through The Township
5 administrator, the very person you're saying doesn't
6 have access to official documents, but they're good
7 for you to introduce but not for me, is that your
8 argument, counsel?

9 HEARING OFFICER O'HAGEN: Excuse me,
10 aren't those --

11 MR. SCIARRA: No.

12 HEARING OFFICER O'HAGEN: -- for the
13 most part, part of your exhibits?

14 MR PLOSIA: Some of them are; some of
15 them are not.

16 HEARING OFFICER O'HAGEN: I think the
17 second page of -- I never saw that second page of
18 that one exhibit, but otherwise, there's an email
19 stream between the chief and the administrator,
20 there's the couple of those purchase orders I guess
21 you call them.

22 MR PLOSIA: I think S-2, Your Honor,
23 was the only one that was part of that.

24 MR. SCIARRA: May I make a possible
25 solution, if all of his documents go in and all of

1 mine go in, it is what it is.

2 MR PLOSIA: Done, done, done, done,
3 done. If you said that at the beginning, counsel, we
4 could've saved 15 minutes.

5 (Township Exhibits 1-17, received into
6 evidence, as of this date.)

7 [Sauter Exhibits S-1 through S-5,
8 received into evidence, sa of this date.]

9 HEARING OFFICER O'HAGEN: So you have
10 no objection to these documents going in to evidence?

11 MR. SCIARRA: I'm going to object to
12 the weight of them, the hearsay for purposes of the
13 weight for consideration of a final decision. But
14 the fact that you're going to take them and receive
15 them in to evidence and then review them as part of
16 the record, I'm not objecting to. Their reliability,
17 the fact that they were cherrypicked and we only got,
18 you know -- we didn't get the stuff that exonerates
19 my client, all of that will be argument. But in
20 terms of you receiving them and taking recognition
21 that they existed in folders some place and they were
22 presented here, I'm not ultimately going to argue
23 that they can't come in; I'm going to argue that they
24 do not assist in sustaining the charges against my
25 client. That's what I'm reserving.

1 HEARING OFFICER O'HAGEN: I'm not sure
2 I'm completely understanding you, by the way.

3 But these are business records. As I
4 understand the proffer, if they're a business record,
5 there's an exception to the hearsay rule. So that's
6 not a basis for the objection.

7 Now, you can say, well, they don't
8 count for a whole lot.

9 MR. SCIARRA: Right, that's what I'm
10 reserving the right to say.

11 MR PLOSIA: I am certainly --
12 introduction into evidence is different from what
13 they mean in terms of the substance of the case.

14 HEARING OFFICER O'HAGEN: Right.

15 MR. PLOSIA: And just so it's clear
16 for the record, the documents that are the S
17 documents, The Township produced these, that's where
18 they came from.

19 HEARING OFFICER O'HAGEN: Right.

20 MR. PLOSIA: I want that to be clear.
21 Counsel just said, well, we're cherrypicking
22 documents, he got them from my office, did you not?

23 MR. SCIARRA: Hold on.

24 HEARING OFFICER O'HAGEN: Excuse me
25 for a minute, when he says cherrypicking.

1 MR. SCIARRA: No.

2 HEARING OFFICER O'HAGEN: He's either
3 going to produce a document or he won't.

4 MR PLOSIA: Right.

5 MR. SCIARRA: If we're stipulating
6 they're all going in, that's fine, the S documents,
7 the T tab and the S documents.

8 HEARING OFFICER O'HAGEN: I think the
9 S documents that have thus far been produced and the
10 T documents incorporated in to exhibit book go in.

11 MR. SCIARRA: Thank you.

12 HEARING OFFICER O'HAGEN: O.K.

13 MR PLOSIA: Thank you.

14 HEARING OFFICER O'HAGEN: They rest.
15 Are you ready to proceed.

16 MR. SCIARRA: I'd like to make a
17 motion --

18 HEARING OFFICER O'HAGEN: O.K.

19 MR. SCIARRA: -- if I may.

20 The charge here is detailed in the --
21 well, there's a narrative as it relates to what is
22 being alleged in this narrative, and then there are
23 some charges that they specify the violations.

24 The witness in the case, the sole
25 witness, who is not present for any of the underlying

1 events in question and only the subsequent events,
2 presented her case entirely through hearsay, swore
3 that she did not see the approval documents marked as
4 an S until yesterday or the day before when she
5 received them from Mr. Plosia's office.

6 Now, there's a lot of problems with
7 that, one, Mr. Plosia said he produced this stuff to
8 me. If he did, why didn't he show it to his own
9 witness and, in fact, deal with those issues.

10 But more importantly, the charge here
11 that we're addressing with regard to the conference
12 was that it was an unauthorized conference. We now
13 know it was authorized. We know how it was
14 authorized. And so I do not know why I should have
15 to proceed further to defend my client on attending
16 an unauthorized conference, which the evidence
17 established is authorized.

18 Not the least of which you were handed
19 Certifications and it's part of the record from what
20 we said in the beginning of Mr. Macnow, that's his
21 name --

22 CHIEF SAUTER: Macnow.

23 MR. SCIARRA: -- where he said none of
24 us knew and now we find out they knew.

25 So we can't now amend the charges to

1 say, well, we knew but, yes, members of the committee
2 knew it and approved it, but your initial submission
3 wasn't to the committee members; it was to the BA.
4 You can't amend the charges as Mr. Plosia attempted
5 to do with the last few questions. They can no
6 longer sustain the charge that my client attended an
7 unauthorized training.

8 And so therefore, I don't know how I
9 can possibly defend or why I should be in any way
10 required to defend. If any one of these chiefs of
11 police, if any one of theirs officers presented
12 evidence in a court of law --

13 HEARING OFFICER O'HAGEN: Excuse me,
14 forget about anyone else, we're dealing with this
15 case.

16 MR. SCIARRA: I'm dealing with --

17 HEARING OFFICER O'HAGEN: So don't
18 refer to somebody else.

19 MR. SCIARRA: Yeah.

20 The party with the burden -- yeah --
21 the party with the burden, be it law enforcement or
22 Civil setting like we're here today, must demonstrate
23 that their charges have enough merit to move forward.
24 Now that there's limited proof of authorization, I
25 don't know how we can move forward.

1 MR PLOSIA: There's three elements to
2 the charges, Your Honor. The first is that The
3 Township Committee was explicitly required to receive
4 a written document from Chief Sauter requesting
5 attendance at the conference; that didn't happen.
6 And I think that's not going to be disputed, you can
7 argue about -- you can argue about The Township
8 administrator being the de facto appropriate
9 authority, but that's not the case here.

10 The second part of it is that, as you
11 heard the witness testify, the total cost to the
12 Township was \$350; that was the cost of the
13 conference, no other cost. And the chief
14 specifically said to this witness, I'm not happy
15 about having to use my own vacation time, turns out
16 he didn't, which is obviously an additional cost to
17 The Township.

18 The third issue is that the chief of
19 police had an on-duty police officer pick him up and
20 his wife and another chief, and drive him back, which
21 is another township expenditure, unless we are going
22 to argue that somehow one of the two or three, make
23 sure I've got my math right --

24 HEARING OFFICER O'HAGEN: He's not
25 addressing those.

1 MR PLOSIA: Well, he's asking for
2 dismissal of the charges.

3 HEARING OFFICER O'HAGEN: He may ask
4 for that dismissal of those if I were to rule in his
5 favor, given his opening, he might but right now, the
6 only issue is the

7 MR PLOSIA: The first charge.

8 HEARING OFFICER O'HAGEN: Pardon?

9 MR PLOSIA: The first charge?

10 HEARING OFFICER O'HAGEN: Yes.

11 MR PLOSIA: There is no charge about
12 lack of authorization for attendance at the trip per
13 say, or The Township paying the \$50. That's not what
14 this is about. The three charges are just as I
15 outlined and we certainly presented a prima facie
16 case, if not an irrefutable case, as to all three of
17 those issues. We ask that the case proceed.

18 HEARING OFFICER O'HAGEN: I'm going to
19 allow the case to proceed. I will take the motion
20 under consideration. I will review it. I expect
21 that I will be corresponding with the two of you as
22 to my decision to resolve the matter after I hear all
23 of the evidence and the arguments. So I will reserve
24 decision on that.

25 Are you ready to go forward?

1 MR. SCIARRA: Yes, I just need one
2 minute.

3 (Whereupon a recess was taken.)

4 HEARING OFFICER O'HAGEN: Do you have
5 an application to make, Mr. Plosia?

6 MR PLOSIA: I do.

7 Your Honor, it just came to my
8 attention that this matter is actually being
9 videotaped. I was not aware of that. We had raised
10 the issue of photographs being taken. In terms of
11 videotaping generally speaking, and I don't know the
12 Colts Neck policy, but you generally will allow that
13 at a public hearing or public meeting, but there is
14 usually a request made beforehand. We have no such
15 request. At this point, it seems to me the matter is
16 moot, but I am concerned that Chief Sauter, who has
17 agreed through his attorney to have an open hearing,
18 I don't know if he understands or understood that
19 this is all being filmed, they could actually post it
20 as well. So I would just like the chief through his
21 counsel are not objecting in any way to that, that
22 understand that this public hearing is now a
23 videotaped hearing because if they do have any
24 objection, we'll have to do something about it. If
25 they don't, we're obviously going to proceed.

1 HEARING OFFICER O'HAGEN: Mr. Sciarra,
2 I understood you had no knowledge of this either?

3 MR. SCIARRA: Let me be clear. I saw
4 someone set up before. Frankly, I didn't think about
5 it further. An open hearing is an open hearing, I
6 consulted my client and we have no issue with it.

7 MR PLOSIA: Good, thank you.

8 HEARING OFFICER O'HAGEN: Chief, you
9 have no issue.

10 CHIEF SAUTER: No.

11 HEARING OFFICER O'HAGEN: I see the
12 camera there now. I don't know when I saw it, but it
13 would've been better, sir, had you asked permission
14 to do it before you began your videotaping. If the
15 record is complete and it's left intact and there's
16 no tampering with the record, I don't see the problem
17 with it, and no one seems to object, and I don't see
18 a problem. But it would've been better had you
19 alerted us to the fact that you were going to do
20 that.

21 All right, let's proceed.

22 MR. SCIARRA: Chief Sauter.

23 K E V I N S A U T E R,

24 Called as a witness, having been duly
25 sworn by a Notary Public (Hearing Officer

1 O'Hagen), was examined and testified as
2 follows:

3 HEARING OFFICER O'HAGEN: Please
4 state for us your full name and spell your last
5 name.

6 THE WITNESS: Chief Kevin Sauter,
7 S-A-U-T-E-R.

8
9 DIRECT EXAMINATION
10 BY MR. SCIARRA:

11 Q. Chief, all you guys are the same with
12 your papers,

13 (Laughter.)

14 Chief, can you please tell us how long
15 you've been employed by The Township of Colts Neck.

16 A. 32 years.

17 Q. And in what capacity?

18 A. Patrolman, sergeant, and then chief.

19 Q. O.K.

20 When did you become chief?

21 A. February of 1993.

22 Q. O.K., so, 23 years?

23 A. Yes, sir.

24 Q. And I understand, chief, that when you
25 were hired, you were part of the initial police force

1 in the Borough -- the Township of Colts Neck?

2 A. Yes, one of the first three patrolman.

3 Q. How did that happen, how did you,
4 poof, come in to existence?

5 A. The Township decided or was required
6 to start a police department in the end of '83. They
7 started a selection process testing, and we went
8 through the test for the entry level and became a
9 candidate through that entry level test.

10 Q. Who provided law enforcement services
11 for Colts Neck prior to that?

12 A. State Police.

13 Q. O.K.

14 And so initially you were on patrol?

15 A. Yes.

16 Q. And then sergeant, then chief in 1993?

17 A. Correct.

18 Q. In your capacity as a chief, have you
19 had the occasion to be part of any trade
20 organizations or associations related to chief
21 executive law enforcement agencies?

22 A. Yes.

23 Q. What are those?

24 A. Monmouth County Police Chiefs
25 Association, New Jersey State Police Chiefs

1 Association, International Police Chiefs Association.

2 Q. O.K., did you ever come to obtain any
3 leadership positions within those organizations?

4 A. Yes. 2002, I was president of
5 Monmouth County Police Chiefs Association and
6 2014/'15, I was the president of the New Jersey State
7 Chiefs Association.

8 Q. O.K., now, you were served with
9 charges --

10 MR. SCIARRA: Mr. Plosia, can my
11 client take the witness binder you have there.

12 MR PLOSIA: Yes, I have one for him.

13 BY MR. SCIARRA:

14 Q. You were served with charges that are
15 marked T 1 in or around January 14, 2016?

16 Correct?

17 A. Yes, sir.

18 Q. All right.

19 Now, prior to that, were you ever
20 questioned in any sort of Internal Affairs
21 investigation or any kind of a written
22 interrogatories, anything submitted to you to give
23 your version of these events?

24 A. I was not.

25 Q. O.K., do you have any knowledge or

1 information that anybody from the department or from
2 any other agency -- strike that -- any other
3 department within Colts Neck or any other outside
4 agency was questioned about any of the events related
5 to these charges?

6 A. I became aware of it from the Rice
7 notice I received about a letter the town got from --
8 back from the Prosecutor's Office. This was the
9 first time I was aware of anything.

10 Q. I'm going to get to that.
11 Were you aware of anybody being
12 questioned in any kind of investigation in any way?

13 A. No.

14 Q. As the chief of police, are you
15 familiar with the Attorney General guidelines on
16 Internal Affairs?

17 A. Yes, sir.

18 Q. Did anybody ever give you any kind of
19 advice or anything along those lines as to what was
20 being alleged and questioned in your conduct here?

21 A. None, until I got that Rice notice.

22 Q. O.K., and after you got the Rice
23 notice, were you ever given the opportunity to sit
24 down, give a taped statement, anything like that?

25 A. I was given the opportunity to go to a

1 -- well, the Rice notice directed me to go to a
2 council meeting.

3 Q. O.K., did you appear?

4 A. No.

5 Q. Now, did you, any time prior to being
6 charged in this matter, speak to anybody in the
7 Prosecutor's Office?

8 A. No.

9 Q. Did you come -- I'm sorry, go ahead?

10 A. Correction, prior to being charged?

11 Q. Yes.

12 A. Yes.

13 Q. Who did you speak to?

14 A. Chief of the county detectives.

15 Q. O.K., did you come to learn that, in
16 fact, your alleged misconduct in this case was
17 actually referred to the prosecutor's office?

18 A. Yes.

19 Q. Did you come to review a document that
20 says, we have nothing here that we're interested in
21 and the county can proceed in its own way?

22 A. I didn't --

23 Q. The township can proceed in its even
24 own way?

25 A. I had did not see that document until

1 we had discovery.

2 Q. O.K.

3 Now, as the chief of police, have you
4 attended trainings?

5 A. Yes.

6 Q. For ---

7 A. I'm sorry.

8 Q. That's me slowing down, I apologize.

9 As the chief of police, have you
10 attended trainings for chiefs and other high level
11 law enforcement executives?

12 A. Yes, various.

13 Q. Tell me about that, what occurs at the
14 trainings?

15 MR PLOSIA: I'm going to object as to
16 relevance, how is this relevant to what we're here
17 for?

18 HEARING OFFICER O'HAGEN: Yes, how is
19 it relevant?

20 MR. SCIARRA: It's relevant because
21 he's being alleged of violating some policy with
22 regard to trainings, so now I'm going to ask him what
23 are the trainings and what transpired with regard to
24 the trainings.

25 HEARING OFFICER O'HAGEN: Are you

1 speaking in a summary sense, are you trying to enlist
2 a summary answer --

3 MR. SCIARRA: Yes.

4 HEARING OFFICER O'HAGEN: -- as a
5 general rule without a specific conference?

6 MR. SCIARRA: The only specific
7 conference I'm going to ask about is the one in
8 question, but in this case, I'm asking in general.

9 HEARING OFFICER O'HAGEN: So you're
10 asking for a summary description, so to speak.

11 MR. SCIARRA: Yes.

12 MR PLOSIA: I don't think it's relevant
13 but --

14 HEARING OFFICER O'HAGEN: Chief, with
15 that, do you want the question repeated?

16 THE WITNESS: No.

17 BY MR. SCIARRA:

18 A. Obviously, training that all police
19 officers do, whether they're patrolman or at the
20 executive level, is done to further the police
21 function, not only within the department but also to
22 provide a better service to the community.

23 Q. O.K.

24 A. In summary.

25 Q. And can you generally tell me the

1 types of things you learn at these trainings.

2 A. Anywheres from contemporary policing
3 issues to community policing issues to direct issues
4 with active shooters in today's day and age,
5 obviously since 9/11, there's been a lot of stuff on
6 terrorism, so terrorism issues as well.

7 Q. In your capacity as chief of police,
8 do you have the occasion to engage with our law
9 enforcement officers in furtherance of the things you
10 just described, not in the training session?

11 MR PLOSIA: Again, I object, I thought
12 it was one question. But now I'm definitely going to
13 object. The nature of the attendance at the training
14 is in no way an issue in any of the charges or
15 anything even obliquely referring to anything in this
16 case.

17 In other words, Your Honor is not
18 going to be helped by this is a good training, this
19 is a bad training. It's not just relevant.

20 HEARING OFFICER O'HAGEN: Well, I
21 think he's asking a question that would elicit, do
22 you have the chance to exchange views, experiences,
23 and understandings with fellow chiefs.

24 MR PLOSIA: I'll stipulate that The
25 Township is not challenging the viability of what

1 goes on at the conferences. We're not saying we're
2 learning how to shoot craps as opposed to learning
3 about police vehicles, I'll stipulate to that if that
4 happens.

5 MR. SCIARRA: So, O.K., to
6 short-circuit, we're not learning how to shoot craps;
7 we're taking judicial notice, if you will, of the
8 legitimacy and importance of these trainings?

9 HEARING OFFICER O'HAGEN: Well, it's a
10 conference and there are chiefs, I assume, from
11 various departments attending. It would be unnatural
12 if they didn't speak with each other and exchange
13 views and experiences and so forth.

14 I think that's basically what your
15 answer is going to be, right?

16 THE WITNESS: Correct.

17 HEARING OFFICER O'HAGEN: Why do we
18 have to do that, that would just be common sense.

19 BY MR. SCIARRA:

20 Q. Over the course of your time as chief,
21 how many of these trainings have you taken out of the
22 State of New Jersey?

23 A. 16.

24 Q. 16.

25 In 23 years?

1 A. Yes.

2 Q. And is there some particular agency or
3 some training you pursued in those 16 -- first of
4 all, how did you get to the number 16?

5 A. I went through the years that I've
6 been chief and the conferences that I went to --

7 Q. O.K.

8 A. -- throughout the State of New Jersey.
9 Actually, one was in Canada, so...

10 HEARING OFFICER O'HAGEN: Wait a
11 minute, I thought he asked how many out of state?

12 THE WITNESS: Out of state, I'm sorry.
13 BY MR. SCIARRA:

14 Q. And one in Canada?

15 A. That's correct.

16 Q. 16?

17 HEARING OFFICER O'HAGEN: Well, wait,
18 which is it, out of state or out of Monmouth County?

19 THE WITNESS: Out of state.

20 HEARING OFFICER O'HAGEN: Out of
21 state.

22 BY MR. SCIARRA:

23 Q. 16, let me be clear, in 23 years, 16
24 out of the state or in one instance out of the
25 country up in Canada?

1 A. Right, all IACP conference.

2 Q. Yes, O.K.

3 The same agency, the same organization
4 you described earlier?

5 A. Yes.

6 Q. And that's the one that you were
7 submitting a request for May 28th?

8 A. Yes.

9 Q. All right.

10 Now, did there come an occasion --- who
11 paid for these, let me ask you this question, who
12 paid for these conferences?

13 MR. PLOSIA: Objection, can we be
14 specific, paid for what exactly?

15 BY MR. SCIARRA:

16 Q. In the history of these 16 conferences
17 that you attended out of state, how were they paid
18 for?

19 MR PLOSIA: Again, "it" are we paying
20 for transportation, hotel rooms, gratuities, be
21 conference, I would like specification.

22 HEARING OFFICER O'HAGEN: And the
23 exhibits seem to be at least in part to say there is
24 no charge, the T exhibits at least for several of
25 them said there was no charge the way I saw it.

1 MR PLOSIA: I'm assuming counsel is
2 asking about conferences before that time but...

3 HEARING OFFICER O'HAGEN: I don't
4 know, what exhibit --

5 MR. SCIARRA: There are some exhibits
6 in there that are in-state trainings.

7 HEARING OFFICER O'HAGEN: O.K., then
8 maybe just didn't -- I saw there was no charge, no
9 township expenditure involved.

10 MR. SCIARRA: On the two that were
11 submitted in February, 2015, there is zero next to
12 the expenditure for The Township, and those I believe
13 were in state -- or, no, I'm sorry, was one in
14 Maryland.

15 HEARING OFFICER O'HAGEN: Well, there
16 was one in Maryland.

17 MR PLOSIA: One was in Maryland; one
18 was in Texas.

19 BY MR. SCIARRA:

20 Q. There was no charge for those.
21 correct?

22 A. Correct, yes.

23 Q. How did you pay for transportation?

24 A. Maryland, transportation I went with a
25 ride share with another chief that drove down there.

1 Q. O.K.

2 A. IACP or the State cop conference in
3 Texas was taken care of by the State Chiefs
4 Association.

5 Q. O.K.

6 So in terms of paying for these
7 conferences, there are various costs that go in to
8 them, correct, there's the cost of the conference
9 itself?

10 A. Correct.

11 Q. And there's also the cost of travel,
12 is there travel costs?

13 MR PLOSIA: I'm sorry, can we ask the
14 question without leading, please.

15 BY MR. SCIARRA:

16 Q. What are the costs involved?

17 MR PLOSIA: Thank you.

18 A. Conference registration, hotel and
19 airfare.

20 Q. Now, there was some discussion in the
21 township's presentation about how these things are
22 paid for and The Township paid pays for them.

23 Do you recall that testimony?

24 A. Yes.

25 Q. All right, can you tell us, do you

1 remember hearing a conversation being alleged that
2 you talked about having to take vacation time?

3 A. Yes.

4 Q. Did you have such a conversation?

5 A. I had a conversation and never
6 discussed vacation time.

7 Q. What was discussed?

8 A. We probably spoke about the conference
9 obviously going to Chicago, my displeasure with
10 conferences has always been since about 2009, 2010,
11 that The Township came out with a verbal policy that
12 they will not pay for hotel or airfare anymore.

13 Q. O.K., and then who would?

14 A. And I was just -- I'm still displeased
15 with the fact that for a training conference, The
16 Township does not provide hotel and airfare.

17 Q. How would that get paid for if The
18 Township didn't pay for it directly?

19 A. I use forfeiture funds for that.

20 Q. Forfeiture funds.

21 What are forfeiture funds?

22 A. Funds that we got from citizens that
23 we've forfeited their equipment or cash or whatever
24 that may be in the course of an investigation.

25 Q. O.K.

1 And you said there was some
2 displeasure you stated with regard to that?

3 MR PLOSIA: Objection.

4 BY MR. SCIARRA:

5 Q. Displeasure with the policy?

6 A. I was just disappointed that I had to
7 use forfeiture funds for training.

8 Q. As opposed to using forfeiture funds
9 for what?

10 A. For equipment within the department.

11 Q. I got it.

12 Was anything ever instructed upon you,
13 advised upon you, required upon you in any way that
14 you had to use your own vacation time to attend a
15 conference?

16 A. Never.

17 Q. Did you ever use your own vacation
18 time to attend a conference?

19 A. Never.

20 Q. Now -- and by the way, your time
21 sheets, there was a time sheet requirement for you to
22 develop, is that correct?

23 A. Yes, sir.

24 Q. And you submitted the time sheets in
25 accordance with what transpired, yes?

1 A. Yes.

2 Q. When you take a vacation, do you write
3 vacation on the time sheet?

4 A. Yes.

5 Q. When you go away with your family, you
6 do whatever you're doing?

7 A. Yes.

8 Q. When you were at this conference, were
9 you in communication with the department?

10 A. I'd have to look at the second page of
11 that sheet, but yes.

12 Q. O.K.

13 And who would you be conversing with?

14 A. Depending, I write right on there who
15 I had after-hour calls with.

16 Q. Oh, I see, after-hour calls.

17 Take a look at the binder, if you
18 would. Back in, I think, it's Tab 12 or 13.

19 Tab go to Tab 14 if you would.

20 A. O.K.

21 Q. What is that?

22 A. That's the second page of the time
23 sheet that I do that just basically outlines the
24 start and end time of my shift, and any task that I
25 may do.

1 Q. O.K.

2 A. Generalized.

3 Q. It says, for instance, the first one
4 says, "Review incidents training conference," do you
5 see that?

6 A. Yes.

7 Q. The third one down has same first two
8 lines and then it has OFF HRs, what is that?

9 A. Off hours.

10 Q. Off hours?

11 HEARING OFFICER O'HAGEN: Counsel, I'm
12 not sure where you're referring to? I do have page
13 2?

14 MR. SCIARRA: Tab 14, right here
15 indicating.

16 THE WITNESS: 10/26.

17 MR. SCIARRA: No, no, this is the
18 wrong exhibit.

19 Here you go.

20 HEARING OFFICER O'HAGEN: 10/26.

21 Township Exhibit T-14, Document,
22 marked for identification, as of this date.)

23 BY MR. SCIARRA:

24 Q. 10/26, what does that mean off hours
25 what's that about?

1 A. Anything that I do with the department
2 when I'm off duty.

3 Q. O.K., and what was happening here,
4 what was that about?

5 A. Obviously, I had a conversation with
6 the lieutenant at one point in time during the day.
7 Detectives Zarrillo at one point during the day and
8 Sergeant DeVito at one point in time during the day.

9 Q. All right.
10 The next day Tuesday, the 27th,
11 there's off hours there as well.

12 A. Yes.

13 Q. And that's Zarrillo?

14 A. Yes, that's a detective as well.

15 Q. And without getting specific, what
16 generally would those conversations be regarding?

17 A. It would be probably something that
18 went on in the department that they wanted me to know
19 about or had a question about.

20 Q. O.K.

21 And on the Wednesday, the 28th, we
22 have a Bradick and a DeVito, you had conversations
23 with them?

24 A. Yes.

25 Q. Officers in the department as well?

1 A. No, The Court administrator and
2 Sergeant DeVito.

3 Q. Oh, O.K., court administrator is
4 Bradick?

5 A. Yes.

6 Q. Is there some reason for you to
7 converse with this person during the time you had
8 this training?

9 A. Yes.

10 Q. All right.

11 Now, there was a great deal of
12 testimony about documents that the prior witness had
13 not seen until yesterday or the day before yesterday,
14 do you recall that?

15 A. Yes.

16 Q. Take a look if you would at --

17 MR. SCIARRA: Could I have the S
18 documents, do you have them in front of you?

19 BY MR. SCIARRA:

20 Q. Take a look, if you will, at what we
21 marked previously as S-2. Let's start with that one.

22 Tell us what S-2 is.

23 A. S-2 is my memorandum to township
24 administrator advising them of police department
25 training.

1 Q. O.K., now, do you recall sitting here
2 a little while ago where there was some discussion
3 about who that was submitted to?

4 A. Yes.

5 Q. Why did you submit to the The Township
6 administrator?

7 A. From the moment I got my directive in
8 the end of '14, so the first, the very first training
9 I went to is January '15, and every training that
10 I've gone to I've sent it to The Township
11 administrator.

12 Q. O.K.
13 And was that your common practice to
14 do so?

15 A. I was never told not to do that.

16 Q. O.K., so prior to this, you had
17 submitted in compliance with this November 2014
18 directive, you had submitted this to The Township
19 administrator?

20 MR PLOSIA: Objection, that's a
21 compound question. You're also assuming a fact the
22 witness hasn't testified to.

23 MR. SCIARRA: Withdrawn.

24 BY MR. SCIARRA:

25 Q. You're aware of the November 2014

1 directive, correct?

2 A. Yes, sir.

3 Q. Now, I note, is it correct that you
4 took some exception to the memo -- withdrawn?

5 MR PLOSIA: Can you --

6 MR. SCIARRA: I will withdraw.

7 MR PLOSIA: I'm going to ask him
8 anyway, but if you want to withdraw it, I'll ask it.

9 BY MR. SCIARRA:

10 Q. Did you submit anything regarding this
11 memo and infringing upon your authorities as chief?

12 A. Yes.

13 Q. And generally, without having to go
14 through it line by line, what was your issue with
15 regard to it?

16 A. That as chief law enforcement officer,
17 I run the day-to-day operations of the department
18 which includes training. I assign my officers
19 training as well as myself.

20 Q. O.K., regardless of your discontent
21 with the directives, did you follow the directive?

22 A. Yes.

23 Q. O.K., and on the occasions prior to
24 May 28th, you said you submitted memos in compliance
25 with this to the business administrator?

1 A. That is correct.

2 Q. O.K., prior to today, did anybody ever
3 suggest that that was inappropriate?

4 A. No.

5 Q. O.K., did anybody ever say submit
6 these to the clerk?

7 A. No.

8 Q. Anybody ever say submit these directly
9 to the committee?

10 A. No.

11 Q. And so the 28th wasn't the first time
12 you did this, the 28th of May was not the first time
13 you did this, correct?

14 A. No.

15 Q. And no one ever gave you any pushback
16 on submitting it to the Borough administrator
17 previously, is that right?

18 A. That's correct, and not after either.

19 Q. And not after.

20 Since May 28, were there other
21 training memos that were generated?

22 A. Yes.

23 Q. Now, on the 28th, you submit this
24 memorandum, did you submit anything else at that time
25 with regard to this matter?

1 A. No, I did not, just the memo.

2 Q. Take a look at S-3, if you would.
3 Tell me what S-3 is.

4 A. S-3 is purchase requisition that --
5 well, time out.

6 S-3 is the registration form.

7 Q. What is the registration form?

8 A. For the IACP conference in Chicago.

9 Q. Who prepares that document?

10 A. I did.

11 Q. Well, when you say you did, I see
12 certain information, your information and Colts Neck,
13 Township Police Department, address, et cetera, in
14 terms of the actual form itself, who was that
15 prepared by?

16 HEARING OFFICER O'HAGEN: Is this a
17 preprinted form?

18 THE WITNESS: Right, the form gets
19 downloaded from the IACP website as a registration
20 form.

21 BY MR. SCIARRA:

22 Q. And, in fact, this was proffered as a
23 two-page document; this was the first page.

24 Did you submit that form with the
25 first page of S-3?

1 A. Yes, correct, S-3 which is Sauter 02,
2 the first page, is the actual requisition that we do
3 to start the process for payment.

4 Q. O.K., when you say start the process
5 for payment, what do you mean?

6 A. We do a purchase requisition that my
7 secretary does, it's then sent over to finance,
8 finance goes through whatever they go through, and
9 then we'll get a purchase order back for signature.

10 Q. O.K.

11 Now, you produced those documents and
12 when is the next time you heard about this issue?

13 A. September or -- probably a little bit
14 earlier than September.

15 Q. What did you hear?

16 A. I had gotten some emails from IACP
17 just advising them that the advance registration will
18 be closing soon. I had a couple -- my secretary had
19 a couple of phone calls with the woman in finance to
20 find out why it hasn't been sent back over as a
21 purchase order, why it's been waiting so long about
22 two months, it was submitted in June, so around
23 August, she started calling. I had a telephone
24 conversation I believe with the administrator and
25 then followed that up with an email to the

1 administrator requesting why basically it was being
2 held up somewhere or if you can find out what's going
3 on with it.

4 Q. Take a look at S-5, if you would.
5 Do you recognize S-5?

6 A. S-5 is, yes, an email that I sent to
7 take -- this is an email from --

8 Q. Well, take a look, it's an email
9 chain, it's been testified to, do you see the two
10 emails?

11 A. Yes.

12 Q. So it starts down here on the right?

13 A. Yes, September 9, 1:23 p.m., I sent an
14 email to the town administrator.

15 Q. Saying what?

16 A. Asking him when he got a chance, to
17 please check on my training PO, that it's still on
18 Kelly's desk, she was told to hold it for processing.

19 Q. Did you get a response?

20 A. Actually, it went on to say some other
21 things about how it came to my attention, I gave the
22 requisition number.

23 Q. When you say the requisition number,
24 is that the document you testified about before?

25 A. Yes, S-3.

1 Q. All right, what was his response?

2 A. His response is I will see if I can
3 get an answer.

4 Q. Did you get an answer.

5 A. Eventually, yes.

6 Q. What did you get?

7 A. Training approved.

8 Q. When you say, "Training approved," in
9 what way was that advised to you?

10 A. Through email.

11 Q. Take a look at S-4.

12 A. It's an email on September 10 saying
13 that -- the subject was training approved and it's on
14 its way over for signature.

15 Q. O.K.

16 And did you subsequently come across a
17 document regarding a purchase order?

18 A. Yes.

19 Q. Take a look at S-1?

20 A. So S-1 is the purchase order that's
21 generated from the requisition.

22 Q. And when did you come in possession of
23 that?

24 A. I would say that would've had to have
25 been the 9th or the 10th of September.

1 Q. O.K.

2 And did you recognize the names on
3 there?

4 A. Yes.

5 Q. There's some handwriting, did you
6 recognize the handwriting?

7 A. I didn't recognize the handwriting,
8 but I know who signed it.

9 Q. Who signed it?

10 A. Beth Kara, township clerk.

11 Q. Township clerk.

12 And in terms of the names on there,
13 who were the names?

14 A. Mayor Jim Schatzle, Committeemen
15 Michael Fitzgerald and Committeemen Jarrett Engel.

16 Q. O.K.

17 What did you understand that to mean
18 with regard to your request for approval and payment
19 of this training?

20 A. That it was back up to my email from
21 the administrator saying my training was approved.

22 Q. O.K.

23 Now, did you attend the training?

24 A. Yes.

25 Q. There's been some conversation with

1 regard to how you transported back and forth to the
2 airport, do you recall that?

3 A. Yes.

4 Q. All right, how did you get to the
5 airport?

6 A. Another department chief drove a
7 couple of us up there.

8 Q. O.K.

9 Was that common practice?

10 A. Yes, we normally car pool with several
11 chiefs to save our municipalities money.

12 Q. O.K., so people got together, and you
13 drove up several chiefs from various towns in
14 Monmouth County?

15 A. In this training, we had three chiefs
16 that were in the one car.

17 Q. I'm sorry?

18 A. Three chiefs in the one car on the way
19 up.

20 Q. Now, do you recall the testimony
21 earlier that you discussed the fact that your lovely
22 wife will be doing some shopping in Chicago?

23 A. Yes.

24 Q. Did you explain that to the Borough
25 administrator?

1 A. Never had a conversation about
2 transportation.

3 Q. No, no, in terms of your wife
4 attending the conference?

5 A. Oh, yeah.

6 Q. Did you know the administrator before
7 she became administrator?

8 A. I met her before, yes.

9 Q. O.K., so you had the conversation with
10 her, and you indicated your wife would be going with
11 you, correct?

12 A. Yes.

13 Q. And did your wife, in fact, attend?

14 A. Yes, she did.

15 Q. Now, there was some testimony that a
16 patrol car was used to bring you and others back from
17 the airport, do you recall that?

18 A. Yes.

19 Q. O.K., what were the circumstances
20 giving rise -- first of all, how did you -- in these
21 trainings, did you ever -- do you have a police car
22 assigned to you?

23 A. Yes.

24 Q. Did you ever decide to park it up at
25 the airport and leave all of that expensive police

1 equipment and so on sitting in a parking lot in
2 Newark?

3 A. No, we've always car pooled up and had
4 somebody drive us.

5 Q. I see.

6 A. And back.

7 Q. I'm sorry, what?

8 A. Up and back, sorry.

9 Q. And back.

10 And had that occurred before involving
11 police officers from Glen Rock, I'm sorry I'm losing
12 my mind, different case.

13 MR PLOSIA: Answer his question, will
14 you?

15 A. Glen Rock, I have no idea.

16 Q. That was yesterday's case, I
17 apologize.

18 Has that ever happened before with
19 officers in Colts Neck?

20 A. Yes.

21 Q. O.K., and did you ever in any way hide
22 what was occurring?

23 MR PLOSIA: I'm going to object, I
24 don't know what that means.

25 HEARING OFFICER O'HAGEN: Yes, start

1 over with the question.

2 BY MR. SCIARRA:

3 Q. Did you ever take any steps to hide
4 any of this?

5 A. No.

6 Q. Has this been your practice -- you
7 said you went to 16 different conferences, right?

8 A. That's correct.

9 Q. And had that sequence where someone
10 would drive up, someone would drive back, an officer
11 from one town or another would drive multiple chiefs
12 back and forth to the airport, has that practice been
13 engaged in in the past?

14 A. Yes, out of 32, 16 conferences,
15 obviously 32 trips, all 32 trips had been done in
16 similar fashion.

17 Q. Got it.

18 Now, when you returned to Colts Neck
19 did you submit anything else in further compliance
20 with this November 2014 advisement?

21 MR PLOSIA: Objection to the question,
22 it assumes compliance which is a legal conclusion;
23 ask him if he submitted anything.

24 HEARING OFFICER O'HAGEN: Just reframe
25 the question.

1 MR. SCIARRA: Sure.

2 BY MR. SCIARRA:

3 Q. When you returned to Glen -- to Colts
4 Neck, did you submit anything further as required by
5 the directive?

6 MR PLOSIA: Again, objection, what's
7 required by the directive is, Judge, for you to
8 decide. If he submitted anything, that's a fact
9 question for this witness to answer.

10 HEARING OFFICER O'HAGEN: Is this one
11 of the exhibits that are part of the T?

12 MR. PLOSIA: It is, he submits
13 something.

14 HEARING OFFICER O'HAGEN: I don't see
15 the problem with the form of question; I'm going to
16 overrule the objection.

17 Do you remember it or do you want the
18 reporter to read it again?

19 BY MR. SCIARRA:

20 Q. Do you remember the question, chief?

21 HEARING OFFICER O'HAGEN: You should
22 summarize.

23 MR. PLOSIA; If it helps, I'll
24 summarize the exhibit and I'll give you exhibits --

25 BY MR. SCIARRA:

1 A. Oh, yes, I do remember the question.

2 Q. O.K.

3 A. If you want me to answer it?

4 Q. Yes, please answer it.

5 A. I submitted upon my return every
6 training conference, I submit a summary of that
7 training.

8 Q. O.K.

9 A. So I submitted that summary.

10 Q. And who did you submit that to?

11 A. The township administrator.

12 Q. Hold on one second.

13 MR. SCIARRA: What tab is that?

14 MS. CAPRISTO: 15.

15 MR. SCIARRA: 15.

16 BY MR. SCIARRA:

17 Q. Take a look at Tab 15 in the book, do
18 you see that?

19 A. Yes.

20 Q. O.K., can you describe this for us.

21 A. It's -- according to my directive, I
22 have to upon return give a summary of the training
23 that I attend, or any training that I attend, so this
24 was just the summary that I completed in regards to
25 my return from training.

1 Q. O.K.

2 And who did you direct this to?

3 A. The Township administrator.

4 Q. Ms. Capristo?

5 A. Yes.

6 Q. And did she say anything to you about
7 it not being properly sent to her?

8 A. No.

9 Q. O.K., did anybody say anything to you
10 about it not being properly submitted to her?

11 A. No.

12 Q. Take a look at P-7, if you would.

13 Now, we went over P-7 before.

14 There's these eight things that they
15 were looking for before you left, correct?

16 A. Yes, sir.

17 Q. And on the bottom, there are five
18 things they were looking for -- I'm sorry, eight
19 things they were looking for when you returned,
20 correct?

21 A. Yes.

22 Q. And it says, "Within five business
23 days of returning from the event, the police chief
24 shall provide The Township Committee with a detailed
25 written report setting forth," and then it lays

1 everything out, correct?

2 A. Yes.

3 Q. And when it says, "The chief police
4 shall provide The Township Committee with a detailed
5 written report," was your submission that we looked
6 at as P-15 your belief that you were complying with
7 the requirements of P-7, T-7?

8 A. Yes.

9 Q. O.K., and did anybody ever say no, no,
10 no, this has to be sent directly to the committee
11 members?

12 A. Never.

13 Q. No.

14 O.K., and has this been the way the
15 you've conducted it in the past?

16 A. All 10 of my training advisements and
17 return advisements have always -- have all been
18 directed to The Township business administrator.

19 Q. And before today, did anybody ever in
20 any way, shape or form, question or -- question your
21 handling it that way?

22 A. Nope, no, sir.

23 Q. Did anybody ever give you any
24 advisement whatsoever --

25 MR PLOSIA: Objection. Asked and

1 answered, the witness has said no three different
2 times.

3 HEARING OFFICER O'HAGEN: Yes, he has.

4 MR. SCIARRA: Well, that was about the
5 submissions request for training, not the post action
6 report.

7 HEARING OFFICER O'HAGEN: I thought
8 right after you asked him about T-7, and you
9 established his directive to the administrator, you
10 asked that very same question as to did someone tell
11 you this was not the proper way to proceed. I think
12 it's well established.

13 MR. SCIARRA: O.K.

14 BY MR. SCIARRA:

15 Q. Take a look at Tab 13.

16 Do you have that?

17 A. Yes, sir.

18 Q. There's something at the bottom, it
19 says, time year-to-date plus minus 40-hour week, do
20 you see that?

21 A. Yes, sir.

22 Q. What is that?

23 A. That was -- I started keeping record
24 of my uncompensated overtime hours basically.

25 Q. What do you mean by uncompensated

1 overtime hours?

2 A. I do not get overtime or comp time in
3 my 40-hour workweek.

4 Q. So did you receive a requirement to
5 work, quote-unquote, 40-hours a week?

6 A. Yes, sir.

7 Q. O.K.

8 And if you work more than that, do you
9 receive any compensation at all?

10 A. No, I do not.

11 Q. And you were -- so what's the 118
12 signify.

13 A. Oh, O.K. that's page 2, 118 would
14 signify from January 1, to October 30th, I had worked
15 118-1/2 hours of time above and beyond my 40-hour
16 workweek.

17 MR. SCIARRA: Can I just have one
18 second?

19 BY MR. SCIARRA:

20 Q. I'm going to ask you to take a look at
21 what I'd like to mark as S-6.

22 MR. SCIARRA: This, Jamie, this is 12
23 and 13.

24 (Sauter Exhibit S-6, Bates stamped
25 00012 and 00013, marked for identification, as of

1 this date.)

2 HEARING OFFICER O'HAGEN: Is this the
3 same thing?

4 MR. SCIARRA: It has a second page.

5 HEARING OFFICER O'HAGEN: O.K.

6 I'm sorry, this is the second page.

7 MR. SCIARRA: I don't think this one
8 has the second page, yes, this one doesn't have a
9 second page.

10 MR PLOSIA: It's O.K. with me, make
11 that part of T whatever.

12 MR. SCIARRA: I'll just make it as 6
13 if you could.

14 BY MR. SCIARRA:

15 Q. S-6, please take a look at S-6.

16 Do you recognize S-6?

17 A. S-6 is the memorandum that I sent upon
18 return of training.

19 Q. Now, that's the same thing marked as
20 T-15, correct?

21 A. Yes.

22 Q. Township 15?

23 A. Yes.

24 Q. But Township 15 doesn't have a second
25 page, do you see that?

1 A. Correct, not in that book.

2 Q. But we provided the second page.
3 What's the second page?

4 A. The second page is the detailed,
5 basically, agenda that I attended for the training.

6 Q. Oh, so you submitted, so to be clear,
7 you did this one-page memorandum?

8 A. Two-page memorandum.

9 Q. Well, you did -- the one-page
10 memorandum here on the first page of S-6 which is
11 also the only page of T-15, but you also included all
12 of --

13 MR PLOSIA: I'm going to object, can we
14 ask the witness a question?

15 MR. SCIARRA: Sure.

16 MR PLOSIA: Thank you.

17 HEARING OFFICER O'HAGEN: He's getting
18 to it.

19 MR PLOSIA: Well, but I already know
20 the answer and the question, which might be a little
21 leading.

22 HEARING OFFICER O'HAGEN: Let's try to
23 get to it faster.

24 MR. SCIARRA: O.K., let's get to it
25 faster.

1 BY MR. SCIARRA:

2 Q. Their copy didn't have the second page
3 where you itemized everything, correct?

4 A. Correct.

5 Q. Our copy has everything and you
6 itemized all of the difference trainings that you
7 went to, correct?

8 A. Right, the difference events and
9 training classes that I attended.

10 Q. And you submitted that under -- that
11 was the second page of this document?

12 A. Page 2 of this.

13 Q. That you submitted to Ms. Capristo
14 madam administrator, correct?

15 A. Page 2 of the document, correct.

16 MR. SCIARRA: Thank you.

17 HEARING OFFICER O'HAGEN: O.K., sir?

18 MR PLOSIA: "Thank you" means he's
19 done. I'm trying to learn from past experience.
20 Usually you say, "No further questions," he'd like to
21 say "thank you."

22 HEARING OFFICER O'HAGEN: Were you
23 thanking the chief?

24 MR. SCIARRA: I was thanking
25 everybody.

1 MR. PLOSIA: You weren't thanking me.

2

3 CROSS EXAMINATION

4 BY MR. PLOSIA:

5 Q. Chief, you recall that the then mayor
6 of Colts Neck, Jim Schatzle, sent you a text message
7 in 2015 about the entire police department car issue?

8 MR. SCIARRA: Objection to form, what
9 does that mean, entire chief police car issue?

10 BY MR. PLOSIA:

11 Q. Do you understand the question, sir?

12 A. I don't understand the question.

13 Q. Did Mayor Schatzle send you a text
14 message about the use of a police department car to
15 pick you up at the airport, correct?

16 A. Correct.

17 Q. He actually asked you if it happened,
18 correct?

19 A. I have the text message. I believe it
20 was a Colts Neck resident complained about --

21 Q. I'm sorry, I just asked you --
22 basically, I understand there's more to it.

23 A. O.K.

24 MR. SCIARRA: Can he answer the
25 question, please.

1 BY MR. PLOSIA:

2 Q. Well, the question was did he ask you
3 if it happen?

4 MR. SCIARRA: What happened?

5 A. He asked me what a police car was
6 doing at the airport.

7 Q. And you responded that, just as you
8 told to us here, that you were being picked up at the
9 airport or returning from a conference, or words to
10 that effect in a text, correct?

11 A. In a text back which I have a copy of
12 it if you need it, it was basically, that I was
13 returning from -- actually I didn't even think I said
14 a conference; I just said it was picking up two
15 chiefs, two chiefs were picked up on the way home and
16 three on the way back or something like that.

17 Q. O.K.

18 You said before that you talked to the
19 chief of county detectives about The Township sending
20 this matter to the county, do you recall saying that?

21 A. Yes.

22 Q. Who was the chief of county
23 detectives?

24 A. Michael Pasterczyk.

25 Q. And what --

1 HEARING OFFICER O'HAGEN: I'm sorry,
2 Michael what?

3 THE WITNESS: Pasterczyk.

4 BY MR. PLOSIA:

5 Q. And what did that conversation consist
6 of?

7 A. Did they have an Internal Affairs
8 investigation up there on me.

9 Q. You had called him?

10 A. Yes.

11 Q. And how did he respond?

12 A. He said that he couldn't talk to me,
13 that they had sent a letter back to the town.

14 Q. O.K.

15 Now, you were well aware from as far
16 back as 2009, that members of The Township Committee
17 were concerned with the amount of and the cost of
18 training and conferences you were attending, would
19 that be a fair statement?

20 MR. SCIARRA: Objection as to
21 characterization. Ask him what he was aware of.

22 HEARING OFFICER O'HAGEN: Did they
23 make it known, is that your question?

24 MR PLOSIA: I said are you aware of.

25 MR. SCIARRA: No, you said you were

1 well aware.

2 MR. PLOSIA: No, I said are you aware.

3 HEARING OFFICER O'HAGEN: I'm going to
4 overrule it.

5 Do you remember the question, chief?

6 THE WITNESS: Yes, I do.

7 BY MR. PLOSIA:

8 A. And no I was not.

9 Q. You were not aware that they had any
10 concerns with your attendance at conferences or the
11 costs of conferences?

12 A. Not at all.

13 Q. You weren't aware they had concerns
14 about the number of conferences you were attending?

15 A. Back in '09 and '10?

16 Q. Yes.

17 A. No.

18 Q. Well, you said that as of '09, sir,
19 something changed with The Township Committee on
20 direct changes, do you recall saying that?

21 A. Yes.

22 Q. What changed?

23 A. The town's policy for all employees
24 not to use -- they were not paying for conferences.

25 Q. O.K.

1 A. Hotel rooms and airfare for whether
2 it's the police department, League of Municipalities,
3 whatever conference the town employee wants to
4 attend.

5 Q. So that was a concerns that The
6 Township Committee had with expenditures, not just
7 with the police department and you, but with anybody
8 in the town?

9 MR. SCIARRA: Objection as to what
10 their concern was; let him testify.

11 HEARING OFFICER O'HAGEN: Well, he's
12 responding to the chief's earlier answer, so I'm
13 going to overrule that.

14 MR. PLOSIA: I am, I am.

15 BY MR. PLOSIA:

16 Q. That was their concern as far as you
17 understood?

18 A. Yeah, the economy changed and they
19 didn't want to pay for those items any more.

20 Q. O.K., you became aware in 2014, that
21 Township Committee members had a particularized
22 concern with your travel and your conventions and the
23 costs thereof, right?

24 A. Right, after the 14 IACP conferences.

25 Q. O.K.

1 And, it's your understanding that
2 those directives or at least the one directive, T-7,
3 that was given to you, that arose out of the township
4 committee's concern with the conferences you were
5 attending?

6 A. After the 2014 IACP conference,
7 correct.

8 Q. That was when, like what month?

9 A. October of '14.

10 Q. October.

11 Now, you said before you didn't
12 necessarily or you don't sitting here today agree
13 with the township committee's concern with the
14 conferences that you go to and the cost of those
15 conferences, you don't agree with their concerns?

16 A. Correct, I believe that all training,
17 whether it's the police department or DPW or League
18 of Municipalities, if it's training, that the town
19 should be paying for all expenses.

20 Q. The Township Committee does not agree?

21 A. Right, that's correct.

22 Q. And that's been a source of ongoing
23 friction between you and The Township Committee for
24 at least the last two years, you'd agree with that?

25 A. Not on payment, no.

1 THE REPORTER: I'm sorry, I didn't
2 hear that.

3 THE WITNESS: Not on payment.

4 BY MR. PLOSIA:

5 Q. Well, before 2014, The Township picked
6 up hotel costs and airfare costs when you went out of
7 state, correct?

8 MR. SCIARRA: Objection, objection,
9 2014 is not what the record is, it's 2009.

10 MR PLOSIA: The objection is you
11 don't --

12 MR. SCIARRA: The objection was the
13 question was before 2014, they picked up hotel and
14 airfare.

15 MR PLOSIA: Judge, that's not an
16 objection. If the witness is going to correct my
17 facts he can--

18 MR. SCIARRA: I don't --

19 MR. PLOSIA: Excuse me, I don't need
20 counsel to object thereby giving a fact to the
21 witness, that's not an appropriate objection.

22 MR. SCIARRA: I don't think it's
23 appropriate to ask the witness a question that
24 proffers facts that are not in the record; that's an
25 appropriate objection, that what we do in trial.

1 MR PLOSIA: That's a little bit better
2 without giving the facts.

3 HEARING OFFICER O'HAGEN: Excuse me
4 for a moment.

5 MR. PLOSIA: Sorry.

6 HEARING OFFICER O'HAGEN: When you
7 consider his answer concerning the question beginning
8 in 2009, his response and then his response to the
9 question as to 2014, there was a good basis for
10 asking the question, I'll overrule the objection.

11 MR PLOSIA: I thought so, too, I'll try
12 it again.

13 BY MR. PLOSIA:

14 Q. I'll even try it again.

15 At a certain time, The Township
16 Committee stopped paying for your airfare and hotels
17 at out-of-state conferences, is that true?

18 A. That's correct.

19 Q. When did they stop doing that?

20 A. 2009, I believe, could've been '8,
21 2008, '9.

22 Q. O.K., and is it fair to say they
23 didn't pay for anything from 2009 forward other than
24 the registration costs?

25 A. Registration, that's correct.

1 Q. O.K., now, in 2014, there were
2 additional concerns with your attendance at
3 conferences --

4 MR. SCIARRA: Objection.

5 BY MR. PLOSIA:

6 Q. -- that The Township Committee
7 expressed to you, did they not?

8 MR. SCIARRA: Asked and answered, we
9 went over that.

10 HEARING OFFICER O'HAGEN: Not yet.

11 I'm going to overrule the objection.

12 BY MR. PLOSIA:

13 A. Not that I'm aware of.

14 Q. Well, didn't The Township Committee
15 say to you specifically that they were concerned with
16 the number of days that you were out of state at
17 conferences?

18 A. No.

19 Q. You don't recall that?

20 A. Nope.

21 Q. You don't recall -- well, what was the
22 concern that The Township Committee had in 2014 then
23 that lead to these directives above and beyond the
24 concern that they had in 2009?

25 HEARING OFFICER O'HAGEN: You mean

1 what was expressed to him?

2 MR PLOSIA: Yes.

3 BY MR. PLOSIA:

4 Q. Let me ask the prefatory question.

5 You actually had meetings with The
6 Township Committee over this issue in 2014, correct?

7 A. Possibly.

8 Q. You went to a Township Committee
9 meeting?

10 MR. SCIARRA: I'm going to object to
11 the relevance of this. We have a policy, is there a
12 violation? Mr. Plosia is now basically trying to
13 testify about The Township Committee without sticking
14 any of them in front of him for cross examination,
15 that's inappropriate.

16 MR PLOSIA: No, I'm not.

17 MR. SCIARRA: I was cut off with
18 anything to do with, you know, let's talk about these
19 trainings, that's not relevant, that's not relevant.
20 We have a charge and we have quote-unquote evidence
21 regarding the charge.

22 MR PLOSIA: The chief has an
23 understanding of the directives. I'm just trying to
24 clarify how he got that understanding.

25 HEARING OFFICER O'HAGEN: I'm going to

1 overrule the objection, I will allow it.

2 MR PLOSIA: Thank you.

3 HEARING OFFICER O'HAGEN: Do you
4 remember the question, though?

5 MR. PLOSIA: Yes, let me ask it again.

6 BY MR. PLOSIA:

7 Q. You recall being at meetings in 2014
8 with The Township Committee?

9 A. That's correct?

10 Q. And you recall that you were
11 represented by Chief Hayducka from South Brunswick?

12 A. After -- that was beginning of '15 and
13 that was after I received the directive about
14 training.

15 Q. O.K.

16 And do you recall being at any
17 meetings before you received the directive about
18 training?

19 A. No.

20 Q. Was there a concern -- did The
21 Township Committee express a concern to you or Chief
22 Hayducka to you about the use of forfeiture funds for
23 your travel expenses?

24 A. At the meeting that I had after the
25 directive came out, and that we talked about

1 training, I believe Mr. Macnow had done an
2 investigation about how much money was being spent on
3 my behalf compared to officers.

4 Q. O.K.

5 And that was the early '15 one you
6 just talked about?

7 A. 2015 after the directive.

8 Q. O.K.

9 And during that meeting, and correct
10 me if I'm wrong, The Township Committee expressed a
11 concern about the use of forfeited funds, correct?

12 A. No, not correct.

13 Q. Not correct.

14 A. Well, it was a concern about all
15 payments.

16 Q. All payments.

17 And you're saying they didn't express
18 any concern in that meeting in 2015 about the numbers
19 of days you were out of states?

20 A. No.

21 Q. And at no point was there any
22 discussion with you about the use of vacation time or
23 your own time to attend these conferences out of
24 state, you're sitting here saying you don't recall
25 that?

1 A. I had a telephone conversation with
2 the then mayor about -- actually, it was either
3 telephone, I'd have to go back to notes, telephone
4 conversation or meeting in his office about the GORE
5 conference that was in Maryland.

6 Q. Right.

7 And that's the only conversation you
8 recall having about the use of vacation time?

9 A. That's correct.

10 Q. And as a chief of police, if someone
11 is on duty and being paid, would you say that's a
12 cost to The Township?

13 A. No, that's our day-to-day operations.
14 It's not a direct -- it's an indirect cost, I'll call
15 it.

16 Q. Isn't someone salary a direct cost?

17 A. Doesn't matter where we're at.

18 Q. It doesn't?

19 Well, if I'm in Bermuda and I'm being
20 paid, I'm certainly not going to do The Township much
21 good, am I?

22 MR. SCIARRA: Is there a question here
23 somewhere.

24 BY MR. PLOSIA:

25 A. I wouldn't be in Bermuda on ~~the~~

1 Q. It certainly does matter where you are
2 in terms of being paid to serve the township,
3 correct?

4 A. Absolutely.

5 MR. SCIARRA: May I object? I'm just
6 going to object to this line of questioning, now, Mr.
7 Plosia, seeing the ship sinking --

8 MR PLOSIA: There you go again, excuse
9 me, I'm really tired of this, can he just make an
10 objection without making a speech, is it possible?

11 MR. SCIARRA: He's trying to infer the
12 basis of a policy, which we said existed and that the
13 question is whether or not he complied with it. Mr.
14 Plosia is now doing everything he can to try and
15 testify of the committee's concern and issues and
16 putting facts in to the case related to, gee, what
17 about all of this with regard to the policy, their
18 concern and the rest of it. He could've marched any
19 of these people in here and subject to them to cross
20 examination. I was limited on what I can do on my
21 case and in my cross examination. I think Mr. Plosia
22 should be limited to deal with the facts of the case
23 in front of us here.

24 Was there a violation of the policy or
25 not?

1 HEARING OFFICER O'HAGEN: He's asking
2 questions, I think he's attempting to address your
3 direct, is that the purpose of it?

4 MR PLOSIA: Absolutely. There were a
5 lot of questions about what he knew and who was
6 concerned and what the concerns were, that's what
7 these questions are about.

8 HEARING OFFICER O'HAGEN: Yes, that
9 was the questions on direct examination.

10 MR. SCIARRA: I asked him about
11 conversations

12 HEARING OFFICER O'HAGEN: I
13 understand.

14 MR. SCIARRA: O.K.

15 HEARING OFFICER O'HAGEN: I'm going to
16 overrule the objection but restate your question.

17 MR PLOSIA: I'm going to move on.

18 BY MR. PLOSIA:

19 Q. You knew also that The Township
20 Committee had designated itself as the appropriate
21 authority at a certain point in time, correct?

22 A. Yes.

23 Q. And are you aware of any other
24 municipality in the state where that's happened where
25 the entire governing body is the appropriate

1 HEARING OFFICER O'HAGEN: That's
2 irrelevant.

3 MR. SCIARRA: Objection, irrelevant.

4 HEARING OFFICER O'HAGEN: I will
5 sustain the objection.

6 BY MR. PLOSIA:

7 Q. Let me try this first.

8 Have you ever investigated that when
9 it happened?

10 MR. SCIARRA: I object to that, too.

11 HEARING OFFICER O'HAGEN: It doesn't
12 make a difference.

13 MR PLOSIA: Well, it certainly makes as
14 difference, Your Honor, if it's an extraordinary
15 action, which this is, and I am going to see if he
16 knows. If he says no, I'll move on. If he says yes,
17 then he will be able to say to me, yeah, this is sort
18 of really different for the appropriate authority to
19 be the entire --

20 MR. SCIARRA: But what --

21 HEARING OFFICER O'HAGEN: But the fact
22 is The Township by ordinance designated itself as the
23 appropriate authority. What happened elsewhere is
24 immaterial, it's irrelevant.

25 MR PLOSIA: Let me try this.

1 HEARING OFFICER O'HAGEN: So I sustain
2 the objection.

3 BY MR. PLOSIA:

4 Q. And in doing so, was it expressed to
5 you or did you understand it being expressed to you,
6 that The Township Committee wanted people reporting
7 directly to them, not to The Township administrator,
8 was that your understanding?

9 A. For?

10 Q. For all sorts of things.

11 MR. SCIARRA: I'm objecting as
12 reporting for what?

13 BY MR. PLOSIA:

14 Q. Let me ask you this: If you look at --
15 HEARING OFFICER O'HAGEN: So you're
16 withdrawing the question?

17 MR PLOSIA: I'll withdraw the question
18 I'll do it more directly.

19 HEARING OFFICER O'HAGEN: O.K.

20 BY MR. PLOSIA:

21 Q. If you look at T-7, which is the
22 November '14 directive, that directive on at least
23 two occasions explicitly, and unequivocally states
24 that you're to report to The Township Committee, does
25 it not?

1 A. That is correct.

2 Q. And you don't understand reporting to
3 The Township administrator being the same thing as
4 reporting to The Township Committee, those are two
5 different things, correct?

6 A. Not correct.

7 Q. You equate one to the other?

8 A. Yes.

9 Q. So you're reading this document to say
10 Township Committee as the appropriate authority, or
11 the designee The Township administrator, that's how
12 you're reading it?

13 A. No, I've read all of this document
14 since the day I got it, as it goes to The Township
15 Committee. I've sent it to The Township
16 administrator, whom I assumes business with The
17 Township Committee does forward it to The Township
18 Committee. I've never gotten any correspondence back
19 from them saying that it hasn't reached them.

20 Q. Well, it certainly didn't reach them
21 with respect to Chicago conference, did it?

22 MR. SCIARRA: Objection.

23 BY MR. PLOSIA:

24 Q. Or did it?

25 MR PLOSIA: What's the basis for the

1 objection?

2 MR. SCIARRA: He's proffering facts
3 that don't exist. That's improper: That's improper
4 cross examination. You can cross examination with
5 leading questions; you can't cross-examine him with
6 facts that don't exist. The committee got this, we
7 know that. Why would we allow him to ask him a
8 question that presupposes they didn't. I object to
9 the question.

10 HEARING OFFICER O'HAGEN: I think he's
11 relying upon the purchase order.

12 MR PLOSIA: I am, I am.

13 BY MR. PLOSIA:

14 Q. Before that sign-off, to your
15 knowledge, did The Township Committee have any
16 knowledge whatsoever that you were going to Chicago?

17 A. Yes.

18 Q. What knowledge did they have and how
19 do you know they knew?

20 A. On my May 28th memo to them.

21 Q. How do you know that got to The
22 Township Committee?

23 A. I have no idea.

24 Q. As a matter of fact you know it didn't
25 get to them, correct, because no one approved it?

1 You had to have an emergency approval in September
2 because no one had approved it beforehand, correct?

3 MR. SCIARRA: I'm going to object
4 again. That presupposes facts. No one has the
5 courage to come in here and say we didn't know.

6 MR PLOSIA: Please, counsel, will --

7 MR. SCIARRA: -- we didn't know.

8 I'm asking him not to do cross
9 examination on phantom facts that Mr. Plosia needs to
10 exist to demonstrate negligence by his party that my
11 client should have some knowledge of and trying to
12 correct.

13 MR PLOSIA: Do you need a break,
14 counsel, because you're getting more obnoxious as we
15 go along? Do you need a break or is this going to be
16 the rest of the day you're going to act like this?

17 MR. SCIARRA: I think the hearing
18 officer is in control of the hearing.

19 HEARING OFFICER O'HAGEN: Let's do
20 this, you calm down and you calm down, but what
21 confounds this is that the chief's memo to the
22 administrator saying Kelly was directed to hold this,
23 not to process it. So you've got to frame your
24 question around that document.

25 MR PLOSIA: Let me try it this way.

1 HEARING OFFICER O'HAGEN: That was his
2 understanding that it wasn't approved to that point.

3 MR PLOSIA: Right.

4 BY MR. PLOSIA:

5 Q. Before you saw the document and the
6 manner that you saw that was signed by the three
7 committee people, do you have any knowledge
8 whatsoever that any of the committee people had
9 approved the trip or even knew about the trip?

10 A. It was approved to the 9th I believe.

11 Q. Right, the 9th of September?

12 A. Correct.

13 Q. And you were concerned about that
14 because you were going to lose the good rate?

15 A. Correct.

16 Q. And you had given the document to The
17 Township administrator on May 28th?

18 A. That's correct.

19 Q. And you don't have any facts to
20 indicate that between May 28th and September 9th, any
21 of The Township Committee members knew about this
22 request, correct? You don't know that they knew?

23 A. I don't know that they didn't know or
24 knew.

25 Q. Correct, thank you.

1 Now, the memo we're looking at, the
2 directive also specifically requires you to write the
3 report to The Township Committee, correct?

4 MR. SCIARRA: Objection, the memo
5 speaks for itself.

6 HEARING OFFICER O'HAGEN: And it's
7 actually has been asked and answered.

8 MR. PLOSIA: No, this is a separate
9 question, maybe I'm not being clear, Your Honor.

10 HEARING OFFICER O'HAGEN: Oh, O.K.

11 MR. PLOSIA: The first directive is
12 that he make the request for going on trips to The
13 Township Committee. The second requirement is that
14 you make a written report when you return?

15 HEARING OFFICER O'HAGEN: Oh, O.K.

16 MR PLOSIA: Also to The Township
17 Committee.

18 BY MR. PLOSIA:

19 Q. That's what it says, correct?
20 Chief?

21 A. I'm sorry?

22 HEARING OFFICER O'HAGEN: His answer
23 will be the same, he thought it was tantamount to
24 sending it to The Township Committee --

25 MR. PLOSIA: All Right.

1 HEARING OFFICER O'HAGEN: -- when he
2 sent it to the administrator, that is your testimony.
3 right?

4 THE WITNESS: That is correct.

5 MR PLOSIA: Is that what you're going
6 to say?

7 THE WITNESS: That's correct.

8 BY MR. PLOSIA:

9 Q. And is there any difficulty writing
10 directly to Township Committee, you have email
11 addresses, correct, there's nothing technologically
12 impossible by doing that, correct?

13 A. Absolutely not.

14 Q. Now, when you talked to Ms. Capristo
15 about your trip, she said it was October 4, I
16 believe, does that sound right? She's a lot more
17 precise than I am, but is there anything to indicate
18 that it didn't happen on October 4?

19 A. I'd have to look at my calendar.

20 Q. O.K.

21 She's a lot better than I am?

22 Now, at that point, you said you had
23 known her socially previously.

24 MR. SCIARRA: Objection, he said he
25 knew her.

1 HEARING OFFICER O'HAGEN: He said he
2 met her one time.

3 MR. SCIARRA: He said he knew her or
4 met her at one time.

5 HEARING OFFICER O'HAGEN: Isn't that
6 what you said?

7 THE WITNESS: Right.

8 BY MR. PLOSIA:

9 Q. Tell us how you knew her.

10 A. Her kid goes to the same school as our
11 kids.

12 Q. So you met her on one occasion?

13 A. Yes.

14 Q. Only one occasion?

15 A. Yes.

16 Q. You had not spoken to her prior to
17 October 7 about any of your interactions with The
18 Township Committee in Colts Neck prior to October 7?

19 A. Not that I'm aware of.

20 Q. So do you have any reason to doubt her
21 testimony that when she talked to you on October 7,
22 she had no knowledge of any discomfiture or
23 disagreements between you and The Township Committee;
24 when she says that you have no reason to doubt that,
25 do you?

1 A. No.

2 Q. So when she talks to you on October 7,
3 she doesn't know about all of this, she doesn't know
4 about the directives, right?

5 MR. SCIARRA: Objection to what she
6 knows, the question was do you have any reason to
7 disbelieve her.

8 BY MR. PLOSIA:

9 Q. I'm asking again: Do you have any
10 reason to contest her testimony that she says she
11 didn't know about the directives on October 7?

12 A. Do I have --

13 Q. Any reason to believe that what she
14 said -- when Kathleen sat here and said I didn't know
15 about the directives on October 7 when I talked to
16 the chief, that that's incorrect, that that's wrong?

17 HEARING OFFICER O'HAGEN: Wait a
18 minute, there's a couple of questions in there. I
19 guess what you're trying to ask him is do you have
20 any reason to disbelieve her testimony?

21 MR PLOSIA: I thought that was the
22 first question you objected to.

23 HEARING OFFICER O'HAGEN: Yes, but -

24 BY MR. PLOSIA:

25 Q. Do you have any reason to disbelieve

1 her testimony when she says that she had no knowledge
2 of the directives in 2014 when she met with you on
3 October 7, 2015?

4 A. I would question it, yes.

5 Q. You would question it.

6 What's the basis for that question?

7 A. The fact that these are directives
8 that are out there and she knew that my direct report
9 was to The Township Committee.

10 Q. How did she know that?

11 A. Probably through her training as
12 coming in as a new hire.

13 Q. Well --

14 A. I don't know, I don't know how --

15 Q. You're just making that up?

16 A. I have no idea.

17 HEARING OFFICER O'HAGEN: He's
18 speculating.

19 BY MR. PLOSIA:

20 Q. You're speculating?

21 A. I'm assuming when a new employee comes
22 in, the old administrator goes over outgoing stuff, I
23 don't know.

24 Q. And at the time she talked to you, she
25 had only been on the job for three days?

1 A. Yes, whatever time.

2 Q. You don't know but not for very long.

3 O.K., and during that conversation,
4 did she indicate to you any knowledge of these
5 directives?

6 A. Never talked about them, I don't
7 believe.

8 Q. Did she talk to you about who you're
9 supposed to make requests to either to go on the trip
10 or summarizing what happened on the trip?

11 A. No.

12 Q. O.K., and did you consider her to be
13 in that conversation hostile to you in any way?

14 A. Not at all.

15 Q. It was a pleasant conversation?

16 A. Yes.

17 Q. And other than the point about the
18 vacation time, was there anything else that
19 Mr. Capristo testified here today about that
20 conversation that it was not accurate or not true?

21 A. Not that I'm aware of.

22 Q. So she's accurate in every respect
23 about the conversation including the date, which you
24 don't specifically recall here today except for the
25 vacation time conversation?

1 A. Yeah.

2 Q. O.K.

3 And at that point, you have, at least
4 from what she said to you or any other basis for
5 knowledge, you have no idea if she was concerned
6 about you using vacation time or not using vacation
7 time, correct?

8 A. I have no idea what she was thinking.

9 Q. In other words, she didn't have a dog
10 in the fight at this point, correct, she doesn't care
11 what's going on, she doesn't even know what's going
12 on?

13 MR. SCIARRA: Objection to what she
14 cares about or doesn't care about.

15 MR PLOSIA: Withdrawn.

16 BY MR. PLOSIA:

17 Q. And you did say to her that you were
18 upset and concerned about the fact that Township
19 Committee was not paying for the hotel and the
20 airfare to go to these kinds of the conferences, you
21 told her that, correct?

22 A. For all employees, correct.

23 Q. Well, did you say all employees or did
24 you say you?

25 A. I said all employees.

1 Q. O.K., so she's accurate about that as
2 well, when she summarized that this morning, she got
3 that right, right?

4 A. I don't know that we talked about what
5 she testified in that part. If she did, she did; if
6 she said just the --

7 Q. Well, if I represented to you that she
8 had said this morning, part of the conversation was
9 you expressed your unhappiness with the fact that
10 Township Committee wasn't paying for airfare and
11 hotel, that would be consistent with your memory of
12 what you talked about?

13 A. That's correct.

14 Q. The next thing she said she also
15 specifically recalled you saying that you were
16 unhappy to have to use vacation time and your own
17 time as opposed to being paid by the Township
18 Committee when you went to this out-of-state
19 conference, that's what she said and your testimony
20 is you didn't say that?

21 A. Never said that.

22 Q. Do you have any reason to believe she
23 would be lying about that?

24 A. I have no idea why.

25 Q. And so we're clear, you did not use

1 vacation time?

2 A. I did not use vacation time.

3 Q. And to go back to Exhibit T-15, not
4 only did you not use vacation time, you put in a
5 claim for comp time, if you will?

6 MR. SCIARRA: Objection.

7 BY MR. PLOSIA:

8 Q. Isn't that right?

9 MR. SCIARRA: Absolutely not.

10 BY MR. PLOSIA:

11 Q. Well, isn't that comp time what you're
12 asking for or you're writing it down?

13 HEARING OFFICER O'HAGEN: He's not
14 asking for comp time; he's just recording it.

15 BY MR. PLOSIA:

16 Q. Well, what's the purpose of recording
17 it, is there any purpose in recording it?

18 A. So the committee is aware of how many
19 hours above and beyond my 40 hours I put in for this
20 town.

21 Q. So it's your testimony, chief, you
22 should be entitled to 12 hours more than your 40
23 hours of week of pay for a week you went to Chicago
24 and didn't use any of your own time, is that what
25 your claim is?

1 MR. SCIARRA: I don't even understand
2 the question.

3 BY MR. PLOSIA:

4 (Township Exhibit T-13, Time Records,
5 marked for identification, as of this date.)

6 BY MR. PLOSIA:

7 Q. I'll try it again.

8 Look at T-15 -- T-13, I'm sorry, T-13?

9 For the week of ending the 29th, you
10 have 102.25 hours and you testified on direct that
11 that was your accrued extra time for the years 2015,
12 is that correct?

13 A. Ending what?

14 Q. The first page.

15 A. O.K., so go ahead.

16 Q. Your testimony was that's your total
17 extra time over 40 hours that you had put in for The
18 Township of Colts Neck through October of 2015,
19 correct?

20 A. That would've been October 23, of
21 2015, correct.

22 Q. But that's for the whole year?

23 A. Correct.

24 Q. All right, turn the page.

25 We now have 116.5 hours so I think

1 your claim is that you should be entitled to or you
2 worked 16 extra hours when you attended a conference
3 in Chicago, is that what you're saying?

4 A. 16.25.

5 Q. Over your regular 40 hours?

6 A. Correct.

7 Q. Attending a conference?

8 A. That's correct.

9 Q. For which you're being paid?

10 A. That's correct.

11 Q. And you think that's a fair claim?

12 A. Yes, I --

13 MR. SCIARRA: Objection to form, what
14 claim? He's making a note of it.

15 HEARING OFFICER O'HAGEN: He's not
16 making a claim; he's just recording it.

17 BY MR. PLOSIA:

18 Q. Well, you are recording it for
19 purposes of The Township Committee seeing that you're
20 working above and beyond 40 hours, is that correct?

21 A. That's correct.

22 Q. And you feel comfortable saying to The
23 Township Committee, you know what, I went to a
24 conference, I was paid for it, and I should get
25 credit for not just being paid for it, but for 16

1 hours above what I was paid for?

2 A. That is correct.

3 Q. You're comfortable with that?

4 A. That's correct.

5 Q. Could you turn to Tab 16, please. And
6 page 19 of Tab 16, you heard Ms. Capristo read that
7 policy, it's on the top under G.

8 HEARING OFFICER O'HAGEN: I'm sorry,
9 what page?

10 MR PLOSIA: Page 19, I'm sorry.

11 HEARING OFFICER O'HAGEN: What Tab?

12 MR PLOSIA: Tab 16, and it's page 19.
13 Yes, sir.

14 HEARING OFFICER O'HAGEN: O.K.

15 BY MR. PLOSIA:

16 Q. I'm sorry, I need to go back, I am
17 sorry to do this, but I missed something.

18 A. O.K.

19 Q. Ms. Capristo said that during the
20 conversation on October 7, you talked about or she
21 talked about your wife shopping in Chicago or
22 something to that effect, that she was going to be
23 able to shop in Chicago, do you recall her saying
24 that?

25 A. I believe she said that, yes.

1 Q. And do you recall that being accurate?

2 A. I don't recall that part of the
3 conversation, but it's very possible; Kathleen was
4 from Chicago, so we had a lot of conversation.

5 Q. You didn't know that prior to October
6 ??

7 A. What's that?

8 Q. You didn't know she was from October
9 prior to October 7?

10 A. Probably not.

11 Q. She told you on October 7 she was from
12 Chicago?

13 A. Probably.

14 Q. So when she testified to that, she was
15 accurate about that as well?

16 A. Yes.

17 Q. Thank you.

18 Back to where you were, Ms. Capristo
19 read this into the record, you would agree that
20 having a car, a police car on duty driven by an
21 on-duty police officer picking someone up at the
22 airport is not consistent with this policy or you
23 would not agree?

24 A. It's consistent with the policy.

25 Q. And that's because it's official

1 business?

2 A. That's correct.

3 Q. How about the passenger, is that
4 allowed as well?

5 A. Yes.

6 Q. And why so?

7 A. That's routine.

8 Q. Well, I'm asking you under this
9 policy, chief, not what's routine.

10 A. Yes.

11 Q. And where in that policy would it
12 authorize a third party to be driven?

13 A. Third party is my wife.

14 Q. O.K., I was going to call your wife
15 the second party; the third party would be the other
16 chief.

17 A. The other chief.

18 Q. I'm sorry, I wasn't being clear.

19 Where in that policy would it possibly
20 allow a non-employee to be driven in an employee
21 vehicle, The Township vehicle, I'm sorry?

22 A. She's my wife coming back from a
23 training conference.

24 Q. Yes, I'm talking about the other
25 chief, not your wife at this point.

1 Where in this policy would it possibly
2 be defensible to have a non-employee, not your wife,
3 but the chief ride in The Township vehicle?

4 A. Routine procedure.

5 Q. So your testimony is that because this
6 has happened a lot, it's permissible despite the fact
7 that it's not authorized by this particular policy?

8 A. That's correct.

9 Q. Is there anybody else that did this in
10 the police department beside you?

11 A. Did anyone else do what in the police
12 department?

13 Q. Use a police car while on duty either
14 drive themselves or have someone else drive them
15 where a third-party was in the car other than for a
16 police business like an arrestee or something?

17 A. Colts Neck?

18 Q. Yes.

19 A. Yes.

20 Q. Do tell, give us an example.

21 A. Coming back from -- obviously routine
22 patrol work that the guys do transporting citizens
23 around.

24 Q. Yes, leave that aside, clearly.

25 HEARING OFFICER O'HAGEN: Transporting

1 citizens to the Monmouth County jail for instance?

2 THE WITNESS: Well, jail, that's
3 arrestees, but we have a parade, we've picked up
4 residents at on the parade route and dropped them off
5 at their vehicles. There's been several occasions
6 when the then Mayor Schatzle's wife was picked up
7 drunk and was transported in vehicles while she was
8 drunk back to her residence from other townships as
9 well, as a favor for the then mayor.

10 BY MR. PLOSIA:

11 Q. And who directed that?

12 A. No one really directed it. The guys
13 picked her up and took her. It's transporting other
14 citizens that we would do -- transporting a
15 freeholder --

16 Q. Let's stick with the last one.

17 A. -- to the 9/11 memorial.

18 Q. Let's stick with the --

19 MR. SCIARRA: He's answering the
20 question.

21 MR PLOSIA: I'd like to go one at a
22 time.

23 BY MR. PLOSIA:

24 A. I'm trying to think.

25 Q. Who authorized the driving of the

1 mayor's wife?

2 A. I have no idea.

3 Q. Were you aware of it?

4 A. Later.

5 Q. Not at timing?

6 A. No.

7 Q. You were not on duty?

8 A. No.

9 Q. You were not called?

10 A. Well, I'm on duty 24 hours.

11 Q. No one called you?

12 A. No.

13 Q. Was a lieutenant called?

14 A. I have no idea.

15 Q. Well, is it routine for police
16 officers to drive out of town to pick someone up?

17 A. Yes, absolutely.

18 Q. It is?

19 A. Absolutely.

20 Q. Not a prisoner?

21 A. Not a prisoner.

22 Q. Give me an example of when this
23 happened routinely other than picking up the mayor's
24 wife.

25 A. I can't think off the top of my head.

1 Q. Well, I'm trying to think of an
2 example where a police officer in Colts Neck is going
3 to Holmdel to give someone a ride, certainly that's
4 not a routine occurrence, is it?

5 A. Maybe if a resident, their vehicle
6 broke down and they decided they needed a ride, they
7 couldn't get somebody there, that could be a possible
8 scenario.

9 Q. Well, that would be lending assistant
10 to the Holmdel police department, correct, that's not
11 your example?

12 A. Well, that's lending assistance to the
13 resident.

14 Q. Well, a resident who's out of town?

15 A. That's correct.

16 Q. I happen to live in Chester, you mean
17 if I call the Morristown police and I say you know
18 what, I've had too much to drink, can you come pick
19 me up, is that something that happens in Colts Neck
20 regularly?

21 MR. SCIARRA: I'm going to object as
22 to Mr. Plosia's drinking issues.

23 MR. PLOSIA: You shouldn't object,
24 I'll stipulate to them, it's O.K.

25 HEARING OFFICER O'HAGEN: I think you

1 probably meant if he had one too many, Mr. Sciarra,
2 is that what you mean?

3 MR. SCIARRA: You can't be around when
4 he has one too many; that's a whole other topic we
5 don't want to get into, so...

6 BY MR. PLOSIA:

7 Q. In other words, that would not be --
8 that -- the Chester police would say to me, are you
9 kidding, I don't care if you live in Chester, I'm not
10 coming to pick you up. I'm trying to imagine how
11 this how could this be a routine occurrence for a
12 police officer to go out of town and pick up a
13 resident and drive them back to town and why did that
14 happen.

15 A. As a courtesy to the resident.

16 Q. And who decided that the courtesy
17 should be begin?

18 A. The police officer.

19 Q. The police officer?

20 A. That's correct.

21 Q. Was he directed to do so?

22 A. At his discretion.

23 Q. At his discretion?

24 A. Or her discretion, yes.

25 HEARING OFFICER O'HAGEN: Now that

1 this portion has been of the handbook has been
2 specifically brought to your attention, do you have
3 reason to question whether the vehicle should be used
4 in the future to pick up residents whose car had
5 broken down or had too much to drink, or something of
6 that nature, do you have reason to question whether
7 or not that's appropriate?

8 THE WITNESS: I believe in our police
9 function, we still serve and protect the residents of
10 this community, that if they need some time of help
11 from us, that we can provide that help.

12 HEARING OFFICER O'HAGEN: That's your
13 view of it?

14 THE WITNESS: Yes.

15 HEARING OFFICER O'HAGEN: By the way,
16 how many -- may I interrupt for just one minute?

17 MR PLOSIA: Yes; absolutely.

18 HEARING OFFICER O'HAGEN: How many --
19 I think there's 15 or 16 officers within your
20 department, chief?

21 THE WITNESS: 20.

22 HEARING OFFICER O'HAGEN: 20.

23 When you came back from the
24 conference, was it in the evening or daytime?

25 THE WITNESS: Afternoon.

1 HEARING OFFICER O'HAGEN: How many
2 officers would be on duty at that time typically.

3 THE WITNESS: On that day?

4 HEARING OFFICER O'HAGEN: Yes.

5 THE WITNESS: There were four patrol
6 officers.

7 HEARING OFFICER O'HAGEN: Four
8 patrols.

9 Is The Township divided into sectors
10 so to speak?

11 THE WITNESS: Yes.

12 HEARING OFFICER O'HAGEN: And squad
13 cars are supposed to be available if something
14 happens in an individual sector?

15 THE WITNESS: That's correct.

16 HEARING OFFICER O'HAGEN: What happens
17 when there's a car that's broken down for instance, a
18 squad car?

19 THE WITNESS: They use another car.

20 HEARING OFFICER O'HAGEN: Use another
21 car?

22 THE WITNESS: Use another car.

23 HEARING OFFICER O'HAGEN: Now, on the
24 day that you were picked up, do you know what
25 happened?

1 THE WITNESS: I don't understand your
2 question.

3 HEARING OFFICER O'HAGEN: On the day
4 that you were picked up from the airport, do you know
5 what happened in terms of coverage of that sector?

6 THE WITNESS: We have a three-man
7 minimum working in our department, as our department
8 policy.

9 HEARING OFFICER O'HAGEN: Can I just
10 interrupt, I thought you said there were four
11 sectors; I may have misunderstood.

12 THE WITNESS: Well, sectors, we also
13 only have two sections in town.

14 HEARING OFFICER O'HAGEN: Oh, two
15 sections.

16 THE WITNESS: We have two sections in
17 town and we have a three-officer minimum.

18 HEARING OFFICER O'HAGEN: O.K.

19 THE WITNESS: At the day in question,
20 we had four officers working.

21 HEARING OFFICER O'HAGEN: So then
22 there would be some overlap typically?

23 THE WITNESS: Correct.

24 HEARING OFFICER O'HAGEN: Was an
25 Officer A who was assigned, are they assigned to

1 different sections?

2 THE WITNESS: Yes.

3 HEARING OFFICER O'HAGEN: Which?

4 THE WITNESS: Two officers -- one
5 officer is assigned to each section and a third
6 officer is just a rover to back up because we have 32
7 square miles and backup is not that close.

8 HEARING OFFICER O'HAGEN: So the
9 third, we'll call him the third, he would go to
10 either Section A or B, whatever it might be?

11 THE WITNESS: That's correct.

12 HEARING OFFICER O'HAGEN: O.K., go
13 ahead, I'm sorry.

14 MR PLOSIA: No problem.

15 BY MR. PLOSIA:

16 Q. Was the fourth officer assigned with
17 your specific knowledge that you were going to need a
18 ride that day?

19 A. Was the fourth officer --

20 Q. On October 28, was on duty knowing you
21 were going to have to have somebody driving you back
22 from Newark Airport?

23 A. At what time?

24 Q. I asked you first.

25 A. No.

1 Q. So in other words, you're sitting here
2 today saying that assignment of a fourth officer on
3 the shift was not due to you needing a ride back from
4 the airport?

5 A. That is correct.

6 Q. And when you say four officers,
7 they're not all on the road, are they?

8 A. Yes.

9 Q. That day they were all on the road?

10 A. Four patrol officers.

11 Q. And then --

12 A. And then two detectives.

13 Q. And two detectives?

14 A. And lieutenant.

15 Q. Lieutenant, he's not--

16 A. And the other two detectives.

17 Q. O.K., when in terms of costs, you took
18 cabs I assume to and from the airport in Chicago, you
19 paid for that out of your own pocket?

20 A. We either take cabs or shuttles.

21 Q. O.K., but either way, it's either free
22 or you're paying for it out of your own pocket for
23 these out-of-state conferences, correct?

24 A. That's correct.

25 Q. How is that any different from getting

1 a ride back from the airport, why are you entitled to
2 be chauffeured by a police officer back from the
3 airport when you have to pick up your own tab going
4 from the airport in Chicago or anywhere you are?

5 A. Because it's cheaper to come back, it
6 saves the town money to carpool together.

7 Q. How do you figure that? It didn't
8 cost the town anything in Chicago; that was you
9 paying for cab fare or the shuttle or whatever it
10 costs?

11 A. I had to pay for my own meals as well.

12 Q. I understand, but when you say it's
13 cheaper, you're assuming that The Township would've
14 reimbursed you for a shuttle or limo service from
15 Newark Airport, you're assuming that, correct?

16 A. That's correct.

17 Q. Have you ever been reimbursed?

18 A. I've never put in for it, no.

19 Q. And if you tried to do it, The
20 Township Committee would've said no, wouldn't they?

21 MR. SCIARRA: Objection to what The
22 Township committee would've said.

23 HEARING OFFICER O'HAGEN: He wouldn't
24 know that.

25 MR. PLOSIA: Withdrawn.

1 BY MR. PLOSIA:

2 Q. When you said the total cost for the
3 conference is \$350, that was the total costs, The
4 Township Committee was not going to pay any more
5 money, correct?

6 A. That is correct.

7 Q. And in your mind, that didn't include
8 your salary, so you didn't have --

9 A. It didn't, that's correct.

10 Q. And in your mind, it didn't include
11 transportation to and from the airport because in
12 that your mind, it didn't cost The Township anything;
13 that was just a guy driving, isn't that right?

14 A. That's correct.

15 Q. O.K., well, from The Township
16 Committee's point of view, you can see why they would
17 say, what do you mean, it doesn't cost us any money?

18 MR. SCIARRA: Objection as to what
19 they would see or not see.

20 MR. PLOSIA: Strike that.

21 BY MR. PLOSIA:

22 Q. Is not using a township vehicle
23 insured by The Township to pick up the chief of
24 police, his wife and another chief of police from
25 Newark Airport and back is that not a potential cost

1 to The Township?

2 A. Indirect costs.

3 MR PLOSIA: Thank you.

4 No more questions.

5 HEARING OFFICER O'HAGEN: With
6 reference to the sectors and the number of vehicles,
7 you said at any one time at least during these
8 afternoon hours, there's four squad cars on the road?

9 THE WITNESS: On this particular day,
10 yes.

11 MR PLOSIA: He said three was the
12 minimum.

13 THE WITNESS: Three is the minimum.

14 HEARING OFFICER O'HAGEN: Oh, three is
15 the minimum?

16 THE WITNESS: Three is the minimum.
17 Every squad has four officers in our department and
18 of the four, guys could take off, but you can't go
19 below three.

20 HEARING OFFICER O'HAGEN: O.K., why is
21 it that there's a minimum?

22 THE WITNESS: Just for the reason I
23 said, we have two sections, one officer is assigned
24 to each section and the third officer is the rover
25 for backup.

1 HEARING OFFICER O'HAGEN: And I gather
2 you feel that gives adequate protection to the
3 residents?

4 THE WITNESS: To the residents,
5 correct.

6 HEARING OFFICER O'HAGEN: The rover,
7 does he also, he or she, give a further adequate
8 protection to the residents?

9 THE WITNESS: Yes, they're additional
10 backup. It also allows the officers -- because
11 there's three-man minimum, it also allows the
12 officers to do any of these transportations out of
13 town, whether it be prisoner pick-ups, dropping off
14 vehicles for service or anything like that.

15 HEARING OFFICER O'HAGEN: Just in
16 general, if there were a problem that developed, and
17 I gather from what you've said it's a factor, in a
18 municipality and there was a squad car that was no
19 longer available to address the emergency, doesn't
20 that give you reason to think that The Township
21 potentially wasn't adequately protected?

22 THE WITNESS: Our minimum was three
23 and we had three officers still in town at all times
24 on this particular day.

25 HEARING OFFICER O'HAGEN: But you do

1 have four on duty?

2 THE WITNESS: Right, we had four.

3 HEARING OFFICER O'HAGEN: And you feel
4 it wouldn't have anything to do with the adequacy of
5 police work, police coverage?

6 THE WITNESS: No, not at all.

7 HEARING OFFICER O'HAGEN: No, O.K.
8 All right, anything further?

9 MR PLOSIA: No, nothing further.

10 HEARING OFFICER O'HAGEN: Anything
11 further?

12 MR. SCIARRA: Nope.

13 HEARING OFFICER O'HAGEN: Thanks
14 chief.

15 Any further witnesses on your part?

16 MR. SCIARRA: Nope.

17 MR PLOSIA: Your Honor, I would like
18 to submit a written brief; I think the issues here
19 are complicated enough and we have a transcript, if
20 that's O.K. with counsel, if you can set a date or we
21 can contact you when we get the transcript and a date
22 from there.

23 MR. SCIARRA: That's fine with me.

24 MR PLOSIA: And I would like to do a
25 brief and short reply.

1 HEARING OFFICER O'HAGEN: O.K., how
2 long do you think it will take to get the transcript.

3 THE REPORTER: Eight days.

4 MR PLOSIA: So if we were to say eight
5 days?

6 HEARING OFFICER O'HAGEN: Why don't we
7 give a little more time, something might have --

8 MR PLOSIA: You know what, if it's
9 O.K., I will actually go back to my office, look at
10 the calendar and I'll submit a proposed date and then
11 two weeks after for replies and then if everybody is
12 O.K., we'll email.

13 MR. SCIARRA: That's fine.

14 HEARING OFFICER O'HAGEN: Great, thank
15 you.

16 MR. PLOSIA: O.K., thank you.

17 (Whereupon at 1:46 p.m., in the
18 hearing was adjourned.)

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C E R T I F I C A T E

I, MARIANNE D'AMICO, a Certified Court Reporter, License No. XI01998, and Notary Public, License No. 2013600, within and for the States of New Jersey and New York, do hereby certify:

That the transcript hereinbefore set forth is a true record of the testimony given by the witness.

I further certify that this transcript was prepared in accordance with Rule N.J.A.D.C. 13.43-5.8 and N.J.A.D.C. 13.43-5.9.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

** The foregoing Certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter. **


MARIANNE D'AMICO, CCR, CRR
CCR NO. XI10998

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