

1 THOMAS R. BURKE (State Bar No. 141930)  
2 thomasburke@dwt.com  
3 DAVIS WRIGHT TREMAINE LLP  
4 505 Montgomery Street, Suite 800  
5 San Francisco, California 94111-6533  
6 Telephone: (415) 276-6500  
7 Facsimile: (415) 276-6599

8 KAREN A. HENRY (State Bar No. 229707)  
9 karenhenry@dwt.com  
10 BRENDAN N. CHARNEY (State Bar No. 293378)  
11 brendancharney@dwt.com  
12 DAVIS WRIGHT TREMAINE LLP  
13 865 S. Figueroa Street, Suite 2400  
14 Los Angeles, California 90017-2566  
15 Telephone: (213) 633-6800  
16 Facsimile: (213) 633-6899

17 Attorneys for Petitioner  
18 MUSLIM ADVOCATES

19 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
20 IN AND FOR THE COUNTY OF LOS ANGELES

21 MUSLIM ADVOCATES,  
22  
23 Petitioner,

24 v.

25 THE CITY OF LOS ANGELES; THE LOS  
26 ANGELES POLICE DEPARTMENT; DOES 1  
27 THROUGH 10, INCLUSIVE,

28 Respondents.

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

AUG 11 2017

Sherri R. Carter, Executive Officer/Clerk

By: CARMEN DEL RIO, Deputy

) Case No. BS163755  
) Assigned to the Hon. James C. Chalfant  
) Dept.: 85

) **DECLARATION OF BRENDAN  
) CHARNEY IN SUPPORT OF PETITION  
) FOR WRIT OF MANDATE; EXHIBITS  
) AA-BBBB**

) [Memorandum of Points and Authorities In  
) Support of Verified Petition for Writ of  
) Mandate; Separate Statement of Facts In  
) Support of Verified Petition for Writ of  
) Mandate; and Request For Judicial Notice  
) Concurrently Filed]

) [[Proposed] Order Granting Verified Petition  
) Concurrently Lodged]

) Action Filed: July 25, 2016

**DECLARATION OF BRENDAN N. CHARNEY**

I, BRENDAN N. CHARNEY, declare:

1. I am an associate with the law firm Davis Wright Tremaine, LLP, and one of the attorneys representing Petitioner Muslim Advocates (“Muslim Advocates”) in this matter. I submit this declaration in support of the Verified Petition for Writ of Mandate (“Petition”) filed by Muslim Advocates in this matter. The matters stated in this declaration are true based on my personal knowledge and if called to testify I could and would testify competently thereto.

2. On January 12, 2017, I took the deposition of Rachel McClain in her capacity as the person designated by the Los Angeles Police Department (“LAPD”) as most qualified to testify concerning the LAPD’s e-mail backup system and undue burden claim thereto. Attached hereto as **Exhibit AA** are true and correct copies of excerpts from Volume One of the transcript of that deposition.

3. On January 26, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s person-most-qualified (“PMQ”) designee. Attached hereto as **Exhibit BB** are true and correct copies of excerpts from Volume Two of the transcript of that deposition.

4. On March 15, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit CC** are true and correct copies of excerpts from Volume Three of the transcript of that deposition.

5. On March 23, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit DD** are true and correct copies of excerpts from Volume Four of the transcript of that deposition.

6. On February 15, 2017, I took the deposition of Greg Toyama in his capacity as the person designated by the LAPD as most qualified to testify concerning the LAPD’s search for records in response to Muslim Advocates’ December 12, 2013 CPRA request concerning Community Mapping. Attached hereto as **Exhibit EE** are true and correct copies of excerpts from Volume One of the transcript of that deposition.

7. On March 16, 2017, I took the continued deposition of Greg Toyama in his capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit FF** are true and correct copies of

1 excerpts from Volume Two of the transcript of that deposition.

2 8. On March 22, 2017, I took the deposition of Anthony Huynh in his capacity as the  
3 person designated by the LAPD as most qualified to testify concerning the LAPD's divisional  
4 server backup system and undue burden claim thereto. Attached hereto as **Exhibit GG** are true and  
5 correct copies of excerpts from the transcript of that deposition.

6 9. On April 17, 2017, I took the deposition of Sgt. Michael Seguin. Attached hereto as  
7 **Exhibit HH** are true and correct copies of excerpts from the transcript of that deposition.

8 10. On May 10, 2017, I took the deposition of Sgt. Raymona Moussa. Attached hereto  
9 as **Exhibit II** are true and correct copies of excerpts from the transcript of that deposition.

10 11. On May 17, 2017, I took the deposition of Dr. Luann Pannell. Attached hereto as  
11 **Exhibit JJ** are true and correct copies of excerpts from the transcript of that deposition.

12 12. On May 31, 2017, I took the deposition of former Deputy Chief Michael Downing.  
13 Attached hereto as **Exhibit KK** are true and correct copies of excerpts from Volume One of the  
14 transcript of that deposition.

15 13. On June 8, 2017, I took the continued deposition of former Deputy Chief Michael  
16 Downing. Attached hereto as **Exhibit LL** are true and correct copies of excerpts from Volume  
17 Two of the transcript of that deposition.

18 14. Attached as **Exhibit MM** are true and correct copies of the Notice of Deposition of  
19 Person(s) Most Qualified at Respondent Los Angeles Police Department, along with Notices of  
20 Continued Deposition of Person(s) Most Qualified at Respondent Los Angeles Police Department,  
21 for the deposition of Rachel McClain in her capacity as the LAPD's PMQ.

22 15. Attached as **Exhibit NN** is a true and correct copy of the Notice of Continued  
23 Deposition of Person(s) Most Qualified at Respondent Los Angeles Police Department for the  
24 deposition of Greg Toyama in his capacity as the LAPD's PMQ.

25 16. Attached as **Exhibit OO** is a true and correct copy of the Notice of Deposition of  
26 Person(s) Most Qualified at Respondent Los Angeles Police Department for the deposition of  
27 Anthony Huynh in his capacity as the LAPD's PMQ.

28 17. Attached as **Exhibit PP** is a true and correct copy of this Court's November 8, 2016

1 Order Denying Respondents' Motion to Stay Proceedings.

2 18. Attached as **Exhibit QQ** is a true and correct copy of the transcript of the hearing  
3 held before this Court on November 8, 2016 concerning Respondents' Motion to Stay Proceedings.

4 19. On October 14, 2016, I received, via e-mail, a letter from Linda N. Nguyen, a  
5 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
6 Respondents. Attached hereto as **Exhibit RR** is a true and correct copy of the October 14, 2016  
7 letter from Ms. Nguyen, along with true and correct copies of the records enclosed with the letter.

8 20. On October 21, 2016, I received, via e-mail, a letter from Ms. Nguyen. Attached  
9 hereto as **Exhibit SS** is a true and correct copy of the October 21, 2016 letter from Ms. Nguyen,  
10 along with true and correct copies of the records enclosed with the letter.

11 21. On February 14, 2017, I received, via e-mail, a letter from Ms. Nguyen. Attached  
12 hereto as **Exhibit TT** is a true and correct copy of the February 14, 2017 letter from Ms. Nguyen,  
13 along with true and correct copies of the records enclosed with the letter.

14 22. On March 7, 2017, I received an e-mail from Kjehl Johansen, at that time a Deputy  
15 City Attorney for the City of Los Angeles, and one of the attorneys of record for Respondents.  
16 Attached hereto as **Exhibit UU** is a true and correct copy of the e-mail chain containing the March  
17 7, 2017 e-mail from Mr. Johansen.

18 23. On April 3, 2017, I sent an e-mail to Kjehl Johansen, at that time a Deputy City  
19 Attorney for the City of Los Angeles, and one of the attorneys of record for Respondents. Attached  
20 hereto as **Exhibit VV** is a true and correct copy of the e-mail thread in which my April 3, 2017 e-  
21 mail to Mr. Johansen appears.

22 24. On April 4, 2017, I received, via e-mail, a letter from Ms. Nguyen. Attached hereto  
23 as **Exhibit WW** is a true and correct copy of the April 4, 2017 letter from Ms. Nguyen, along with  
24 the transmittal e-mail. In the same e-mail transmitting the April 4, 2017 letter, Ms. Nguyen  
25 attached two PDFs collectively containing 124 pages, which Ms. Nguyen identified in the letter as  
26 documents that the City believes are the attachments to e-mails previously disclosed to Muslim  
27 Advocates in response to its CPRA Request.

28 25. Attached hereto as **Exhibit XX** is a true and correct copy of one of the attachments

1 transmitted along with Ms. Nguyen's April 4, 2017 letter: a draft LAPD document titled "Counter  
2 Radicalization Strategies, Reaching Out: Policing with Muslim Communities in an Age of  
3 Terrorism." This document was marked as Exhibit 11 at the Deposition of Michael Downing.

4 26. On June 30, 2017, I received, via e-mail, a letter from Mr. Johansen, at that time a  
5 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
6 Respondents. Attached hereto as **Exhibit YY** is a true and correct copy of the June 30, 2017 letter  
7 from Mr. Johansen, along with true and correct copies of records enclosed with the letter.

8 27. Attached as **Exhibit ZZ** is a true and correct copy of the Statement of Michael P.  
9 Downing Before the U.S. Senate Committee on Homeland Security and Governmental Affairs  
10 Presented on October 30, 2007, as marked as Exhibit 2 at the Deposition of Michael Downing.  
11 During the deposition, counsel for Respondents stipulated that this document is a business record of  
12 the LAPD and is admissible on that basis for all purposes in this action. This stipulation was  
13 memorialized on the record during the deposition, and can be found on page 28, lines 2-8 of Exhibit  
14 KK.

15 28. Attached as **Exhibit AAA** is a true and correct copy of a document titled "list of  
16 Department Groups Receiving 15.2 for Muslim Advocates", as marked as Exhibit 2 at the  
17 Deposition of Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel  
18 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
19 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
20 the deposition, and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

21 29. Attached as **Exhibit BBB** is a true and correct copy of a document titled "Legal  
22 Affairs Division Discovery Section CPRA Request", as marked as Exhibit 5 at the Deposition of  
23 Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel for Respondents  
24 stipulated that this document is a business record of the LAPD and is admissible on that basis for  
25 all purposes in this action. This stipulation was memorialized on the record during the deposition,  
26 and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

27 30. Attached as **Exhibit CCC** is a true and correct copy of a document titled "CPRA  
28 Request from Mr. Glenn Katon with the Muslim Advocates", as marked as Exhibit 6 at the

1 Deposition of Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel  
2 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
3 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
4 the deposition, and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

5 31. Attached as **Exhibit DDD** is a true and correct copy of excerpts from the LAPD's  
6 2016 2<sup>nd</sup> Quarter Department Manual, in particular sections 050.08 to 080.92, bearing bates  
7 numbers LAPD RFP-2 00055-00063 as marked as Exhibit 28 at the Deposition of Greg Toyama in  
8 his capacity as the LAPD's PMQ. This document was produced by Respondents in this action on  
9 March 3, 2017 in response to Muslim Advocates' Second Set of Requests For Production Of  
10 Documents under CCP § 2031.010 et seq.

11 32. Attached as **Exhibit EEE** is a true and correct copy of a document titled  
12 Intradepartmental Correspondence, dated January 3, 2014, and bearing bates numbers LAPD RFP-  
13 2 00039 as marked as Exhibit 29 at the Deposition of Greg Toyama in his capacity as the LAPD's  
14 PMQ. This document was produced by Respondents in this action on March 3, 2017 in response to  
15 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
16 et seq.

17 33. Attached as **Exhibit FFF** is a true and correct copy of excerpts from the LAPD  
18 Manual and the LAPD's Policies and Procedures Division Reference Guide concerning  
19 Memoranda of Understanding and Agreement, and bearing bates numbers LAPD RFP-2 00054,  
20 00064-68 as marked as Exhibit 30 at the Deposition of Greg Toyama in his capacity as the LAPD's  
21 PMQ. This document was produced by Respondents in this action on March 3, 2017 in response to  
22 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
23 et seq.

24 34. Attached as **Exhibit GGG** is a true and correct copy of printouts from the LAPD  
25 Discovery Section's tracking system, and bearing bates numbers LAPD RFP-2 0005-0008, as  
26 marked as Exhibit 34 at the Deposition of Greg Toyama in his capacity as the LAPD's PMQ. This  
27 document was produced by Respondents in this action on March 3, 2017 in response to Muslim  
28 Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010 et seq.

1 35. Attached as **Exhibit HHH** is a true and correct copy of a 15.2 transmitting Muslim  
2 Advocates' CPRA Request produced by Respondents at the deposition of Sgt. Raymona Moussa,  
3 as marked as Exhibit 2 at the Deposition of Sgt. Raymona Moussa. During the deposition, counsel  
4 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
5 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
6 the deposition, and can be found on page 15, lines 2-7 of Exhibit I.

7 36. Attached as **Exhibit III** is a true and correct copy of a Planning and Research  
8 Division Chronological Activity Log produced by Respondents at the deposition of Sgt. Raymona  
9 Moussa, as marked as Exhibit 4 at the Deposition of Sgt. Raymona Moussa. During the deposition  
10 of Sgt. Raymona Moussa, counsel for Respondents stipulated that this document is a business  
11 record of the LAPD and is admissible on that basis for all purposes in this action. This stipulation  
12 was memorialized on the record during the deposition, and can be found on page 15, lines 2-7 of  
13 Exhibit II.

14 37. Attached as **Exhibit JJJ** is a true and correct copy of a set of documents titled  
15 Official Correspondence Review produced by Respondents at the deposition of Sgt. Raymona  
16 Moussa, as marked as Exhibit 5 at the Deposition of Sgt. Raymona Moussa. During the deposition,  
17 counsel for Respondents stipulated that this document is a business record of the LAPD and is  
18 admissible on that basis for all purposes in this action. This stipulation was memorialized on the  
19 record during the deposition, and can be found on page 15, lines 2-7 of Exhibit II.

20 38. Attached as **Exhibit KKK** is a true and correct copy of an e-mail thread between  
21 former Deputy Chief Downing and Professor Samuel G. Freedman, as marked as Exhibit 9 at the  
22 Deposition of Michael Downing. This document is substantively identical (apart from the addition  
23 of bates numbers for identification purposes) to one of the documents enclosed along with the the  
24 October 14, 2016 letter from Ms. Nguyen attached hereto as Exhibit RR.

25 39. Attached as **Exhibit LLL** is a true and correct copy of an LAPD document titled  
26 "Muslim Community Engagement Initiative White Paper," as marked as Exhibit 12 at the  
27 Deposition of Michael Downing. Apart from the addition of bates numbers for identification  
28 purposes, this document is substantively identical to the document attached as Exhibit G to the

1 Petition, which Respondents admit is a true and correct copy in their First Amended Answer  
2 (“FAA”), paragraph 13.

3 40. Attached as **Exhibit MMM** is a true and correct copy of a City of Los Angeles  
4 Contract Purchase Order for an item of software called Transend, as marked as Exhibit 18 at the  
5 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. During the deposition, counsel  
6 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
7 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
8 the deposition, and can be found on page 492, lines 4-10 of Exhibit CC.

9 41. Attached as **Exhibit NNN** is a true and correct copy of the City of Los Angeles  
10 Departmental Records Disposition Schedule dated August 17, 2015, as marked as Exhibit 23 at the  
11 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. During the deposition, counsel  
12 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
13 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
14 the deposition, and can be found on page 492, lines 4-10 of Exhibit CC.

15 42. Attached as **Exhibit OOO** is a true and correct copy of a collection of documents  
16 showing the LAPD’s access of e-mail stored on backup tapes in or around June 2011 in response to  
17 an internal LAPD request, as marked as Exhibit 25 at the Deposition of Rachel McClain in her  
18 capacity as the LAPD’s PMQ. During the deposition, counsel for Respondents stipulated that this  
19 document is a business record of the LAPD and is admissible on that basis for all purposes in this  
20 action. This stipulation was memorialized on the record during the deposition, and can be found on  
21 page 492, lines 4-10 of Exhibit CC.

22 43. Attached as **Exhibit PPP** is a true and correct copy of a set of logs of restorals of  
23 backup tapes bearing bates number LAPD-RFP-2 00099-125, as marked as Exhibit 30 at the  
24 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. This document was produced  
25 by Respondents in this action on March 3, 2017 in response to Muslim Advocates’ Second Set of  
26 Requests For Production Of Documents under CCP § 2031.010 et seq.

27 44. Attached as **Exhibit QQQ** is a true and correct copy of a transcript of text messages  
28 between Leshon Frierson and Rachel McClain bearing bates number LAPD RFP-2 00072, as



1 marked as Exhibit 31 at the Deposition of Rachel McClain in her capacity as the LAPD's PMQ.  
2 This document was produced by Respondents in this action on March 3, 2017 in response to  
3 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
4 et seq.

5 45. On August 9, 2017, I visited the website of the United States National Archives and  
6 accessed the December, 1982 report of the Congressional Commission on Wartime Relocation and  
7 Internment of Civilians, titled "Personal Justice Denied" at [www.archives.gov/research/japanese-](http://www.archives.gov/research/japanese-american/justice-denied)  
8 [americans/justice-denied](http://www.archives.gov/research/japanese-american/justice-denied). Attached hereto as **Exhibit RRR** is a true and correct copy of Chapter 3  
9 of Personal Justice Denied, as available as of August 9, 2017 at  
10 <https://www.archives.gov/files/research/japanese-americans/justice-denied/chapter-3.pdf>.

11 46. On August 9, 2017, I accessed the user guide website for Adobe Acrobat and caused  
12 to be printed the portion of the user guide that covers searching PDFs in Adobe Acrobat. Attached  
13 as **Exhibit SSS** is a true and correct copy of the portion of the Adobe Acrobat user guide that  
14 covers searching PDFs, as available as of August 9, 2017 at  
15 <https://helpx.adobe.com/acrobat/using/searching-pdfs.html>.

16 47. On August 8, 2017, I visited the LAPD's website and caused to be printed an  
17 organizational chart depicting the organization of the LAPD's bureaus, offices, divisions, sections,  
18 etc. Attached as **Exhibit TTT** is a true and correct copy of the organizational chart, as available as  
19 of August 8, 2017 at <http://assets.lapdonline.org/assets/pdf/Org Chart 4-27-17-DP-4B.pdf>.

20 48. On August 8, 2017, I visited the LAPD's website and caused to be printed Volume  
21 Two of the LAPD's Manual. Attached hereto as **Exhibit UUU** is a true and correct copy of  
22 Volume Two of the LAPD's Manual, as available as of August 8, 2017 at  
23 [http://www.lapdonline.org/lapd\\_manual/volume\\_2.htm#040](http://www.lapdonline.org/lapd_manual/volume_2.htm#040).

24 49. On August 10, 2017 I caused to be printed from the website of the Washington Post  
25 an article by Abby Phillip and Abigail Hauslohner dated December 22, 2016 and titled "Trump On  
26 The Future Of Proposed Muslim Ban, Registry: 'You Know My Plans'". Attached hereto as  
27 **Exhibit VVV** is a true and correct copy of the article, as available as of August 9, 2017 at  
28 <https://www.washingtonpost.com/news/post-politics/wp/2016/12/21/trump-on-the-future-of->

1 [proposed-muslim-ban-registry-you-know-my-plans/](http://ag.ca.gov/publications/pra.pdf).

2 50. On August 10, 2017, I visited the Office of the Attorney General's website and  
3 accessed a presentation from the Office of the Attorney General titled "Public Records Act  
4 Training". A true and correct copy of the training presentation, as available as of August 10, 2017  
5 at <http://ag.ca.gov/publications/pra.pdf> is attached hereto as **Exhibit WWW**.

6 51. On February 17, 2017, I caused a letter to be sent to Mr. Johansen, at that time a  
7 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
8 Respondents. The letter proposed an arrangement by which the LAPD would conduct a narrowed  
9 search of Deputy Chief Downing's e-mail from only three months: December 2006, December  
10 2007, and December 2008. Attached as **Exhibit XXX** is a true and correct copy of my February  
11 17, 2017 letter.

12 52. On February 28, 2017, I received a letter from Ms. Nguyen responding to my  
13 February 17, 2017 letter, declining the proposal. Attached as **Exhibit YYY** is a true and correct  
14 copy of Ms. Nguyen's February 28, 2017 letter.

15 53. Attached hereto as **Exhibit ZZZ** is a true and correct copy of a Joint Stipulation  
16 Requesting Continuance of Hearing and Setting New Briefing Schedule filed in this action on April  
17 10, 2017.

18 54. Attached hereto as **Exhibit AAAA** is a true and correct copy of a collection of  
19 LAPD Intradepartmental Correspondence as marked as Exhibit 9 at the Deposition of Greg Toyama  
20 in his capacity as the LAPD's PMQ. During the deposition, counsel for Respondents stipulated  
21 that this document is a business record of the LAPD and is admissible on that basis for all purposes  
22 in this action. This stipulation was memorialized on the record during the deposition, and can be  
23 found on page 71, line 25 to page 72, line 18 of Exhibit EE.

24 55. Attached as **Exhibit BBBB** is a true and correct copy of a collection of documents  
25 showing the LAPD's response to an internal LAPD request for e-mail in or around September  
26 2011, bearing bates number LAPD RFP-2 00097-00098, as marked as Exhibit 29 at the Deposition  
27 of Rachel McClain in her capacity as the LAPD's PMQ. This document was produced by  
28 Respondents in this action on March 3, 2017 in response to Muslim Advocates' Second Set of

1 Requests For Production Of Documents under CCP § 2031.010 et seq.

2 56. On Friday, May 5, 2017 I sent an e-mail concerning anticipated testimony by  
3 Deputy Chief Downing to Kjehl Johansen, at that time a Deputy City Attorney for the City of Los  
4 Angeles, and one of the attorneys of record for Respondents. Mr. Johansen replied the same  
5 day. Attached as **Exhibit CCCC** is a true and correct copy of the May 5, 2017 e-mail thread  
6 between me and Mr. Johansen.

7 This declaration was executed on the 11th day of August, 2017, in Los Angeles, California.  
8 I declare under penalty of perjury under the laws of the State of California that the foregoing is true  
9 and correct.

10  
11   
12 \_\_\_\_\_  
13 Brendan N. Charney  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Davis Wright Tremaine LLP, Suite 2400, 865 South Figueroa Street, Los Angeles, California 90017-2566.

On August 11, 2017, I served the foregoing document(s) described as: **DECLARATION OF BRENDAN CHARNEY IN SUPPORT OF PETITION FOR WRIT OF MANDATE; EXHIBITS AA-BBBB** by placing a **true copy** of said document(s) enclosed in a sealed envelope(s) for each addressee named below, with the name and address of the person served shown on the envelope as follows:

Michael N. Feuer, City Attorney  
Carlos De La Guerra, Managing Assistant City Attorney  
Kjehl T. Johansen, Deputy City Attorney  
200 North Main Street  
City Hall East, Room 800  
Los Angeles, Ca 90012

X - (VIA PERSONAL DELIVERY) to be served on all other parties to this action by requesting that a messenger from *GLOBAL NETWORK LEGAL SERVICES* deliver true copies of the above-named documents, enclosed in sealed envelopes addressed indicated above.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on August 11, 2017, at Los Angeles, California.

Yvette M. Merino  
Print Name



Signature

**EXHIBIT AA**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

MUSLIM ADVOCATES,  
Petitioner,

vs.

Case No. BS163755

THE CITY OF LOS ANGELES; THE LOS  
ANGELES POLICE DEPARTMENT; DOES  
1-10, INCLUSIVE,  
Respondents.

---

DEPOSITION OF PERSON MOST QUALIFIED

AT LOS ANGELES POLICE DEPARTMENT

RACHEL MCCLAIN

VOLUME I

Thursday, January 12, 2017

10:05 a.m. - 2:52 p.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Jean F. Holliday

CSR No. 4535, RPR, CRR

1 that provide easy-to-follow step-by-step directions for  
2 you?

3 A. Yes.

4 Q. And so what would you do if, for instance,  
5 somebody was locked out of their computer?

6 A. We had the ability to unlock the user. Let's  
7 say they attempted three times and it locked them out,  
8 we could uncheck it and they could attempt again. If  
9 they needed their password changed, their supervisor  
10 would send an e-mail to the help desk and then we would  
11 reset their password and give that password to the  
12 supervisor and then they would be able to get back into  
13 the system, those kinds of things.

14 Q. And was all of your work as a help desk  
15 operator basically working with general user interface  
16 rather than the guts of the machine?

17 A. Yes.

18 Q. And you would follow these instructions to do  
19 so?

20 A. Correct.

21 Q. Before the break we were talking about what you  
22 did to prepare for this deposition, and I gather you  
23 were not designated on the first topic, so I'll move on  
24 to the second topic, if you could look at Exhibit 1,  
25 Item No. 2. Are you the person most qualified to

1 testify regarding the LAPD's backup systems for e-mail  
2 from 2001 to 2010?

3 A. I am for 2005 to 2008.

4 Q. And why are you the person most qualified for  
5 those years but not 2001 to 2004 and 2009 to 2010?

6 A. 2004 -- well, 2001 to 2004 I was at the help  
7 desk and the installation unit, then I got into the  
8 backup unit in 2005 through 2008, and technically the  
9 backup unit was still part of our unit. After 2008 and  
10 2009, however, I really wasn't doing the backups at  
11 that -- by that point I was doing more GroupWise  
12 administration.

13 Q. Okay.

14 A. But I am familiar with the backup system in  
15 that time frame.

16 Q. But there might be others who know more about  
17 the 2009 --

18 A. That's correct.

19 Q. -- to 2010 system and the 2001 to 2004 system?

20 A. Yes.

21 Q. Who are those people?

22 A. 2001 to 2004 I don't know.

23 Q. Okay. And what --

24 A. That was before my time there.

25 Q. And what about 2009 to 2010?



1           A.    I believe that was Earl Manahan, because he was  
2 the newer person that came into our unit at that time  
3 and so he was part of the backup unit at that time.

4           Q.    Okay.  Anyone else?

5           A.    My boss, Leshon Frierson, would know as well  
6 because he was overseeing us.

7           Q.    Was he overseeing you -- during what period of  
8 time was he overseeing you?

9           A.    From 2007 until -- or the time frame 2007-2010,  
10 the backup unit was actually part of -- he was the  
11 supervisor for that unit.

12          Q.    Okay.  In particular are you the person most  
13 qualified to talk about -- excuse me, to testify  
14 regarding the information technology, personnel,  
15 manuals, and other documentation with regard to the  
16 e-mail backup system from 2005 to 2008?

17          A.    Yes.

18          Q.    Are you the person most qualified with respect  
19 to the information technology, personnel, manuals, and  
20 other documentation with respect to 2009 to 2010 e-mail  
21 backup system?

22          A.    Probably not.

23          Q.    For the same reasons you mentioned before?

24          A.    Yeah.  I wasn't doing the job specifically.  I  
25 could tell you that -- what backup system we were using

1 and generally what backup unit does, but specifically  
2 I'm not sure.

3 Q. And what about for 2001 to 2004?

4 A. From that time frame the GroupWise system was  
5 completely different. It wasn't its own e-mail system,  
6 it was part of the division's, so I'm not sure how that  
7 all went about.

8 Q. Okay. What about the LAPD's policies and  
9 procedures with respect to the backup system, are you  
10 the person most qualified to talk about that for 2001 to  
11 2010, or for any period of time within that period?

12 A. Does that mean what they had me back up, is  
13 that what that means?

14 Q. Well, policies and procedures -- what I'm  
15 asking about really are written policies and procedures,  
16 the guidance you received and practiced from your  
17 supervisor, the things you're expected to do in terms of  
18 how to back up the system, the rules that you would  
19 follow, the protocols for doing so. Does that make  
20 sense to you?

21 A. Yes. So it could be verbal is what you're  
22 saying?

23 Q. Sure, it could be verbal.

24 A. Okay. Yes.

25 Q. So you're the person most qualified to talk

1 about the policies and procedures with respect to the  
2 e-mail backup system from 2001 to 2010?

3 A. From 2005 until probably 2010 I could still  
4 explain it, yes.

5 Q. And are you the person most qualified to talk  
6 about the LAPD's vendors -- let me rephrase.

7 Are you the person most qualified to talk about  
8 any vendors that the LAPD has worked with with respect  
9 to the LAPD's e-mail backup system from 2001 to 2010?

10 A. I'm only aware of Novell, so I don't know if  
11 there is additional vendors.

12 Q. Okay. So you don't know much about the vendors  
13 that the LAPD has used with respect to its e-mail backup  
14 system?

15 A. No. I believe -- we have other people who do  
16 the buying and selling or buying of the software and all  
17 that.

18 Q. Putting aside the -- and those people would  
19 know who the vendors are and who's available to -- which  
20 vendors they might bring in to work with them?

21 A. Yes. They have purchasing orders and they  
22 would know who they are. We just get the equipment and  
23 the software at that time.

24 Q. And who are those people who would be better  
25 suited to testify regarding the vendors?

1           A.     Purchasing orders, the only person I can think  
2 of is Wade Nakakura, I think his name is.

3           MR. JOHANSEN:    Could you try spelling his last  
4 name?

5           THE WITNESS:    Wade, I think it's Nakakura,  
6 N-a-k-a-k-u-r-a, something like that.  It's his name  
7 only because sometimes our licenses run out and we have  
8 to get a purchasing order for the next year for the  
9 licensing, and he's sent me e-mails in the past giving  
10 me the information on the new licensing, so that's why  
11 I'm assuming that he's the guy.

12 BY MR. CHARNEY:

13          Q.     And what's his job role?

14          A.     I think he's a Management Analyst.

15          Q.     Okay.  And are you the person most qualified to  
16 talk about the facilities used by the LAPD with respect  
17 to its e-mail backup system for 2001 to 2010?

18          A.     The facilities, yes, I've been in all the  
19 facilities that have the backup equipment.

20          Q.     And that would include the equipment itself as  
21 well?

22          A.     Yes, I've seen it in the past.

23          Q.     And you're familiar with it, you're the person  
24 most qualified to talk about that equipment as well as  
25 the facilities?

1           A.    In 2005 to 2008, yes, and some of those backups  
2 were in 2004, so I could see that information, too, in  
3 that same software even though I didn't do those backups  
4 from 2004 but I could see them.

5           Q.    What do you mean you could see them?

6           A.    I can see the software says that at that time  
7 that it was backed up.  It's a catalog, a catalog of all  
8 the things that its ever backed up.

9           Q.    So in the software there is a catalog of  
10 everything that's been backed up?

11          A.    On that server.

12          Q.    And you can see that in --

13          A.    The schedule.

14          Q.    What do you mean by the schedule?  Like, can  
15 you sort of describe it for me so I can picture it?

16          A.    Okay.  So the backup system itself, it runs  
17 dailies or weekly or monthly backups and it schedules  
18 that, and once it's completed, that job goes into a  
19 catalog so that you can see what you've backed up,  
20 right, so then I would know, oh, did I back this up  
21 yesterday or did I do the weekly for this particular  
22 division, particular server, I can see that it has been  
23 done.  Now, this is just, like, a database.  It's just a  
24 catalog telling me that it was done.  It doesn't have  
25 the actual information.  It just says that this job ran

1 this day, and it was completed.

2 Q. And who sets that schedule?

3 A. Well, the police department does. It was  
4 already created before I got there and we just continued  
5 the same type of schedule for 2005.

6 Q. Can anybody change that schedule?

7 A. Yes. Well, not anybody. The administrator  
8 could. I could or another person who was doing backup  
9 could.

10 Q. Have you done that?

11 A. Yes, I have.

12 Q. And what's the significance of you knowing when  
13 a certain backup was run?

14 A. Well, so that you know when to run it again.  
15 Sometimes there is -- because this is a server that's  
16 going out to other locations, other facilities,  
17 sometimes there is network issues and something may have  
18 failed so then you have to rerun it, those kinds of  
19 things, so you could see what worked, what didn't work,  
20 what needs to be run again.

21 Q. So it basically helps -- let me back up.

22 And in order to rerun it that's a pretty simple  
23 process?

24 A. Yes. You could just restart the job.

25 Q. And you just click a few buttons and the system

1 backs it up itself; right?

2 A. Yes.

3 Q. So other than knowing the schedule of when  
4 backups were completed, what do you know about the  
5 backup system from 2004 to 2008?

6 A. I know -- I know that that's scheduling. I  
7 know where we kept the tapes. I would request for new  
8 tapes to be given to us. I don't know what else you're  
9 asking.

10 Q. Is that all?

11 A. That I can remember, yes.

12 Q. Okay. Is there anything that would help you  
13 remember?

14 A. What else that I did when I was backing up?

15 Q. Right.

16 A. Probably just looking at that server again, I  
17 might remember more things that I did, but that's pretty  
18 much -- it's a fairly simple process of backing up.  
19 Like I said, all the schedules were already there. I  
20 could create a new schedule if I needed to at that time.  
21 For the most part it's pretty solid.

22 Q. So this schedule, is that the only record of  
23 when backups are completed?

24 A. Yes.

25 Q. There aren't any reports generated?

1 A. No.

2 Q. Are you the person most qualified to testify  
3 regarding efforts from 2013 to the present to retrieve  
4 information from the LAPD e-mail backup system?

5 A. Not the e-mail backup system but the archive  
6 system, yes. There is two -- two different things.

7 Q. Am I -- do I remember correctly that the  
8 archive system is something that was instituted after  
9 2013?

10 A. In 2013.

11 Q. So maybe I should rephrase my question. Are  
12 you the person most qualified to testify regarding  
13 efforts from 2013 to the present to retrieve information  
14 from before 2013 that's stored on the department's  
15 e-mail backup system?

16 A. I could talk about it, yes.

17 Q. But are you the person most qualified?

18 A. No. That would be my supervisor, Leshon  
19 Frierson, would be the most qualified.

20 Q. What did you do to prepare to testify regarding  
21 the LAPD's backup system for e-mail from 2001 to 2010?

22 A. I spoke to my supervisor, Leshon Frierson. I  
23 spoke to Earl Manahan, the one that was doing the  
24 backups in 2009, 2010. I went over to one of our  
25 division facilities that had -- or in the past had had



1 A. Yes.

2 Q. So ticket created -- the ticket would have been  
3 created at September 29th, 2014?

4 A. Correct. And what he's referring to by ticket  
5 he means that number on the upper left-hand side, the  
6 number, and then he writes it onto the 15.2, because  
7 when we receive the 15.2 there is no number on it, and  
8 so they put it into the system and then they assign it.  
9 So a few -- let's see, it looks like by that afternoon  
10 he assigned it to me.

11 Q. And is that --

12 A. Or actually I assigned it to myself because  
13 they probably told me about it, I went in and grabbed  
14 it.

15 Q. Is that protocol for recording notes also the  
16 same for the notes that are indicated in Exhibits 3 and  
17 4?

18 A. Yes.

19 Q. I believe we discussed the fact that you're the  
20 person most qualified to testify regarding the LAPD's  
21 claim that searching its backup system for e-mail from  
22 2001 to 2010 would be unduly burdensome; is that  
23 correct?

24 A. I could say that, yes.

25 Q. You are the person most qualified to testify

1 regarding that topic?

2 A. At this time, yes.

3 Q. Is there anybody else who might be more  
4 qualified?

5 A. My supervisor, Leshon Frierson.

6 Q. And why would he be more qualified?

7 A. He has more knowledge, he's been doing it  
8 longer, he's the supervisor so he knows more about the  
9 vendors and the policies and how we get our equipment,  
10 and he's also been doing GroupWise a lot longer so he  
11 understands the post offices and the systems. He was  
12 there when they created it.

13 Q. Other than Mr. Frierson, is there anybody else  
14 who would be qualified to -- who would be more qualified  
15 than you to testify as to this topic?

16 A. As far as the backup systems or specifically?  
17 I'm sorry.

18 Q. The LAPD's claim that searching its backup  
19 systems for e-mail from 2001 to 2010 would be unduly  
20 burdensome.

21 A. I can't think of anybody else. It would be  
22 just he and I could tell you that.

23 Q. Who did you -- what did you do to prepare to  
24 testify regarding the LAPD's claim that searching its  
25 backup system would be unduly burdensome?

1 but before April 26th of 2015.

2 Q. I'm sorry. Can you repeat that?

3 A. After June 29th of 2015, but before August 26th  
4 of 2015, in that time frame.

5 Q. And how did you do that search?

6 A. I would go post office by post office looking  
7 for these seven individuals that were requested to look  
8 into each one of their accounts, attempt to get into the  
9 account and then attempt to search the words "Community  
10 Mapping," "Muslim Mapping," and "Mapping Program" for  
11 each account.

12 Q. When you searched those words did you search  
13 for -- so for instance, when you searched "Community  
14 Mapping" did you search for that as a phrase or did you  
15 search for it as two separate words?

16 A. You can -- I typed it in as a phrase -- well, I  
17 typed in both words and so it's going to look for both  
18 of those words in the search.

19 Q. Does that mean that it would only return  
20 results that contain "Community Mapping," those words  
21 right next to one another?

22 A. I don't think so. I think that it would return  
23 "Community Mapping," "Community Mappings" with an "s,"  
24 because it's different than the "Muslim Mapping" or  
25 "Mapping Program."

1 Q. But for instance would it return a result -- if  
2 you ran a result for "Community Mapping" as you did,  
3 would it return a result for, say, "Mapping the  
4 Community"?

5 A. No.

6 Q. And what about "Muslim Mapping," was the  
7 search -- was that also run as a phrase?

8 A. Yes. Exactly how it's written here as the  
9 keywords.

10 Q. And the same for "Mapping Program"?

11 A. Yes.

12 Q. So did you consider -- is it possible to search  
13 those terms -- is it possible to search those words  
14 separately so you could search just for "Community" and  
15 just for -- or just for "Mapping"?

16 A. I could. I could do that.

17 Q. Are there proximity connectors in your search  
18 system?

19 A. What do you mean, like, saying "and, or," is  
20 that what you're referring to, the words?

21 Q. Well, near I guess is what I'm thinking, so  
22 could you search "Community Mapping" within five  
23 words -- I'm sorry, could you search "Community" within  
24 five words of "Mapping"?

25 A. No.



DEPOSITION ERRATA SHEET

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

Page No. 120 Line No. 9

Change: INSERT "CURRENTLY" BETWEEN "OFFICE" AND "HAS."

Reason for change: CLARIFICATION

Page No. 120 Line No. 10

Change: AT END OF LINE, INSERT "THE LIVE MAIL" AFTER "IN"

Reason for change: CLARIFICATION

Page No. 120 Line No. 11

Change: DELETE "IT"

Reason for change: CLARIFICATION

Page No. 120 Line No. 11

Change: AFTER "MONTHLY," INSERT "BASED ON MY EXPERIENCE DOING BACK-UPS FROM 2005-2008."

Reason for change: CLARIFICATION

Page No. 120 Line No. 12

Change: DELETE "WHAT"

Reason for change: CLARIFICATION

Page No. 120 Line No. 12

Change: AFTER "BE," INSERT "AVAILABLE TO BE BACKED-UP"

Reason for change: CLARIFICATION

Page No. 120 Line No. 13

Change: DELETE "WE HAVE"

Reason for change: CLARIFICATION



Rachel McClain

2/22/17

Dated

DEPOSITION ERRATA SHEET

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

Page No. 120 Line No. 21

Change: BEFORE "THE DAILIES" INSERT "BASED ON HOW BACK-UPS WERE DONE WHEN I WAS IN THE BACK-UP UNIT"  
Reason for change: CLARIFICATION DURING 2005-2008

Page No. 125 Line No. 10

Change: DELETE "THESE"  
Reason for change: CLARIFICATION

Page No. 125 Line No. 10

Change: INSERT "HARD DRIVE" AFTER "ON"  
Reason for change: CLARIFY HARD DRIVE VS. TAPE

Page No. 125 Line No. 11

Change: "BACKUP" TO "BACKUPS"  
Reason for change: CLARIFICATION

Page No. 125 Line No. 11

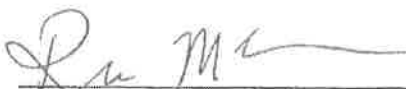
Change: DELETE "TAPES"  
Reason for change: CLARIFY HARD DRIVE VS TAPE

Page No. 126 Line No. 1

Change: INSERT "HARD DRIVE" BETWEEN "THE" AND "BACKUP"  
Reason for change: CLARIFY HARD DRIVE VS. TAPE

Page No. 126 Line No. 1

Change: "BACKUP" TO "BACKUPS"  
Reason for change: CLARIFICATION



Rachel McClain

2/22/17

Dated

DEPOSITION ERRATA SHEET

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

Page No. 126 Line No. 1

Change: DELETE "TAPES"

Reason for change: CLARIFY HARD DRIVE VS. TAPE

Page No. 126 Line No. 11

Change: AFTER "YES", INSERT "FOR HARD DRIVE BACKUPS."

Reason for change: CLARIFICATION

Page No. 126 Line No. 15

Change: INSERT AFTER "KNOW" I DID NOT REVIEW THE RESULTS OF OUR KEYWORD SEARCH OF HARD DRIVE BACKUPS."

Reason for change: CLARIFICATION

Page No. 126 Line No. 24

Change: INSERT "ADDITIONAL" BETWEEN "SET" AND "DATA"

Reason for change: CLARIFICATION

Page No. 126 Line No. 24

Change: INSERT "FROM PRIOR TO 2010" BETWEEN "DATA" AND "AND."

Reason for change: CLARIFICATION

Page No. 126 Line No. 24

Change: DELETE "AT IT"

Reason for change: CLARIFICATION

Page No. 126 Line No. 24

Change: AFTER "LOOK", INSERT "FOR THE KEYWORDS."

Reason for change: CLARIFICATION



Rachel McClain

2/22/17

Dated



DEPOSITION ERRATA SHEET

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

Page No. 136 Line No. 25

Change: INSERT "CURRENTLY" BETWEEN "I" AND "KNOW"

Reason for change: I RECEIVED ADDITIONAL INFORMATION FROM  
LESTON FRIERSON REGARDING DOMAINS AFTER  
THIS DEPOSITION.

Page No. 137 Line No. 2

Change: INSERT "MY CURRENT UNDERSTANDING IS" BEFORE "BECAUSE"

Reason for change: I RECEIVED ADDITIONAL INFORMATION  
REGARDING DOMAINS AFTER MY DEPOSITION.

Page No. 137 Line No. 17

Change: INSERT "MY CURRENT UNDERSTANDING IS" BEFORE "I"

Reason for change: I RECEIVED ADDITIONAL INFORMATION AFTER  
MY DEPOSITION

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_

Change: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_

Change: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_


Change: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_

Change: \_\_\_\_\_

Reason for change: \_\_\_\_\_

  
Rachel McClain

2/22/17  
Dated

1 STATE OF CALIFORNIA     )  
  ) SS  
2 COUNTY OF LOS ANGELES    )

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

I, Jean F. Holliday, a Certified Shorthand Reporter, do hereby certify:

That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and place therein set forth, and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name.

Dated: January 18, 2017



Jean F. Holliday  
CSR No. 4535, RPR, CRR

**EXHIBIT BB**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

MUSLIM ADVOCATES,  
Petitioner,

vs.

Case No. BS163755

THE CITY OF LOS ANGELES; THE LOS  
ANGELES POLICE DEPARTMENT; DOES  
1-10, INCLUSIVE,  
Respondents.

---

DEPOSITION OF PERSON MOST QUALIFIED

AT LOS ANGELES POLICE DEPARTMENT

RACHEL MCCLAIN

VOLUME II

Thursday, January 26, 2017

10:15 a.m. - 3:08 p.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Jean F. Holliday

CSR No. 4535, RPR, CRR

1 Q. So I'll ask you not to delete any of those text  
2 messages.

3 So I just want to confirm, we talked about this  
4 last time, but are you the person most qualified to  
5 testify at the LAPD regarding the LAPD's backup system  
6 for e-mail from 2005 to 2008?

7 A. Yes.

8 Q. Not from 2001 to 2004; correct?

9 A. Correct.

10 Q. And not from 2009 to 2010; correct?

11 A. Correct.

12 Q. And in particular you're the person most  
13 qualified to talk about the information technology  
14 personnel, manuals, and other documentation, policies  
15 and procedures and facilities relating to the backup  
16 system; is that true?

17 A. Yes.

18 Q. But you're not the person most qualified to  
19 talk about vendors related to the backup system;  
20 correct?

21 A. That's correct.

22 Q. And you're not the person most qualified to  
23 talk about efforts from 2013 to the present to retrieve  
24 information from the backup system from before 2013;  
25 correct?

1 A. Can you ask one more time? I'm sorry.

2 Q. Are you the person most qualified to talk about  
3 the LAPD's efforts from 2013 to the present to retrieve  
4 information from before 2013 that's stored on the LAPD's  
5 e-mail backup system?

6 A. Am I the person who does the searches or am I  
7 the person who recreates the GroupWise system?

8 Q. Well, I'm asking a bit more of a broader  
9 question, which is are you the person who is most  
10 qualified at the LAPD to talk about trying to access  
11 information that's on that backup system, and in  
12 particular the LAPD's actual attempts to do so.

13 A. I'm one of the people.

14 Q. And who are the other people?

15 A. The other person would be my supervisor, Leshon  
16 Frierson.

17 Q. But as you sit here today you are reasonably  
18 prepared to express the LAPD's knowledge regarding the  
19 LAPD's efforts from 2013 to the present to retrieve  
20 information from its backup system; is that correct?

21 A. From the archive for the e-mail system.

22 Q. And what period of time is that archive -- does  
23 that archive encompass?

24 A. The archives from 2013 till the present.

25 Q. So are you the -- so what I'm talking about

1     though is the e-mail backup system which would contain  
2     information from prior to 2013.

3           A.     So from the actual backup system from 2009 to  
4     2013 I was not in the backup unit.

5           Q.     Okay.  So you're not the person most qualified  
6     to talk about attempts to retrieve information from that  
7     backup system?

8           A.     No, not from that backup system, no.

9           Q.     And are you the person most qualified at the  
10    LAPD to testify regarding the LAPD's claim that  
11    searching its e-mail backup system for e-mail from 2001  
12    to 2010 would be unduly burdensome?

13          A.     I can discuss that, yes.

14          Q.     And am I correct that you are only the person  
15    most qualified to talk about an undue burden claim with  
16    respect to e-mail dated 2005 to 2008?

17          A.     I can talk about the backup system from that  
18    time frame and I was in the GroupWise unit towards the  
19    end of that 2008 until the present, so I can talk about  
20    the system, and I can talk about the backups from that  
21    time frame.

22          Q.     Beyond your personal knowledge, however, are  
23    you reasonably prepared to stand in the shoes of the  
24    LAPD and be the person who expresses the LAPD's  
25    institutional knowledge with regard to its undue burden

1 claim with respect to 2005 to 2008?

2 A. Yes.

3 Q. And in particular you're prepared to discuss  
4 the LAPD's position regarding how long it will take to  
5 search its e-mail backup system for responsive e-mails  
6 from 2005 to 2008?

7 A. Yes, I can discuss that.

8 Q. I've received -- we've received some documents  
9 from your counsel yesterday and I'm going to show them  
10 to you.

11 I'm going to ask the court reporter to mark for  
12 identification a December 12th, 2013, California Public  
13 Records Act request from Muslim Advocates to the Los  
14 Angeles Police Department.

15 MR. JOHANSEN: Is this our copy?

16 MR. CHARNEY: It is.

17 MR. JOHANSEN: Would you like the witness to  
18 refer to it or do you have a copy for her?

19 MR. CHARNEY: I have a copy for her.

20 (Exhibit 6 marked)

21 BY MR. CHARNEY:

22 Q. Please take a moment to familiarize yourself  
23 with this document.

24 MR. JOHANSEN: Can I have just a moment with my  
25 client?



1 Q. So based on that definition, were there any  
2 factual statements contained in the memorandum?

3 A. No.

4 Q. Did the memorandum refresh your recollection  
5 based on your personal knowledge of any information?

6 A. No.

7 Q. Did it refresh your recollection as the person  
8 standing in the shoes of the Los Angeles Police  
9 Department of any piece of information?

10 A. No. Only the attachments.

11 Q. So we've been talking a lot about the backup  
12 system but I'll just ask you again, does the LAPD have a  
13 backup system for e-mail?

14 A. Okay. That's -- you have to rephrase that  
15 question.

16 Q. Sure. Does the LAPD have a backup system that  
17 stores e-mail from 2001 to 2013?

18 A. The police department has had many different  
19 backup systems since 2001 that backed up not only e-mail  
20 but also other server information.

21 Q. What other server information?

22 A. The servers have more than just -- well, let's  
23 start by in 2001 the servers were just divisional  
24 servers, so a divisional server would have a personal  
25 drive for the police officers and a group drive for the

1 unit that the police officer might be a part of, as well  
2 as e-mail. So when things were backed up in 2001 to  
3 2003, each server would have all of that information on  
4 one backup.

5 In 2004 the GroupWise system was changed from  
6 individual divisional servers to its own system with its  
7 own servers. However, the backup system still used  
8 tapes efficiently, meaning if it had more space on a  
9 tape to back up, it would back up an e-mail server as  
10 well as a divisional server, from 2004 until 2008.

11 Q. Did anything change after 2008?

12 A. In 2008 was the last I remember of the backups  
13 with Backup Exec. After that was I'm assuming -- I  
14 don't know 2009 but after that in 2010 it was NetBackup  
15 and then that's when things may have been being backed  
16 up on hard drives, but I'm not familiar with that  
17 backup.

18 Q. What sort of information is stored on a  
19 divisional server?

20 A. It's all kinds of information. I mentioned the  
21 officer has a personal drive to put reports on, but they  
22 have a group drive so that they can share documents. It  
23 would have, like I said back then -- before 2004 would  
24 have the e-mail but after that it wouldn't have any  
25 e-mail. Maybe different system files, things like that.

1 Q. What sort of information is stored in a group  
2 drive?

3 A. I could only guess, like, based on what we do  
4 in our group, it would be a document that all of us may  
5 need. I have some reports on our servers, our gateways,  
6 things like that, but everyone can view it versus a  
7 personal drive which is just my drive and only I can see  
8 it unless I print something and give it to you.

9 Q. Is there a -- are you required to put certain  
10 documents on the group drive as part of your job duty?

11 A. No.

12 Q. Is it the custom -- as your group works  
13 together is it your custom to put stuff on the group  
14 drive so that everyone can refer to it in the group?

15 A. It's a convenience because if we're both  
16 working on the same Excel spreadsheet and I make changes  
17 to it, I'd want you to see those changes, and I wouldn't  
18 want you to be making changes at the same time as I am.  
19 So that would be our reason to use a group drive. It's  
20 more of a convenience.

21 Q. So it helps you get your job done?

22 A. It does.

23 Q. And so documents that a group is working on as  
24 part of their job you would expect that document to be  
25 on the group drive; is that accurate?

1 A. Yeah.

2 Q. And documents that individuals are working on  
3 alone as part of their job in the LAPD, would you expect  
4 those documents to be stored on a private drive?

5 A. Yes.

6 Q. Are you allowed to store documents that you're  
7 working on as part of your job on your home computer?

8 A. Not on my home computer, no.

9 Q. Or on any other computer other than the private  
10 and group drives?

11 A. I'm allowed, I have a laptop, because I work --  
12 I'm on call, so I have a laptop to be able to access the  
13 system from my home and I have files on that laptop to  
14 help me do that.

15 Q. Are those files stored on a networked drive or  
16 in local storage?

17 A. That would be local on my laptop.

18 Q. Are laptops like that assigned to sworn  
19 officers or is that just something that IT professionals  
20 have?

21 A. I don't know if -- I would think some officers  
22 might have some laptops. The laptop that I have was  
23 given to me by the department, so it's actually  
24 department equipment still even though it's something I  
25 bring home.

1 to know?

2 A. They would know what they have, yeah, where  
3 they are backing up and what it is.

4 Q. At what interval is the Los Angeles Police  
5 Department's e-mail backup -- sorry. Let me rephrase.

6 At what interval is the LAPD's e-mail from  
7 before 2010 backed up?

8 A. From 2004 to 2008, that time frame in Backup  
9 Exec -- are you talking about -- you're asking me how  
10 many times we backed up things or --

11 Q. Well, yes, but in particular the interval, so  
12 was it weekly? Monthly? Yearly? 60 days?

13 A. We talked about this before. We would do  
14 monthlies, weeklies, and dailies, and so daily tapes and  
15 the weekly tapes we would reuse but the monthly tapes we  
16 would -- we would not write over.

17 Q. And so only those monthly tapes are retained?

18 A. That's correct.

19 Q. And the monthly tapes, are they full backups?

20 A. Yes, they would be a full backup.

21 Q. And a full backup is -- what is a full backup?

22 A. Well, for a server that would be -- that would  
23 be everything on the server that you chose to back up  
24 and not -- as opposed to -- as opposed to something that  
25 you append to, that would be the only difference. So a

1 full backup would mean all the files versus -- that  
2 you're choosing versus maybe the next time you back up  
3 you just append. Well, only that No. 2 and No. 4 file  
4 got changed, so those are the only two things that would  
5 be on that appended backup as opposed to backing up all  
6 the files again. If the file didn't change then an  
7 appended backup would not copy that. But a full backup  
8 would copy the data whether it's changed or not.

9 Q. Are appended backups sometimes referred to as  
10 incremental backups?

11 A. Yes.

12 Q. And does the -- but none of the LAPD's backup  
13 tapes are incremental or appended; right?

14 A. The ones that I did were not. They were just  
15 full backups.

16 Q. So for an e-mail account that was initiated in  
17 2004, if I or if you were to back that up on  
18 January 1st, 2008, would it contain all of the e-mail  
19 that was still in that user's inbox during the entire  
20 time the account had been in existence, so it would have  
21 2004 to 2008 e-mail in it?

22 A. No.

23 Q. What would it have in it?

24 A. 2008 backup would have 2008 e-mail in it or a  
25 year's worth. So in 2008 if it was December of 2008

1 you'd have mail from December of 2007 to December of  
2 2008 in it.

3 Q. So is it accurate to say that the backup  
4 performed at the end of 2004 would have all of 2004  
5 e-mail in it?

6 A. Potentially. Well, let me -- let me back that  
7 up. Whatever is in the system that hasn't been deleted,  
8 yes.

9 Q. So if the user hadn't deleted any information  
10 out of their e-mail account, a backup at the end of 2004  
11 would have all of that user's 2004 e-mail?

12 A. It should, yes.

13 Q. And the same for 2005?

14 A. That's correct.

15 Q. And 2006, 2007, and 2008?

16 A. Yes.

17 Q. How are the backup tapes organized, like  
18 physically, like, how are they organized in physical  
19 space?

20 A. There is a cabinet that has the backup tapes in  
21 them and they are just all in there. They are not  
22 organized exactly but there is, like, a letter -- there  
23 is six digits on the tape itself. So let's say the  
24 first letter or number is, like, an "A" then the "A"s  
25 might all be together, but that's pretty much the extent

1 of it. It's been a while since I've been in there. I  
2 don't know if things have been moved around or not, but  
3 that's kind of how we kept it when I had the backup  
4 unit, when I was in the backup unit.

5 Q. And approximately how large is the cabinet?

6 A. Probably maybe six to seven feet tall.

7 Q. And how deep?

8 A. Probably two to three feet deep.

9 Q. And how wide?

10 A. Probably four to -- three to four feet long --  
11 I mean wide maybe.

12 Q. So sort of like the side of a wardrobe?

13 A. Yeah, like a locker.

14 Q. Okay. And the numbering system that you  
15 mentioned or the alphanumeric numbering system that you  
16 mentioned, how is -- what convention governs what number  
17 a particular tape is given?

18 A. There is no convention. We just have pre-coded  
19 tags that you put onto a blank tape and then the tape  
20 library reads that code. So there is no reason, no  
21 rhyme or reason to it. It's just whatever happens to be  
22 on that page of tabs that you use that week or that  
23 month.

24 Q. So the number, is there a library of numbers  
25 that show what the numbered tape contains in terms of



1 e-mail from a particular time period or something like  
2 that?

3 A. Only the catalog on the server, the backup  
4 server itself would know what the name of the tape is  
5 and what would be on that tape.

6 Q. So if you consulted the catalog would the  
7 catalog tell you that there is a particular tape that  
8 was made in, say, January of 2008?

9 A. Yes.

10 Q. And would that catalog tell you that the  
11 January 2008 tape has a certain alphanumeric code  
12 assigned to it?

13 A. Yes. It would be based on that -- that tab  
14 that we put onto the tape.

15 Q. And based on that alphanumeric code you could  
16 go into the cabinet and find the tape that has that  
17 numeric code?

18 A. Yes, you'd have to look for it, yes.

19 Q. And you would do that based on -- how would you  
20 search for that tape in the cabinet?

21 A. I'd just go looking for it.

22 Q. And you mentioned that there is an alphabetical  
23 prefix on the code and that -- is that right?

24 A. Some of them. Some of them start with "A."  
25 Some of them start with a number. When I was in the

1 backup unit I tried to put all the "A"s together, put  
2 all the "B"s together, something like that.

3 Q. So you would start your search by looking in  
4 the area where the tapes with a particular prefix are  
5 stored?

6 A. Correct.

7 Q. How long do you think it would -- let me  
8 rephrase.

9 How long would it take you to look in the  
10 catalog to find what tape number corresponds to a  
11 particular dated backup tape?

12 A. Depending on what you're asking. If we're  
13 talking 2004-2008; right?

14 Q. Sure. Yes.

15 A. If you asked me for a particular month and  
16 year, I could look at it based on what server was backed  
17 up or I can look at it based on the name of the tape.

18 Q. What do you mean, "the name of the tape"?

19 A. So if I went to the cabinet and pulled the tape  
20 out and I saw the code on it I could try to look in the  
21 catalog and see if I could find that tape number and  
22 then I could open that log up and I could see what  
23 things it says that's on that tape.

24 Q. So what are some of the things that the log  
25 might tell you are on the tape?

1 process doesn't work, that you can't clear the password  
2 as an administrator, could you go to the person who owns  
3 the account and say hey, what's your password or what  
4 was your password at that time and then put that in?

5 A. Normally we don't -- if we're doing audits on  
6 someone we don't normally let them know that they are  
7 being audited, but in a case such as this, then yeah, we  
8 could try to ask them, if they are still working there,  
9 try to ask them what their password was in that time  
10 frame.

11 Q. And if they could provide that password to you,  
12 you would be able to clear the credential hurdle and get  
13 into the account?

14 A. Yes.

15 Q. And once you're in the account what can you do  
16 in terms of searching the e-mail?

17 A. I can search who it was sent to. I can search  
18 who it was sent from. I can search the subject line.  
19 Today in GroupWise -- well, we have GroupWise 2012 and  
20 20 -- I think just 2012 right now. On that one I can  
21 search some of the e-mail body but I'm not sure if in  
22 2004 to 2008 exactly what the search -- if we can do  
23 that same kind of thing that we can do in 2012 because  
24 every update of the client and the server, you know,  
25 gets better and you have more tools. So for sure I know

1 you could search who it's from, to, and who -- who it's  
2 to, who it's from and the subject, I know for sure I  
3 could do that.

4 Q. And you might be able to search within the  
5 body?

6 A. I might be able to.

7 Q. But you're not sure?

8 A. I'm not sure.

9 Q. How would you find out one way or the other?

10 A. I would have to attempt to have a post office  
11 from that time frame up and get into a client and then  
12 try.

13 Q. Can you restrict your view -- let me rephrase.  
14 Can you filter e-mail by date range within the  
15 client?

16 A. Oh, yes, you can.

17 Q. And is it easy to export -- let me rephrase.  
18 Can you export e-mail from a particular date  
19 range?

20 A. The way you export, I have a third-party  
21 program -- I'd have to get that on that workstation.

22 Q. Could you print it, for instance?

23 A. You can print it if you're connected to a  
24 printer, yes. You could print it physically. You could  
25 print it to the PDF -- to PDF. The only problem with

1 that is if a user -- if the subject doesn't have a --  
2 doesn't have anything in the actual subject line, then  
3 it tends to give you an error, or it will say this  
4 one -- do you want to call it the same thing over and  
5 over, and so then you could potentially lose data trying  
6 to rename everything. You have to keep renaming things  
7 if the subject line is the same, and that's what it  
8 usually prints as the file name, so that can become  
9 tedious.

10 Q. What if you wanted to print all of the e-mail  
11 contained in a user's account to PDF, can you do that in  
12 one file?

13 A. You could do that now with Retain, the archive  
14 system that we have, you could do that, but back then  
15 for anything before 2014 you would have to print them  
16 individually.

17 Q. You can't sort of drag an arrow so that you're  
18 selecting multiple e-mails and then click "Control P"  
19 and have them printed out as one file?

20 A. Not one file. They will -- they'll print out  
21 as multiple files. But the problem, again, becomes if  
22 the file name is already used and it's going to ask you  
23 either -- either to rename it and then you lose data or  
24 you have to keep telling it okay, put a one next to it,  
25 a two, a three, four, five.

1 Q. Are you familiar with the use of macros?

2 A. Yes, I am.

3 Q. Could you write a macro to automatically rename  
4 files with an automatically incrementing number at the  
5 end of the file name?

6 A. I don't know if you can do that for GroupWise  
7 client, but that's one of the reasons why I asked for  
8 this third-party -- have a third-party program to try to  
9 do that automatically. But that was used and still is  
10 used if it's in the live box. So let's say you asked  
11 me, oh, Rachel, can you get it from September of 2016,  
12 or August of 2016? And I can export that with that  
13 third-party application without a problem with the  
14 live -- live post office.

15 Q. Is there a similar third-party application  
16 that's available to use on the e-mail backup that we're  
17 talking about from 2004 to 2008?

18 A. You could probably use that same application,  
19 you'd just have to pay for it, because you only get one  
20 license.

21 Q. How much does a license cost?

22 A. I'm not sure. I didn't buy it.

23 Q. Do you have a sense of whether it's, say, under  
24 \$1,000?

25 A. You know what, I don't know. I'd have to ask.

1 to rename files so I wouldn't lose the data.

2 Q. So assuming that you were able to export all of  
3 the e-mail as a PDF from a certain account, are you able  
4 to combine individual PDFs into one file through Adobe  
5 Acrobat?

6 A. No, not with that, not with that application.  
7 That just gives me all of the files individual PDFs.

8 Q. So if I represent to you that Adobe Acrobat has  
9 a function that allows you to combine multiple  
10 individual files into one combined PDF -- well, let me  
11 back up.

12 Are you familiar with Adobe Acrobat?

13 A. Yes. We use that with the archive, with the  
14 Retain archive.

15 Q. Are you familiar with the combine PDF file  
16 function of Adobe Acrobat?

17 A. Only when it comes to the Retain archive, yes.

18 Q. What do you mean only when it -- what do you  
19 mean by that?

20 A. When I use our archive software and I export  
21 hundreds of e-mails, they turn into one PDF.

22 Q. So putting aside the Retain software, have you  
23 used Adobe Acrobat, the stand-alone application?

24 A. Just the reader.

25 Q. Okay. Are you familiar with optical character

1 recognition?

2 A. No.

3 Q. Are you familiar with Adobe Acrobat's search  
4 function?

5 A. Well, I have exported the Retain software to an  
6 Adobe document and then I have double clicked on it to  
7 see if those PDFs show up at the top of the list.

8 Q. I mean Adobe Acrobat's ability to search within  
9 a PDF, are you familiar with that function?

10 A. Only from my own personal stuff, not for -- I  
11 don't have to search our PDFs for this function that  
12 we're discussing.

13 Q. If I represent to you that Adobe Acrobat has a  
14 function that can combine individual files into one  
15 file, and that it also has a function that allows text  
16 to be made searchable through something called OCR,  
17 would you be able to combine all of the individual PDF  
18 files into one file and then search the body of e-mails?

19 A. I don't search that way.

20 Q. But would you be able to?

21 A. I don't have -- I mean I've never tried it so  
22 I'm just going by what you're telling me that it's  
23 possible, so if it's possible I should be able to do it.

24 Q. You didn't consider doing that in response to  
25 the 15.2 for -- let me rephrase.



1 Acrobat in the way that we're  
2 discussing would allow you to search  
3 all of the e-mail, including the body;  
4 right?

5 "ANSWER: That's what you're telling me  
6 that I can do.")

7 BY MR. CHARNEY:

8 Q. So putting aside using Adobe Acrobat to search  
9 the body of e-mails, if you were just using the search  
10 function within the GroupWise client, how long would it  
11 take you to search an individual user's e-mail account  
12 for the term "Community Mapping"?

13 A. It wouldn't take that long. I would type in  
14 the phrase "Community Mapping" into the search field and  
15 then it would return whatever it could find in that  
16 account.

17 Q. So are we talking about a couple of seconds?

18 A. Probably less than a minute.

19 Q. And so am I right that it would take another  
20 minute to do another search for, say, "Muslim Mapping"?

21 A. That's correct.

22 Q. And then one more minute to do a search for  
23 "Mapping Program"?

24 A. Yes.

25 Q. And you could break those down even further,

1 couldn't you?

2 A. Meaning I could type "Community" and not  
3 "Community Mapping"?

4 Q. Sure.

5 A. Yeah.

6 Q. So if you were to do, say, nine searches you  
7 might be talking about less than nine minutes?

8 A. For the search part of it, yes.

9 Q. And so say you search one term and you spend  
10 about a minute, you get your search results on the  
11 screen, the next step would be to print those responsive  
12 e-mails either to PDF or to a physical printer; right?

13 A. Yes.

14 Q. And how long would that take?

15 A. That depends on the -- so I use the application  
16 that we were talking about, which I should have looked  
17 up while we were off -- the PDF exporter that we were  
18 calling it, and so that has some limitations. If the  
19 subject line has more characters than it will allow for  
20 the file name it will error out on those, so then I have  
21 to go back in, try to rename those. But that  
22 notwithstanding, to export it could -- it depends on how  
23 many hits you get, anywhere from five minutes to several  
24 hours it's taken to get several thousand.

25 Q. Using the PDF exporter how much time -- how

1 much of that time would be human time?

2 A. Just to start the exporter and then to check it  
3 when it errors out on you.

4 Q. So how much time, approximately?

5 A. Well, let's say if it's five minutes I would  
6 just wait for it, so I would sit there for five minutes.  
7 If it's going to take several hours then I'll let it run  
8 and check it after an hour, maybe spend -- you know,  
9 check it every hour, couple minutes. So -- but if there  
10 is an error then I got to start it over again. So I  
11 don't know, maybe half an hour, trying to export.

12 Q. So during the time that you're checking it you  
13 could be doing other things?

14 A. I could.

15 Q. So it sounds like if you wanted -- is it  
16 accurate to say that if you wanted to pull a user's --  
17 one user's e-mail from two thousand -- from January of  
18 2008 and search it for one term, you could do that in a  
19 day to two days?

20 A. And we're saying everything being set up and  
21 prepared where all I have to do is type in -- if I know  
22 the credentials?

23 Q. Right. Assuming that we don't have a problem  
24 with the password.

25 A. Oh. Well, as long as everything's set up just

1 like it would be in a live post office, once you log in  
2 and I only have to search one term, how many results am  
3 I getting?

4 Q. Well, let's maybe break it up a little bit.  
5 Prior to the search everything that you would need to do  
6 to get to the point where you were searching the e-mail,  
7 could you do that in a day of work?

8 A. Are you talking about when we were creating the  
9 server and all that?

10 Q. Yeah.

11 A. No.

12 Q. How long would it take?

13 A. To get everything set up for one post office?

14 Q. Yeah.

15 A. I don't know. Maybe a week or two.

16 Q. And you wouldn't be constantly working  
17 eight-hour days during that week in human time to do  
18 that process; right?

19 A. Oh, yeah, I could be.

20 Q. What do you mean you could be?

21 A. It just depends on what I'm going to be dealing  
22 with trying to create it. You're asking me to find the  
23 software; you're asking me to find hardware; you're  
24 asking me to make sure that the tape can be restored;  
25 the drives have to be able to be used; I have all the

1 credentials that I need, the network information. So  
2 that could take a while.

3 Q. Okay. So if you hit some roadblocks it might  
4 take you a week of eight-hour days in human time?

5 A. Yeah. Maybe a week or two because I'd have to  
6 talk to different people and get their equipment or  
7 their input.

8 Q. What about best case scenario, assuming that  
9 equipment is still workable, the administrative bypass  
10 works on the password, the naming and the IP address are  
11 properly named, assuming that everything goes smoothly,  
12 what's the best case scenario for how long it would take  
13 you?

14 A. From start to finish?

15 Q. From start to finish.

16 A. Maybe three days.

17 Q. And a portion of that would be machine time?

18 A. Yeah, a portion of that would be machine time.

19 Q. What portion?

20 A. Just the restoral and some of the installation  
21 parts where you're waiting for it to install.

22 Q. So how many hours does the restoral take for an  
23 average-sized file?

24 A. I'm just basing it on that one that I did in  
25 2011 and that took almost eight hours, about seven hours

1 and 45 minutes. So I would -- you know, I'd probably  
2 start that at the end of my watch and then the next day  
3 check to see if it's been finished. If not, I would  
4 start over again.

5 Q. And I'm sorry, you mentioned that there was  
6 another aspect of it that involved machine time?

7 A. Oh, installation, the installation of the  
8 operating system and installation of the software.

9 Q. And approximately how long does that take of  
10 machine time?

11 A. It probably takes a couple hours, but it asks  
12 questions, so, you know, I probably would -- even though  
13 it's doing something I'd probably be right there waiting  
14 to see what it's going to ask me.

15 Q. But you wouldn't just be staring at it, you'd  
16 be doing other work?

17 A. Yeah, but I mean but I'd have to be aware of it  
18 is my point. I couldn't just walk away from it.

19 Q. Sure.

20 A. Not like I could the tape drive. I could start  
21 the restore and then just wait to see it's either going  
22 to fail or it's not.

23 Q. But you during that time, even if you have to  
24 be aware of it, you could have your laptop or other  
25 equipment and do work for the department?

1 A. Yeah, probably.

2 Q. And so putting aside all of the pre-search  
3 work, just the search and exporting of the responsive  
4 files, how much time would that take?

5 A. I just need to know how many results I could be  
6 getting, so it could be anywhere from five minutes to  
7 several hours depending on how many PDFs are being  
8 printed off, and like I said, if there is an error then  
9 I have to start over again.

10 Q. So assuming that let's say there were 1,000  
11 responsive e-mails, how long would that take?

12 A. 1,000? Probably, I don't know, maybe an hour,  
13 hour and a half.

14 Q. Am I right that you also have responsibility  
15 for BlackBerrys, phones, and tablets?

16 A. Yeah, that's part of my duties.

17 Q. Do BlackBerrys, phones, or tablets have local  
18 storage on them?

19 A. Most of them do, yes.

20 Q. Do LAPD personnel store files in that local  
21 storage?

22 A. I don't know.

23 Q. Are they able to?

24 A. Well, they could take a picture, that's  
25 considered data.

DECLARATION UNDER PENALTY OF PERJURY

I, Rachel McClain, hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on January 26, 2017; that I have made such corrections as appear noted on the Deposition Errata Page, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this 7<sup>th</sup> day of MARCH 2017, at  
Los Angeles, California.



Rachel McClain



DEPOSITION ERRATA SHEET

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

Page No. 192 Line No. 13

Change: Insert "the files of" between "restore" and "one."

Reason for change: Clarification

Page No. 193 Line No. 1

Change: Insert "to restore the files of one post office backup" after "hours."

Reason for change: Clarification

Page No. 223 Line No. 12

Change: Replace "Lennox" with "Linux"

Reason for change: Correct misspelling

Page No. 224 Line No. 6

Change: Insert "in our 'P' drive online" between "guides" and "for."

Reason for change: Clarification

Page No. 254 Line No. 4

Change: Replace "Lennox" with "Linux"

Reason for change: Correct misspelling

Page No. 255 Line No. 11

Change: Replace "Lennox" with "Linux"

Reason for change: Correct misspelling

Page No. 277 Line No. 15

Change: Replace "2014" with "March 2013."

Reason for change: Clarification



Rachel McClain

3/7/2017

Dated

1 STATE OF CALIFORNIA     )  
  ) SS  
2 COUNTY OF LOS ANGELES   )

3

4         I, Jean F. Holliday, a Certified Shorthand  
5 Reporter, do hereby certify:

6         That prior to being examined, the witness in the  
7 foregoing proceedings was by me duly sworn to testify to  
8 the truth, the whole truth, and nothing but the truth;

9         That said proceedings were taken before me at the  
10 time and place therein set forth, and were taken down by  
11 me in shorthand and thereafter transcribed into  
12 typewriting under my direction and supervision;

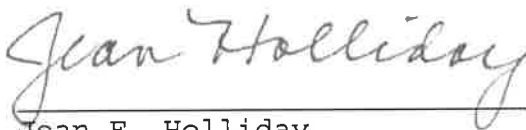
13         I further certify that I am neither counsel for,  
14 nor related to, any party to said proceedings, nor in  
15 anywise interested in the outcome thereof.

16         In witness whereof, I have hereunto subscribed my  
17 name.

18

19 Dated: February 4, 2017

20



21

22 Jean F. Holliday  
CSR No. 4535, RPR, CRR

23

24

25

**EXHIBIT CC**

Rachel McClain Volume III  
March 15, 2017

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

**CERTIFIED COPY**

MUSLIM ADVOCATES,  
Petitioner,

vs.

Case No. BS163755

THE CITY OF LOS ANGELES; THE LOS  
ANGELES POLICE DEPARTMENT; DOES  
1-10, INCLUSIVE,  
Respondents.

---

DEPOSITION OF PERSON MOST QUALIFIED

AT LOS ANGELES POLICE DEPARTMENT

RACHEL MCCLAIN

VOLUME III

Wednesday, March 15, 2017

9:59 a.m. - 3:01 p.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Jean F. Holliday

CSR No. 4535, RPR, CRR

U.S. LEGAL SUPPORT  
(800) 993-4464

1 MS. NGUYEN: Hi. Linda Nguyen, Deputy City  
2 Attorney for the City of Los Angeles.

3 MR. JOHANSEN: Kjehl Johansen, Deputy City  
4 Attorney on behalf of City of Los Angeles, LAPD,  
5 respondents in this matter.

6 MR. CHARNEY: And there are no other  
7 individuals in the room other than the court reporter  
8 and the witness.

9 I'm going to ask the court reporter to mark for  
10 identification a Notice of Continued Deposition of  
11 Person Most Qualified at the Los Angeles Police  
12 Department.

13 (Exhibit 15 marked)

14 BY MR. CHARNEY:

15 Q. This is a Notice of Continued Deposition of  
16 Persons Most Qualified in this case, and it contains  
17 three topics which are listed on Page 2 and 3 of the  
18 document.

19 Ms. McClain, have you seen this document  
20 before?

21 A. Yes.

22 Q. And are you appearing today as the person most  
23 qualified on behalf of the Los Angeles Police  
24 Department?

25 A. Yes.

1 Q. And which topics, if any, are you qualified to  
2 testify regarding today?

3 A. Topics 2 and 3.

4 Q. And we'll get into that in a little bit more  
5 detail.

6 I know that we've now done this twice before,  
7 so this -- I know you're an old hand at this now but  
8 we'll just go through some of the ground rules again.

9 A. Okay.

10 Q. You've been deposed before, haven't you?

11 A. Yes.

12 Q. And do you understand that you're under oath?

13 A. Yes.

14 Q. And do you further understand that your  
15 testimony, even though given in the somewhat more  
16 informal setting of an office, carries the same force  
17 and effect as if given in a court of law?

18 A. Yes.

19 Q. Do you understand the nature of these  
20 proceedings and the importance of giving honest,  
21 accurate answers?

22 A. Yes.

23 Q. Do you understand that my questions and your  
24 answers will be taken down by the court reporter and  
25 written into a booklet and may be read by the Court at

1 you feel you need to take a break, please let me know  
2 and we will try to accommodate you. The one thing I  
3 will ask is that if there is a pending question please  
4 finish your answer and then we will take a break. Will  
5 you agree to do that?

6 A. Yes.

7 Q. Is there any reason why you feel you cannot  
8 proceed with the deposition right now?

9 A. No.

10 Q. Are you presently on any medications or  
11 substances that might alter your mental state?

12 A. No.

13 Q. Is there any reason you cannot give your best  
14 testimony today?

15 A. No.

16 Q. Do you have any questions?

17 A. Not at this time.

18 Q. So I'd like you to turn back to the document I  
19 believe that's marked Exhibit 15, the Notice of  
20 Deposition. When did you -- have you seen this document  
21 before?

22 A. Yes.

23 Q. And when did you first see this document?

24 A. I spoke with the City Attorneys. I don't know  
25 the exact date.

1 Q. Was it in the last week? Was it --

2 A. Last week or two, I guess.

3 Q. Okay. I believe that you testified that you  
4 are designated on Topics 2 and 3; is that correct?

5 A. Yes.

6 Q. When did you first learn that you were  
7 designated on those topics?

8 A. The first deposition that -- well, before the  
9 first deposition that we took.

10 Q. And is it true that today you are designated to  
11 testify regarding the department's e-mail backup system  
12 as to 2001 to 2004 and as to 2008 to 2010?

13 A. I think you said 2009 to 2010, but yes, I can  
14 also speak on 2008.

15 Q. Okay. But today you're designated on 2001 to  
16 2004 and 2009 to 2010; is that right?

17 A. Yes.

18 Q. In addition to being designated as the LAPD's  
19 person most qualified as to the backup system for 2005  
20 to 2008?

21 A. Yes.

22 Q. And when did you first learn that you would be  
23 designated as to 2001 to 2004 and 2009 to 2010?

24 A. I'm not sure. I guess -- well, the first time  
25 that we had the deposition it said that, but since then



1 I've spoken to the people who were working at that time,  
2 so I'm prepared to speak about those years now.

3 Q. And when did you speak with the people who were  
4 working at that time?

5 A. In the last few weeks.

6 Q. And who are those people that you spoke with?

7 A. I spoke with Thomas Wu, who worked the backup  
8 unit from 2001 to 2003. I spoke with Leticia Hayakawa,  
9 who worked in the backup unit in 2003, and I spoke to  
10 Earl Manahan, who worked in the backup unit from 2009 to  
11 2010, and I spoke to Leshon Frierson, who was Earl  
12 Manahan's supervisor at the time, in regards to 2009 and  
13 2010. I spoke to Anthony Huynh, who is Thomas Wu's  
14 supervisor. I spoke to Svetlana Vinnitskaya -- I don't  
15 know how to spell her last name -- who also works in the  
16 network section and was around in 2001-2003, and I think  
17 that's it for backup.

18 Q. Can you just pronounce the last person's name  
19 you mentioned?

20 A. Svetlana, S-v-e-t-l-a-n-a. Her last name is  
21 Vinnitskaya, I think it's V-i-n-n-e-s-k-i-a maybe.

22 Q. And Mr. Huynh, you said that he was Thomas Wu's  
23 supervisor?

24 A. He is currently Thomas Wu's supervisor, yes.

25 Q. And but Thomas Wu's knowledge regarding the

1 backup system comes from his work from 2001 to 2003?

2 A. Yes. He worked the backup unit from 2001 to  
3 2003.

4 Q. And so Anthony Huynh, what -- in what capacity  
5 is he currently supervising Thomas Wu?

6 A. He's the supervisor for the network section and  
7 now Thomas does other things other than backup that has  
8 to do with networks, but specifically I asked Anthony  
9 about software and what we had.

10 Q. And Ms. Vinnitskaya?

11 A. She also works in the network section. Anthony  
12 is also her supervisor.

13 Q. And with regard to your designation as the  
14 person most qualified, previously at your previous  
15 sessions I believe you testified that you were not  
16 designated or qualified to discuss the vendors involved  
17 in the LAPD's backup system; is that correct?

18 A. That was correct, yes.

19 Q. Are you designated and qualified to discuss  
20 those -- to discuss the vendors today?

21 A. I am prepared to answer questions about the  
22 vendors, yes.

23 Q. And when did you first find out that you would  
24 be designated to discuss vendors?

25 A. Probably a few weeks ago, again, when the City

1 Attorneys came to speak to me about it.

2 Q. And am I right that you are qualified -- excuse  
3 me -- designated and prepared to discuss the equipment  
4 and facilities with regard to the LAPD's backup system  
5 today?

6 A. Yes, equipment and facilities, yes.

7 Q. When did you first learn that you would be  
8 designated and prepared to discuss that topic?

9 A. A few weeks ago when the City Attorneys came to  
10 speak to me about it.

11 Q. And just to confirm, your answers at the  
12 previous sessions on January 12th and January 26th were  
13 made as the Los Angeles Police Department's person most  
14 qualified on Topics 2 and 3 as to 2005 to 2008 excepting  
15 vendors, equipment and facilities; correct?

16 A. Except, e-x?

17 Q. Excepting, yes.

18 MR. JOHANSEN: I would object. That misstates  
19 the testimony. My review of the deposition is that she  
20 did say she was qualified with regard to facilities at  
21 that time.

22 But you can answer the question.

23 THE WITNESS: Oh. Yeah, I'm -- I am familiar  
24 with the facilities because I worked the backup unit, so  
25 I've been to all of the division.

1 MR. CHARNEY: Okay. Thank you for that  
2 qualification.

3 MR. JOHANSEN: Sure.

4 BY MR. CHARNEY:

5 Q. So am I clear that your answers at the previous  
6 sessions were made as the Los Angeles Police  
7 Department's PMQ on Topics 2 and 3 as to 2005 to 2008  
8 excepting vendors?

9 A. Yes.

10 Q. But all of the other aspects of Topics 2 and 3  
11 you were qualified at those sessions?

12 A. For the 2005-2008, yes.

13 Q. Thank you.

14 Going into a little bit more detail on these  
15 topics, with regard to Topic 2, what did you do to  
16 prepare to testify today regarding the items listed in  
17 Topic 2?

18 A. Well, I first spoke with the City Attorneys and  
19 they gave me a paper.

20 Q. And what is that paper?

21 A. It had information on it for me to look for.

22 Q. When did you -- when did that conversation take  
23 place?

24 A. A few weeks ago when they came to let me know  
25 that we have to continue.

1 Q. When did you speak with Anthony Huynh?

2 A. A couple times in the last week or so.

3 Q. What was the first time you spoke with him?

4 A. Probably -- oh. Well, I talk to him, but in  
5 regards to this case?

6 Q. Sure.

7 A. I know him so I talk to him, but not  
8 necessarily about this.

9 Q. In preparing for your deposition today when was  
10 the first time you spoke with Anthony Huynh to prepare  
11 for your deposition?

12 A. Okay. So it was, like, last week.

13 Q. And where was that?

14 A. In our -- in a meeting room. I just went and  
15 looked for him and asked him to come into the meeting  
16 room so I could ask him some questions.

17 Q. And what did you ask him?

18 A. I asked him about networks. I asked him about  
19 software, hardware, networks, because the last time we  
20 were here I didn't know if I could do all of this. I  
21 would definitely need his help and did he have any  
22 equipment for me. So I asked him about those things,  
23 but then I also asked him about backups and I asked him  
24 about the file rooms in all the divisions, since he's a  
25 supervisor.

1 Q. So what specifically did you ask him about  
2 equipment?

3 A. Oh. Well, I asked him did he have NetWare from  
4 back in 2004.

5 Q. And why did you ask him that?

6 A. Because if I'm going to attempt to do --  
7 recreate the servers from that time frame to get the  
8 e-mails out I'm going to need software, hardware and a  
9 space to drop everything, and he's the only person that  
10 I knew to ask that for.

11 Q. And what did he tell you?

12 A. He said that he has some old software and that  
13 he would -- either he himself or one of his employees  
14 would help me attempt to create a NetWare server and put  
15 GroupWise on it.

16 Q. He told you he would be able to do that?

17 A. No. He said he would attempt it. He said  
18 there is a lot of -- there is a lot of issues that could  
19 come about but he would attempt it.

20 Q. So did he tell you that he has the software  
21 necessary to create a NetWare server?

22 A. He has the operating systems going back that  
23 far, yes. He has a -- he said he has some ISOs, which  
24 are the compilation of the installation CDs that came at  
25 that time, or maybe they weren't CDs back then.

1 Q. Is that like an image?

2 A. Sort of.

3 Q. And why would you want to create a NetWare  
4 server?

5 A. Because I can't -- I can't get the e-mails from  
6 backup without that.

7 Q. From what time period?

8 A. Prior to 2013.

9 Q. So a NetWare server is necessary to retrieve  
10 e-mail stored in backups from 2001 to 2010?

11 A. NetWare server is required in order to put the  
12 GroupWise software on something. The GroupWise software  
13 can't run without an operating system. NetWare is an  
14 operating system.

15 Q. So the NetWare operating system is necessary to  
16 run GroupWise. And why do you need GroupWise?

17 A. Because I can't -- I can't get e-mail off of a  
18 tape without it.

19 Q. Okay. And why did you ask him if he had  
20 NetWare from back in 2004?

21 A. Because my understanding is the tapes that  
22 we're being asked to retrieve or restore will have to be  
23 read by that time frame.

24 (Whereupon, Ms. Henry entered the proceedings.)

25 ///

1 BY MR. CHARNEY:

2 Q. What do you mean, "read by that time frame"?

3 A. Well, currently, for instance, the hard drive  
4 backups that we have from 2010 to -- well, a little  
5 after 2010 till 2013, is GroupWise 8 or 2012. So I have  
6 those agents for GroupWise 8 and 2012, but I don't have  
7 the agents for 7, 6.5, or 6, which would -- as you go  
8 backwards those would be the software for that time  
9 frame. So in order to read 6 or 6.5 you need the  
10 operating system from that time frame as well.

11 Q. I guess what I'm getting at is why 2004 as  
12 opposed to some other year? Why is 2004 the year that  
13 you would need that operating system?

14 A. Oh, because that's the -- that's as far back of  
15 tapes from Backup Exec that I have seen.

16 Q. So is NetWare 2004 the only operating system  
17 you would need in order to retrieve tapes containing  
18 e-mail backups from 2004 until 2010?

19 A. Well, for 2004, 2005, 2006, 2007, and I think  
20 2008, I think the entire 2004-2008 was probably NetWare  
21 servers and then we moved to Linux after that. And then  
22 prior to that it was still NetWare from 2001 to 2003 but  
23 we weren't using Backup Exec in that time frame. They  
24 were using ArcServe.

25 So we have an operating system and then you



1 have the GroupWise system and then you have the backup  
2 software. So from 2001-2003 is Arcserve, and then from  
3 2004-2008 is Backup Exec. For 2004-2008 I have the  
4 server from Backup Exec, I have a tape drive or tape  
5 library for that time period, and I have some tapes from  
6 that time period. So I could potentially be successful  
7 in that time frame because I have that first part,  
8 right, so I have to restore it somewhere and then  
9 attempt to get into it. At least I could attempt in  
10 that time frame. But that's not to say that NetWare  
11 from -- you know, it was NetWare from 2001-2003, but  
12 that was Arcserve, so it's a different -- it's a  
13 different software for the backup.

14 Q. So just to back up a little bit. As part of  
15 your preparation to testify today did you try to find  
16 out what operating systems you would need in order to  
17 retrieve e-mail backups?

18 A. Yes.

19 Q. And did you find out an answer to that  
20 question?

21 A. Yes.

22 Q. And who did you consult to get an answer to  
23 that question?

24 A. Anthony.

25 Q. And what is the answer to that question?

1 A. They used NetWare.

2 Q. And what versions of NetWare would you need to  
3 retrieve e-mail backups from 2001 to 2010?

4 A. A variety of versions.

5 Q. And which versions are those?

6 A. I don't know exactly. I think he mentioned  
7 5.11, but he has ISOs going back that far, so he would  
8 be able to attempt to help me create a server.

9 Q. So in preparation for your deposition today you  
10 found out from Anthony that he has all of the versions  
11 of NetWare that would be needed to retrieve e-mail  
12 backups from 2001 to 2010?

13 A. He has the NetWare software for the operating  
14 system portion of the server that you need before you  
15 can do all the other steps.

16 Q. Sure. And I understand.

17 A. Okay.

18 Q. There are other steps and we'll talk about  
19 that. But just in terms of your preparation with  
20 respect to the operating system that goes on the server.

21 A. Yes.

22 Q. Did you find out whether the department has all  
23 of the versions of the operating system that would be  
24 required to retrieve e-mail from 2001 to 2010?

25 MR. JOHANSEN: Objection. I think that

1 misstates the evidence with regards to 2009 to 2010.

2 BY MR. CHARNEY:

3 Q. You can answer.

4 A. Oh, I think that's because in 2009 I think  
5 that's when we started going to Linux, so that's not  
6 NetWare, right? So 2001-2008 is NetWare and then  
7 sometime between that time frame we went to Linux.

8 Q. So for -- in preparation for your deposition  
9 today did you find out whether or not the LAPD has all  
10 the versions of NetWare that would be required to  
11 restore e-mail on backups from 2001 to 2008?

12 A. Yes. He said he has those NetWare ISOs.

13 Q. So what else did you ask Anthony Huynh in  
14 preparing for your deposition today?

15 A. I asked him if he had space for me to restore  
16 the raw data to.

17 Q. And what do you mean by space?

18 A. I mean hard drive space, another word for  
19 space.

20 Q. Sure. So a hard drive?

21 A. Yeah.

22 Q. You asked him if he had the hard drive storage?

23 A. Correct.

24 Q. And what did he tell you?

25 A. He said that he could -- he could help me and

1 put up something for me to -- he doesn't have a lot of  
2 space but he has some space and so I could potentially  
3 drop a post office's raw data onto it and then attempt  
4 something and then erase it and do the next one.

5 Q. And what did he tell you about the space that  
6 he has, like, what kind of hard drives, what are we  
7 talking about?

8 A. Oh. He just says he has all kinds of different  
9 hard drives and servers that he could attach to my  
10 backup server. So he didn't think that that would be a  
11 problem as far as space. Limited space but space  
12 nonetheless for me to attempt it.

13 Q. Did he tell you how much space he has in  
14 gigabytes?

15 A. No, he didn't tell me.

16 Q. Did you ask him?

17 A. I told him, "Do you have, like, 20 terabytes?"  
18 And he said, "No."

19 Q. Did he -- did you ask him any follow-up  
20 questions about how much space he has?

21 A. No. I was just asking him because if we have  
22 to do this then I would need a place to put all the  
23 tapes, right? All of the post offices for all the  
24 tapes. So he said he could give me some space and that  
25 we could attempt and see what could happen.

1 Q. Why did you ask him if he had 20 terabytes?

2 A. Because I was trying to say, like, how much  
3 space do you have for me? Do you have enough space for  
4 me to put every single tape of raw data on a hard drive  
5 so that I can retrieve it when necessary if I have to go  
6 and attempt to create these e-mail servers again all the  
7 way back? So that's why I just used that number just to  
8 say do you have that much space available, that I can't  
9 erase, that I could keep forever. He said, "No."

10 Q. So 20 terabytes would represent the amount of  
11 space needed to store all of the tapes in the cabinet of  
12 tapes in the backup system?

13 A. It's my approximation. It could be more.  
14 Could be less. But it's a good size for me to start.

15 Q. But 20 terabytes doesn't represent the amount  
16 of space you would need for one tape; correct?

17 A. Oh, no.

18 Q. That's far in excess of what you would need for  
19 one tape; is that correct?

20 A. Not -- well, yeah, for one tape, yes.

21 Q. How much data would one tape contain typically?

22 A. It depends on the year we're talking about, but  
23 when I started it was a 40/80 gig tape, so anywhere from  
24 40 gigs to 80 gigs would be on that tape, all the way to  
25 the super DLTs, which go to about 600 gigs on the tape,

1 300 to 600, depends if you compress or uncompress it.

2 Q. Do you need to -- and what do you mean, "it  
3 depends on if you compress it or uncompress it"?

4 A. Well, the tape can hold anywhere from 300 gigs  
5 to 600 gigs. So if you compress it you can get more on  
6 the tape. You can get it all the way to 600 gigs, I  
7 guess. It's somewhere in that space, anywhere from 40  
8 gigs to 80 gigs on the DLT-4s and anywhere from 300 to  
9 600 on the super DLTs. So you can put more data on  
10 there. So based on that I would say, okay, so one tape  
11 has anywhere from 40/80 gigs back in 2004 up to 600 gigs  
12 when you're getting close to 2008, right? And you got  
13 anywhere from 10 to 12 post offices per month per year.

14 Q. So do I understand you correctly that the  
15 highest capacity tapes that the department used would  
16 require at most 600 gigs of hard drive storage space to  
17 retrieve the data on that tape?

18 A. Yes. That's the raw data. So we're not  
19 talking about space for the operating system, space for  
20 the GroupWise system, all that other stuff that would  
21 need to go on a server. We're just talking about the  
22 data on the tape, then yes.

23 Q. And did you ask Mr. Huynh if he had hard drive  
24 space that could accommodate one of those high -- the  
25 data on one of those high capacity tapes plus the

1 operating system and GroupWise system and the other  
2 stuff you would need?

3 A. Yes, he has space for that.

4 Q. But you don't know exactly how much space he  
5 has; is that right?

6 A. No, I don't know how much space. I know he  
7 doesn't have 20 terabytes.

8 Q. So he has somewhere -- he has somewhere between  
9 the amount of space needed to restore one high capacity  
10 tape plus all of the software that's needed to do so, he  
11 has between that amount and 20 gigs -- 20 terabytes; is  
12 that right?

13 A. Yes, somewhere in between there.

14 Q. What else did you ask Mr. Huynh in preparing  
15 for your deposition today?

16 A. Let's see, I asked him about -- oh, I asked him  
17 about Arcserve and he said he doesn't have Arcserve.

18 Q. And just to remind me, is Arcserve the  
19 operating system or software?

20 A. It's the backup software that was used from  
21 2001 to 2003. It's made by Veritas, which is the same  
22 company that makes Backup Exec, when we moved from  
23 Arcserve to Backup Exec in 2004.

24 Q. And why did you ask Mr. Huynh about Arcserve?

25 A. Because from what I know of backups, if you --

1 upgrades because they said we're going to go to Google.  
2 And then when we came back into it all in 2010 he  
3 continued the upgrades. So it was, like, a really --  
4 kind of a mess in that year.

5 Q. So do I understand your testimony correctly  
6 that there would not exist e-mail backups of  
7 departmental e-mail after at least October of 2008?

8 A. Yeah, probably be very few and far between.  
9 There might still be in post offices that haven't been  
10 moved over, but depending on who you're asking me to  
11 look for, it would depend on what post office they are  
12 in. So it's a crap shoot whether or not that post  
13 office was backed up or if it had moved. I wouldn't  
14 know until I looked to see what post office the person's  
15 in.

16 Q. So it's possible that there are backups of  
17 e-mails going through the end of 2008?

18 A. I think at least to October that I can remember  
19 looking on the screen for some of the post offices.

20 Q. And is it possible that some post offices might  
21 have been backed up in November of 2008?

22 A. It's possible, but I just for sure remember  
23 October, so -- and I remember saying, oh, there is one,  
24 but then there was only from July from another one, so  
25 it sounds like, oh, something changed at the end of



1 2008.

2 Q. And is it possible that there might have been  
3 post offices backed up in December of 2008?

4 A. Yeah, it's possible.

5 Q. And you know that based on your discussions in  
6 preparing for your deposition with Leshon Frierson; is  
7 that correct?

8 A. Can you repeat that?

9 Q. What you just testified regarding the existence  
10 of backup tapes in late 2008, do you know that based on  
11 your conversation with Leshon Frierson?

12 A. No. I'm -- I'm referring to the server. I was  
13 looking at the server, and I'm looking at the backups on  
14 the server itself, the catalog. So that's why I'm -- I  
15 can't say for sure, but I think I remember seeing  
16 October of 2008, and so towards the end of 2008. It's  
17 possible that there is stuff all the way to the end of  
18 2008.

19 Q. And what server is this?

20 A. It's Backup Exec 2.

21 Q. What did you actually look at?

22 A. I looked at the software application on the  
23 server itself. It's the same server that was used to  
24 actually back up the tapes all those years, that  
25 particular server.

1 Q. And where is this server?

2 A. It was at the Metro Dispatch Center.

3 Q. And am I correct that you looked at a computer  
4 monitor that was hooked up to the server?

5 A. Yeah.

6 Q. And what did you see on the computer monitor?  
7 Can you describe for me what it is that you saw that  
8 your testimony is based on?

9 A. It's the Backup Exec software is what's on the  
10 server, so inside that software -- and we talked about  
11 this before -- I can see what's been backed up or I can  
12 see the jobs that ran, and I can see -- and this is a  
13 catalog that I'm looking at and I can see if I attempted  
14 to restore something, there is just a list there.

15 Q. Did you print out a copy of that list?

16 A. I have a list -- well, I looked up some stuff  
17 from 2011 that was restored, and the City Attorney --

18 MR. JOHANSEN: The document production.

19 BY MR. CHARNEY:

20 Q. Okay. But in terms of the list of the backups  
21 that exist in late 2008 did you actually print a copy of  
22 that?

23 A. I did not print a copy of that.

24 Q. And based on your memory -- so your testimony  
25 today is based on your memory of what you saw on that

1 during the time period from January 1, 2011, to the  
2 present?

3 A. Yes.

4 Q. And the documents that he found have been  
5 produced to Muslim Advocates; is that right?

6 MR. JOHANSEN: Yes, it's part of the document  
7 production.

8 BY MR. CHARNEY:

9 Q. Did you do anything -- other than what we've  
10 talked about did you do anything else to prepare for  
11 your deposition today?

12 A. I spoke to City Attorneys. I talked to  
13 everybody that we discussed. I can't think if I did  
14 anything else. I did go back to the server, we talked  
15 about that, though, looking at the backups.

16 Q. Which server was that?

17 A. The Backup Exec 2. I'm trying to think if I  
18 did anything else. I don't recall right now if I -- I  
19 think that's everything.

20 MR. JOHANSEN: Make sure you keep your voice  
21 up.

22 THE WITNESS: Okay.

23 BY MR. CHARNEY:

24 Q. And just so I'm clear, the Backup Exec 2  
25 server, which one is that?

1           A.    The Backup Exec 2 server is the only server  
2 that I could find that has backups from 2004 to 2008.

3           Q.    And where is that?

4           A.    It's at the Metro Dispatch Center now.

5           Q.    And that's the central location where things  
6 were moved after 2004?

7           A.    Yes, the same place.

8           Q.    Thanks.  There are a lot of moving parts here  
9 so I appreciate you clarifying.

10          A.    No problem.

11                MR. CHARNEY:  Why don't we go off the record.

12                               \* \* \*

13                               (LUNCHEON RECESS)

14                               \* \* \*

15 BY MR. CHARNEY:

16          Q.    Ms. McClain, welcome back.

17          A.    Hi.

18          Q.    You understand that you're still under oath;  
19 correct?

20          A.    Yes.

21          Q.    During your conversations with the folks you  
22 met with to become prepared to testify today did you  
23 take any notes of any of those conversations?

24          A.    I didn't take notes while I was talking to  
25 anybody but I did write some notes down afterward.

1 that's been marked as Exhibit 21, when did you first see  
2 that document?

3 A. Probably in 2004.

4 Q. And did you at any time after 2004 -- let me  
5 rephrase.

6 In preparing for your deposition today when did  
7 you see this document?

8 A. I looked at it last week, same place, in PPD.

9 Q. And why did you do that?

10 A. Just so that I would have the information about  
11 what our -- what our procedures were for e-mail at that  
12 time.

13 Q. Looking at the document that's been marked as  
14 Exhibit 2003, did this document help you prepare for  
15 your deposition?

16 A. Did it help me prepare? I guess it did, yes.  
17 I'll say yes.

18 Q. And how did it help you prepare?

19 A. On Page 3 I noticed Schedule Item No. 16 says  
20 "LAPD-ITD backup tape." And according to this schedule  
21 we were supposed to keep the tapes for two years in the  
22 office and then keep them for a total of seven years and  
23 then they were supposed to be destroyed.

24 Q. And when did you first see this document?

25 A. Last week.

1           A.    No, not other than just looking again at the  
2 server to see the last backup that was made on the  
3 Backup Exec for the file servers.

4           Q.    Are there any written records from that server  
5 other than the server itself?

6           A.    No.

7           Q.    Do you plan to look at that server again after  
8 this deposition?

9           A.    Yes.

10          Q.    And what is your plan with respect to that?

11          A.    To see exactly what's on the catalog for Backup  
12 Exec 2.

13          Q.    Is there anything with respect to your  
14 preparation for this deposition that we haven't  
15 discussed so far?

16          A.    I did do some research on Backup Exec itself.

17          Q.    And what was that research?

18          A.    Well, I was looking to see -- I could only find  
19 one backup server but we had more than one at the time,  
20 and so there is some literature on the web that talks  
21 about Backup Exec and that you could potentially read  
22 tapes that aren't on the catalog but it would require  
23 you to inventory and catalog that tape into the server  
24 that you currently have. So for instance, like I was  
25 telling you, okay, well, maybe I could only see July of

1 2008 on this server, but I might have a tape that says  
2 August of 2008 or September of 2008. I could go to that  
3 tape and even though it wasn't backed up on that server,  
4 I could attempt to catalog it and read it. It takes, it  
5 said, on average about four hours, and that's all  
6 machine time, but then you could see what's potentially  
7 on that tape and then restore from there.

8           So even though I don't have all of my servers,  
9 it's possible that I could read all of the tapes. It  
10 would require me to use -- to put every tape in there  
11 because I don't know what's on there until it's been  
12 cataloged, but I could potentially find more backups all  
13 the way to the end of 2008. It's possible.

14           Q. So forgive my lack of technical sophistication,  
15 but can you explain that in a little bit more detail  
16 because I wasn't sure exactly what you mean when you say  
17 you can restore a tape by cataloguing it into the  
18 server.

19           A. Okay. So when we started all of this the only  
20 server that I could find that had any backup on it was  
21 Backup Exec 2, but I know that we had more servers than  
22 that and I don't know what happened to those other  
23 servers. I just happened to find this one in the  
24 storage room. But I was able to look at it. So I was  
25 trying to figure out, well, when I go into the cabinet I

1 could see tapes that say BE 2, which is Backup Exec 2,  
2 the server I'm talking about, but I also see tapes in  
3 there that say BE, which is Backup Exec, and BE 3, which  
4 is Backup Exec 3.

5           So at first I thought my understanding was if I  
6 didn't have it on -- if I didn't back it up on that  
7 server then I won't be able to see these other tapes but --  
8 and that may not be true. I may be able to inventory,  
9 which means the system itself is going to try to read  
10 the entire tape and see if it can read what's on there  
11 and then catalog what it thinks it has and then you can  
12 try to restore it. So even though I don't have the  
13 other servers, I might still be able to read the tapes,  
14 but that requires me to check every tape because I'm not  
15 going to know what post office or what's on there until  
16 I put it in the tape drive and attempt to inventory and  
17 catalog it.

18           Q.    So do I understand correctly that this would be  
19 a different method of retrieving data from a backup tape  
20 than the one we previously discussed?

21           A.    It's another step to it. It's not different in  
22 the restore process but it is different in that I can't  
23 just go and look at the server and say, oh, I want post  
24 office 2 from July of 2008 and it tells me it's on, you  
25 know, XXX 123 tape and I could just go get that tape and



1 I'd be done.

2 In this case I'm saying I have a tape, I don't  
3 know what's on it, but if I put it into this tape  
4 library and have this server look at it, in about four  
5 hours it could potentially tell you what's on the tape  
6 and then go oh, that's post office 2, July of 2008 I was  
7 looking for. So it takes a heck of a lot more time  
8 because you're looking at every single tape you got in  
9 there, but you might be able to potentially find  
10 something even though you don't have the server.

11 Q. So in what circumstances would you need to use  
12 the process you're describing now as opposed to the  
13 process that we've previously discussed for retrieving  
14 tapes?

15 A. Well, I was mentioning that I saw some of the  
16 post offices, some of them go to July of 2008. If  
17 you're asking me for October of 2008 and I'm not seeing  
18 that there, it's potentially that there could be an  
19 October 2008 backup from one of those other servers that  
20 I don't have the server anymore for, on some of those  
21 tapes. So I can go and try to look at all these tapes  
22 and see if there is anything from that year, from that  
23 month, and then I could restore something from it, so  
24 that's what I'm saying.

25 Q. And what's the significance of the server here?

1 What is -- what is the significance of a server being --  
2 was it Backup Exec 2 versus Backup Exec, you know,  
3 without a number, or Backup Exec 3?

4 A. Those are just the names of the servers. So  
5 every server was cataloguing and backing up, you know,  
6 so I know that we didn't do every single month of every  
7 single post office on one server. I know that we  
8 switched them up in case something was to go wrong,  
9 right? So maybe I have January of post office 1,  
10 February post office 2, March post office 3 on this one,  
11 but then I had January post office 2, you know. I was  
12 switching them back and forth and back and forth.

13 So I have the catalog for Backup Exec 2 because  
14 I have the server, but I don't have the catalogs for the  
15 other two.

16 Q. And is the catalog what allows you to find  
17 specific tapes using alphanumeric codes?

18 A. Both ways. If you have a tape -- if I went and  
19 looked for JK 2123, whatever, I could try to find that  
20 number in the catalog and then it would already tell me  
21 what's on there, or I could go looking for July of 2008  
22 and it would give me a list of the tapes that were from  
23 that time period. But since I don't have that catalog  
24 for the other two servers, I'd have to recatalog all the  
25 tapes that aren't from Backup Exec 2 in order to see

1 that information.

2 Q. And the other two servers that aren't Backup  
3 Exec 2, what time period of tapes would those cover?

4 A. It would still be 2004 to 2008. Not  
5 necessarily e-mail. Some e-mail, some divisional  
6 servers because this was the backup unit, so we were  
7 backing up file servers and mail servers. So it's a  
8 mixture of things, and there is no rhyme or reason to  
9 what's on what tape. Like I was telling you before, the  
10 library has -- you can put, you know, ten tapes in there  
11 and then it will just back up to wherever it can. But  
12 it records what tape it was backing up to and that's the  
13 catalog. But unfortunately I just have that one server  
14 so...

15 Q. And where did you find that one server?

16 A. It's in storage. It was in storage. I went  
17 looking in the Metro Dispatch Center, the Valley  
18 Dispatch Center, our Data Center. Where else? And I  
19 think that was it.

20 Q. Do you know what happened to the other two  
21 servers?

22 A. No. That's why I went to the help desk looking  
23 to see, you know, do you have anything in inventory of  
24 when things were salvaged or anything and they didn't  
25 have anything.

1 Q. In their computer inventory?

2 A. Correct.

3 Q. So the process you're describing, would that be  
4 an alternative to using catalogs and WP domains files to  
5 identify specific tapes for specific post offices, or is  
6 that a different process entirely?

7 A. Yeah, it's not an alternative to it. I don't  
8 have any other choice with the other two. Since I don't  
9 have the servers I don't have the catalog, so I am  
10 forced to recatalog those tapes. I'll be forced to do  
11 that. There is -- I don't have any other choice. But  
12 with Backup Exec 2, if those are the backups that we're  
13 looking for, there is no need to catalog those tapes.  
14 They are already cataloged for me. I can already -- I  
15 can already tell what could be on that tape, right? So  
16 I could just go straight to that tape versus having a  
17 tape and going I don't know what's on here and trying to  
18 see what it is.

19 Q. And do you know the categories of tapes that  
20 would be -- that would have been backed up using the  
21 Backup Exec 2 server that you have now versus the tapes  
22 that were backed up using the servers you don't have  
23 access to now?

24 A. They are all the same type of tape. So they  
25 were all running at the same time so they are all

1 running the same kind of tape for 2004, 2005, 2006,  
2 2007, 2008.

3 Q. So say that you were looking for Officer John  
4 Doe's e-mail from December 2007. How would the process  
5 you've just described work if you were -- let me back  
6 up.

7 Say that you're looking for Officer John Doe's  
8 e-mail from December of 2007. How would you know  
9 whether Officer John Doe's e-mail could be found using a  
10 catalog or not?

11 A. Oh, that part, yeah, you don't know that part  
12 yet. The first thing you'd have to do is if we're  
13 looking for December of 2007 e-mails I would probably go  
14 to January 2008 backup so I could see December of 2007,  
15 because depending on when the backup ran in December I  
16 could be missing some data, right? So January 2008  
17 would be what I'm looking for. So I'd first need to go  
18 find January 2008 WP domain file, restore that, then  
19 bring up that ConsoleOne, look for the guy that you're  
20 talking about, the Officer John Doe that you're talking  
21 about. His serial number will tell me what post office  
22 he's on. So now if I know what post office he is I can  
23 look in the catalog that I currently have for  
24 January 2008. If I have that backup from post office 2,  
25 for instance, let's say he was on post office 2, then

1 right then and there I can start to restore because I  
2 know well, I'll have to go look for the tape and  
3 hopefully the tape is in that cabinet and if it is, I  
4 can restore it.

5 But if there is no record in January of 2008 on  
6 Backup Exec 2's server, I could potentially see if maybe  
7 there is a February 2008 or a March, because we're still  
8 holding a year's worth of mail, so potentially I could  
9 see December 2007 from that one. Otherwise I'll have to  
10 start guessing what tape might have been used from  
11 Backup Exec or Backup Exec 3 for January 2008 post  
12 office 2.

13 Does that make sense?

14 Q. You're definitely clarifying it for me.

15 For the process you've described where you  
16 would be taking tapes and cataloguing them to find out  
17 what's on them, how much human time is required per  
18 tape?

19 A. Probably wouldn't be that much. Just to find  
20 the tape, put it in the tape library, start up the  
21 inventory, and then once the inventory is done start up  
22 a catalog. So you can set that up to run, and then  
23 after that would be machine time. So it's about four  
24 hours' machine time after that. Maybe ten minutes of  
25 human time to prepare it all.

1 Q. And how many tapes were made using Backup Exec  
2 zero, or the one without a number?

3 A. Backup Exec and then -- I don't know. It would  
4 probably be -- if there is three servers and I'm going,  
5 you know, each month, it would potentially be the same  
6 amount as Backup Exec 2 or 3, just different post  
7 offices for different months.

8 Q. So how many tapes, approximately, are we  
9 talking about for Backup Exec 1?

10 A. Well, what time frame are we talking about,  
11 just the one month we're looking for?

12 Q. Well, how many tapes in total from 2001 to 2010  
13 were made with Backup Exec 1?

14 A. Oh, I don't know. The tape -- in 2004 probably  
15 held anywhere from 40 to 80 gigs, you can just  
16 approximate if the server was, let's say, 60 gigs, there  
17 is ten post offices, so 600 gigs. So probably ten  
18 times -- so maybe 120 -- 120 tapes for one year. So  
19 we're talking about a ten-year period -- well, 2001-2003  
20 I'm not sure how that all ran down, but from 2004-2007  
21 we're talking about a monthly tape, so one tape per post  
22 office, just keep it simple, and that's 12 -- 12 months  
23 times five years' worth. So 12 times -- or 10 times 12  
24 is 120 times the five years, so, like, 600 tapes.

25 Q. And so that -- would that be the total number

1 of tapes created to back up all that e-mail --

2 A. Yeah --

3 Q. -- across the three servers?

4 A. -- I think that's what we're saying, yeah, I  
5 think so, for just -- for just post offices we're  
6 talking about. So yeah. So maybe. So I'll just divide  
7 it by three. So 200 for Backup Exec, 200 for Backup  
8 Exec 3 and maybe 200 for Backup Exec 2.

9 Q. And what is your basis for testifying that  
10 there would be kind of an even three-way split among the  
11 three servers?

12 A. Just based on my experience with backup, you  
13 don't want to put everything on one in case that server  
14 goes down, right? And I know we had three servers at  
15 Metro Dispatch for a while, so that's what I'm basing  
16 that on, just common sense when it comes to backup.

17 Q. And do you have either personal knowledge or  
18 based on your preparation to testify today, do you know  
19 that the servers actually were balanced in that even  
20 distribution manner?

21 A. I didn't -- no, I didn't make the schedules, so  
22 I'm not going to say that me personally I personally  
23 made the schedules, but those schedules were prepared.  
24 And I did notice that there are -- the months are --  
25 there are some months that are missing from some of the



1 post offices almost consistently.

2 Q. And what does that suggest to you?

3 A. That another backup was being taken in between.

4 Q. And so that backup might have been made on  
5 either the -- on server -- on the server for Backup Exec  
6 1 or Backup Exec 3?

7 A. Yeah.

8 Q. Is there anything else that you did to prepare  
9 today that we haven't talked about yet?

10 A. I can't think of anything else right now. We  
11 ran down pretty much everything.

12 Q. And is there anything that you would want to  
13 know to testify as the LAPD's person most qualified on  
14 Topics 2 and 3 that you don't know as you sit here  
15 today?

16 A. No, I don't think so.

17 Q. So I know we talked about this a little bit  
18 already but let's just nail it down. Can you just  
19 describe for me what are the different backup systems  
20 used by the LAPD from 2001 until 2010?

21 A. Okay. So from 2001 to 2003 we were using  
22 Arcserve. From 2004 to 2008 we were using Backup Exec.  
23 In 2009 there was a few different backup tools used,  
24 however, it didn't yield any results. In 2010 to 2013  
25 we were using NetBackup on hard drive, no longer tapes.

1 Q. And that's based on your preparation to testify  
2 today?

3 A. Yes.

4 Q. From 2004 to 2008 for those backups what  
5 equipment would you need?

6 A. Well, I already have a backup server and I  
7 already have the software on the backup server, so now I  
8 just need a place to restore the raw data to, so that's  
9 like a SAN, and then I need another server with -- well,  
10 I would attempt to use Linux but Anthony said he has  
11 both NetWare and Linux so we could try either one of  
12 them. The reason why I say I would try Linux is only  
13 because it's a newer software, it might read more, but I  
14 won't know until I try. But Anthony did say that he had  
15 NetWare and he had Linux for me to put on a server.

16 Q. So just focusing on the equipment and putting  
17 the OS and software aside --

18 A. Oh, I'm sorry.

19 Q. -- for a minute. You need a server, right, a  
20 physical server that's kind of like a computer; correct?

21 A. Yes. Or a VM, which is a virtual machine, that  
22 could act like a server.

23 Q. And is a virtual machine a piece of software  
24 that's placed in a computer?

25 A. It is. It's VMware.

1 Q. So could you take a modern computer in the  
2 LAPD's possession and put VMware on it and create a  
3 server?

4 A. No. What would happen is the same space that  
5 we're talking about, the SAN, it would be allotted to a  
6 VM on Anthony's network that could act like a NetWare  
7 server or a Linux server and so we wouldn't need a  
8 physical server, I just need the space that he has on  
9 his blade server, and he said he has enough room for me  
10 for a server and potentially, you know, one post office  
11 raw data to attempt this.

12 Q. Does the LAPD have the VM software?

13 A. Yes.

14 Q. And it could allocate that software to this  
15 purpose?

16 A. It could attempt to, yes.

17 Q. Is VMware the name of the manufacturer or is  
18 that a type of software?

19 A. That's -- I think it's both.

20 Q. Okay.

21 A. I don't -- I think VMware is made by -- I'm not  
22 sure. I just say VMware and I think when we call we ask  
23 for VMware, so it might be one and the same.

24 Q. But in any case, you have it?

25 A. We --

1 Q. Or the LAPD has it?

2 A. Yeah, we have the potential to create a VM and  
3 attempt to do what we're trying to do.

4 Q. So we've got a physical server or VMware on  
5 some sort of another piece of equipment, then we've got  
6 a hard drive that will accept the raw data from the  
7 tape. What other equipment is needed for 2004 to 2008  
8 backups?

9 A. Well, that's -- that's pretty much it. We just  
10 have to do it one at a time since he doesn't have enough  
11 space for me to try to keep dumping raw -- like, start  
12 by just restoring everything and then trying to do all  
13 the rest. So we're just going to try to do one and see  
14 if we can make it work. I'm saying the potentiality is  
15 that -- IP addresses are involved. I think we discussed  
16 this last time. So potential for problems because we're  
17 trying to call something with an IP address that already  
18 exists in the system, because we're using a VM. And he  
19 said he would help. He would attempt to help me with  
20 that, but he could see the potential of problems with  
21 the IP, but that's for us to find out when we try it.

22 Q. And putting that aside just in terms of the  
23 equipment, you wouldn't need a workstation or anything  
24 like that?

25 A. No. I have a workstation that I -- as long

1 as -- if he's going to put it on a VM that's on the  
2 network and I can hit that VM from my workstation, I can  
3 put older versions of the client on my workstation.

4 Q. Oh, so you can use your regular workstation  
5 that you are assigned in your regular duties?

6 A. Potentially, but we could also try to make a VM  
7 of a workstation.

8 MS. HENRY: Can we take a short break, ten  
9 minutes?

10 MR. CHARNEY: Do you agree to go off the  
11 record, Kjehl?

12 MR. JOHANSEN: That's fine.

13 (Recess)

14 BY MR. CHARNEY:

15 Q. So we're back after the break, and Ms. McClain,  
16 do you understand that you're still under oath?

17 A. Yes.

18 Q. So moving on to the software required for 2004  
19 to 2008, can you just tell me what those pieces of  
20 software are?

21 A. Okay. We would need Backup Exec. We would  
22 need NetWare. I'm not sure of the version. And we  
23 would need GroupWise, most likely 6.5 or 7, and that's  
24 the software.

25 We discussed the hardware, I was saying that we

1 could possibly use VMs for that. The only caveat for  
2 that is if we create the VM and it doesn't like the IP  
3 address we may need to go and look for a physical  
4 hardware, a physical server to not put on the network  
5 and a physical medium to put the data on that doesn't  
6 have anything to do with the network if it doesn't allow  
7 us to do it.

8 Q. And does the LAPD have those pieces of  
9 equipment?

10 A. Anthony said he has some things that we could  
11 try and attempt to do it this way.

12 Q. And what are those things?

13 A. He has some hardware servers, some physical  
14 servers that he could help me revamp and put the  
15 operating system on there and attempt it that way. So  
16 there is two potential ways to do this. Just see how it  
17 goes.

18 Q. Are the backups for 2001 to 2003 full backups?

19 A. Yes. Thomas said that they were full backups.

20 Q. And that's the same for 2004 to 2008; right?

21 A. 2004-2008 we have monthly full backups.

22 Q. So in terms of the process for restoring  
23 backups, is it essentially the same for 2001  
24 through 2008?

25 A. 2001 to 2003 with the Arcserve software I'm not

1 wouldn't able to read raw data from 2012. It didn't  
2 know it existed yet, right? So...

3 Q. And how frequently do versions change?

4 A. Every few years.

5 Q. So for a year- or two- or three-year period  
6 there might be the same version?

7 A. It's possible, yes.

8 Q. So for at least 2004 to 2008 e-mail am I right  
9 that there are at most two versions of GroupWise being  
10 used?

11 A. Depending on -- I'm not sure what the first  
12 version is, but it's somewhere in between 6 -- it's  
13 either 6, 6.5, 7 or 8, it's one of those four in that  
14 time frame, because now there is -- you know, 2012 is  
15 the one that's the currentest one that we have. So we  
16 haven't -- since we're now in a different e-mail system  
17 so we didn't update GroupWise.

18 Q. Was GroupWise 8 in existence in 2008?

19 A. I'm not sure. But I would know that as soon as  
20 I start looking to see what we had on there. I could  
21 look on the -- the WP domain files should be able to  
22 tell me something.

23 Q. I'd like you to turn your attention back to the  
24 document that was marked as Exhibit 18.

25 A. Okay.

1 Q. Is Transend the document -- excuse me, is  
2 Transend the piece of software that is used to export  
3 PDFs?

4 A. Yes, from the GroupWise system -- I mean from  
5 the GroupWise client.

6 Q. And does this document show how much it costs  
7 for a license for Transend?

8 A. Yes.

9 Q. And what is that cost?

10 A. \$782.09.

11 Q. And what does that license cover?

12 A. One year.

13 Q. How many users?

14 A. One.

15 Q. Do you know if that is -- do you know how many  
16 licenses the LAPD currently has?

17 A. One.

18 Q. And is that license available for use in  
19 retrieving e-mail backup -- in retrieving e-mail stored  
20 on backup tapes?

21 A. Right now it's on my VM.

22 Q. So if you needed to restore -- if you needed to  
23 export PDFs from e-mail that are stored on backup tapes  
24 in order to search those PDFs, could you do so using  
25 your current license?



1 A. Only if I can get to it.

2 Q. And what do you mean by that?

3 A. So if the client that I have on that VM, if I  
4 can point it at the server that we're talking about, not  
5 in a closed system, but in the network, then I should be  
6 able to do it, but if not I would need another one of  
7 these licenses to do it in the closed system.

8 Q. So if you're able to set up an open network to  
9 retrieve the backup tapes you wouldn't need a new  
10 license for VMware?

11 A. I should be able to use that VM for that  
12 client, and I can change the client on that VM if I need  
13 to, and I should be able to use this.

14 Q. Turning to the document that's been marked as  
15 Exhibit 19, what does this document show?

16 A. Oh, this is just to say that CompuCom was our  
17 software vendor all the way back to July of 2002,  
18 because Wade didn't know prior to 2005 whether or not  
19 CompuCom was still the software vendor that we were  
20 using.

21 Q. And what is the significance of this document,  
22 if any, with respect to your ability to retrieve  
23 information from backup tapes?

24 A. Oh, this doesn't have anything to do with that.

25 Q. Is it possible that a user's post office -- is

1 it possible that the post office containing a user's  
2 account for one month could be split among several  
3 tapes?

4 A. Yes.

5 Q. How many tapes could it possibly be split  
6 among?

7 A. What year are we talking about?

8 Q. 2004 to 2008.

9 A. Okay. So we started out using the 40/80 gig  
10 tapes. Eventually we had a Super DLT. It was a  
11 200/400, I think, then a 300/600. So just depending on  
12 the year might depend on how many tapes. As it gets  
13 closer to 2008 the post offices got larger but so did  
14 the tapes. So I would say in 2004 maybe two tapes at  
15 the most.

16 Q. And would that be the same for 2005?

17 A. I think so.

18 Q. 2006?

19 A. 2006, depending on when we got that Super DLT,  
20 it could possibly be three, but -- yeah, it could  
21 possibly be three, but probably around that time is when  
22 we got that Super DLT and you go back to one or two. So  
23 I think it's safe to assume probably two, two at the  
24 most.

25 Q. And 2008?

1 A. Yeah, I'd say the same thing, at the most two.

2 Q. So does that mean that for a given user -- to  
3 retrieve a given user's post office for one month you  
4 would at most have to retrieve information on two tapes  
5 for 2004 until 2008?

6 A. As long as it was on Backup Exec 2, yeah.

7 Q. And what if it was on Backup Exec 1 or Backup  
8 Exec 3?

9 A. Then I'd have to do the cataloguing and find  
10 that post office. So what you're saying is since I only  
11 know the -- I only know the names of the tapes, right?  
12 So EEF 222 doesn't mean anything to me, but I know it  
13 says that it was backed up on Backup Exec on the little  
14 plastic thing on the front, so I could put that in and  
15 then find out what year, you know, it was made. If it  
16 happens to be January 2008 we're good. Otherwise I'll  
17 just keep on trying until I get something. So we're  
18 kind of -- we'd probably have to do a lot of tapes if  
19 the backups are on Backup Exec or Backup Exec 3, because  
20 we got to catalog them all to 2. But if it's on 2 we're  
21 good, we only need one or two tapes.

22 MR. CHARNEY: Okay. Let's mark for  
23 identification a February 28th -- I'd like to mark for  
24 identification a February 28th, 2017, letter from Kjehl  
25 Johansen to -- I'm sorry, from Michael N. Feuer to me.



DEPOSITION ERRATA SHEET

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

Page No. 334 Line No. 25

Change: from "division" to "divisions"

Reason for change: grammatical

Page No. 339 Line No. 15

Change: from "SQLs" to "SQL"

Reason for change: grammatical

Page No. 340 Line No. 24

Change: from "15.2s" to 15.2"

Reason for change: grammatical

Page No. 347 Line No. 17

Change: add "from" between words "this" and "2002"

Reason for change: grammatical

Page No. 351 Line No. 20

Change: add at beginning: "The tape the divisional server was backed up on."

Reason for change: further clarification

Page No. 358 Line No. 2

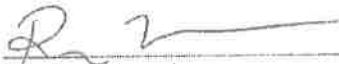
Change: add "the" between words "to" and "help"

Reason for change: grammatical

Page No. 358 Line No. 8

Change: add "is" between words "it" and "changed"

Reason for change: grammatical

  
Rachel McClain

MARCH 28, 2017

Dated

DEPOSITION ERRATA SHEET

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

Page No. 360 Line No. 4  
Change: from "network" to "networks"

Reason for change: grammatical

Page No. 369 Line No. 11  
Change: from "Not just Earl." to "No, not Earl."

Reason for change: clarification

Page No. 369 Line No. 20  
Change: add "The tape drives," before "They were there..."

Reason for change: clarification

Page No. 383 Line No. 18  
Change: delete the word "remember"

Reason for change: clarification

Page No. 391 Line No. 13  
Change: from "What," to "That"

Reason for change: clarification

Page No. 407 Line No. 9  
Change: add "&" between "Records" and "Identification"

Reason for change: grammatical

Page No. 433 Line No. 1  
Change: add "with the raw data restore process" after "I'd be done"

Reason for change: clarification

Rachel McClain March 28, 2017  
Rachel McClain Dated

DEPOSITION ERRATA SHEET

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

Page No. 436 Line No. 7

Change: from "Yeah" to "Nah"

Reason for change: clarification

Page No. 446 Line No. 9

Change: from "would" to "want"

Reason for change: clarification

Page No. 447 Line No. 10

Change: from "exit" to "exist"

Reason for change: clarification

Page No. 472 Line No. 21

Change: add "the" between "need" and "domain"

Reason for change: grammatical

Page No. 480 Line No. 15

Change: from "when" to "what"

Reason for change: clarification

Page No. Line No.

Change:

Reason for change:

Page No. Line No.

Change:

Reason for change:

  
Rachel McClain

MARCH 28, 2017  
Dated

1 STATE OF CALIFORNIA     )  
                                  ) SS  
2 COUNTY OF LOS ANGELES   )

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

I, Jean F. Holliday, a Certified Shorthand Reporter, do hereby certify:

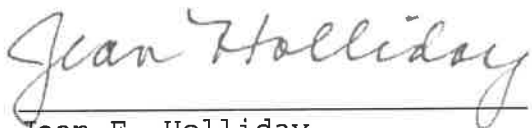
That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and place therein set forth, and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name.

Dated: March 19, 2017



Jean F. Holliday  
CSR No. 4535, RPR, CRR



**EXHIBIT DD**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

**CERTIFIED COPY**

MUSLIM ADVOCATES,  
Petitioner,

vs.

Case No. BS163755

THE CITY OF LOS ANGELES; THE LOS  
ANGELES POLICE DEPARTMENT; DOES  
1-10, INCLUSIVE,  
Respondents.

---

DEPOSITION OF PERSON MOST QUALIFIED

AT LOS ANGELES POLICE DEPARTMENT

RACHEL MCCLAIN

VOLUME IV

Thursday, March 23, 2017

9:58 a.m. - 1:57 p.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Jean F. Holliday

CSR No. 4535, RPR, CRR

1 state their appearances.

2 MS. NGUYEN: Linda Nguyen, Deputy City Attorney  
3 for the City of Los Angeles.

4 MR. JOHANSEN: Kjehl Johansen, Deputy City  
5 Attorney on behalf of the City of Los Angeles, Los  
6 Angeles Police Department, respondents.

7 MR. CHARNEY: And other than the witness, court  
8 reporter and counsel, there is no one else present.

9 I'm going to ask the court reporter to mark for  
10 identification a Notice of Deposition -- excuse me -- a  
11 Notice of Continued Deposition of Persons Most Qualified  
12 at Respondent Los Angeles Police Department.

13 (Exhibit 28 marked)

14 BY MR. CHARNEY:

15 Q. This is a Notice of Continued Deposition in  
16 this case. It lists -- and it covers a person most  
17 qualified deposition and lists three topics.

18 Ms. McClain, I'll ask you to review the  
19 document and when you've had a chance to familiarize  
20 yourself with it let me know.

21 A. Okay.

22 Yes, I've seen this one.

23 Q. And are you the person most qualified to  
24 testify on Topics 2 and 3 listed on Pages 2 and 3 of  
25 this Notice?

1 A. Yes.

2 Q. And in particular you are the person most  
3 qualified to testify regarding the LAPD's backup systems  
4 for e-mail from 2001 to 2010?

5 A. Yes.

6 Q. And are you the person most qualified to  
7 testify regarding the LAPD's claim that searching its  
8 backup systems for e-mail from 2001 to 2010 would be  
9 unduly burdensome?

10 A. Yes.

11 Q. We may come back to that, but for now -- I know  
12 that this is now getting -- we've had a lot of practice  
13 with this, but I'm just going to go over the ground  
14 rules again.

15 A. Okay.

16 Q. Do you understand that you're under oath?

17 A. Yes.

18 Q. Do you understand further that your testimony  
19 even though given in the informal setting of this office  
20 carries the same force and effect as if given in a court  
21 of law?

22 A. Yes.

23 Q. And do you understand the nature of these  
24 proceedings and the importance of giving full and  
25 accurate answers?

1 still trying to find out about.

2 Q. And when you said "some of the other documents"  
3 what are you referring to?

4 A. Just some of the other PTS requests, looking  
5 for this one, I looked at some of the others.

6 Q. And have those PTS requests that you looked at  
7 in preparing for today's deposition, have those been  
8 produced to Muslim Advocates prior to today?

9 A. Yes, they have.

10 Q. So am I right that there is nothing else that  
11 you did to prepare for your deposition today other than  
12 what you've told me so far?

13 A. Not for my deposition, no.

14 Q. And when you say not for your deposition, did  
15 you -- are you referring to efforts you made to prepare  
16 for somebody else's deposition?

17 A. Yes.

18 Q. And whose deposition is that?

19 A. Anthony Huynh.

20 Q. What did you do to help prepare for Anthony  
21 Huynh's deposition?

22 MR. JOHANSEN: I'm going to object. That's  
23 outside the scope of the PMQ notice for this particular  
24 witness.

25 ///

1 BY MR. CHARNEY:

2 Q. You can answer.

3 A. I can answer?

4 MR. JOHANSEN: I'm not instructing you not to  
5 answer, so you can answer.

6 THE WITNESS: Oh, okay.

7 We had a meeting about the backup units, all of  
8 us that worked in backup. He asked for all of us to  
9 speak to him so he could get a history of the backup  
10 unit.

11 BY MR. CHARNEY:

12 Q. And when was that conversation?

13 A. It was I want to say Tuesday, because it was  
14 before yesterday. Yesterday was his deposition.

15 Q. And approximately how long did that  
16 conversation last?

17 A. We were probably in there for maybe 30, 30 to  
18 40 minutes.

19 Q. Did you discuss the -- and what was discussed  
20 in that meeting?

21 A. Oh, we were all giving our -- when we were in  
22 the backup unit and what software, what hardware we were  
23 all using at the time.

24 Q. And in regards to what you -- what did you --  
25 putting aside what other people in the meeting might

1 have told Mr. Huynh, what did you tell Mr. Huynh?

2 A. Oh. I let him know that we only had one backup  
3 server still that I could find, and that it is  
4 operational, the server itself. I was able to turn it  
5 on. I was able to look at the backups on it, the  
6 restores on it.

7 Q. Is that the Backup Exec 2 server?

8 A. That is.

9 Q. Did you tell Mr. Huynh anything else?

10 A. I told him I didn't have Backup Exec 1 or 3 and  
11 that there are tapes in a cabinet, some are labeled,  
12 some are not.

13 Q. And these tapes, what do they relate to?

14 A. The backups that I was responsible for between  
15 two thousand -- well, I started in 2005 but there was  
16 already tapes from 2004, so I was responsible from 2004  
17 and 2008, the tapes that are in there.

18 Q. And are those tapes related to e-mail backups?

19 A. Yes. They are e-mail backups as well -- they  
20 are more than e-mail backups but they are e-mail  
21 backups.

22 Q. What else are they?

23 A. They are file server backups.

24 Q. And so am I right that you have tapes of both  
25 e-mail backups and file server backups?

1           A. Yeah, e-mail server backups and file server  
2 backups.

3           Q. And some of them are labeled and some of them  
4 are not?

5           A. Correct.

6           Q. Do you know -- and when you say some of them  
7 aren't labeled do you mean they completely lack labels  
8 or the labeling is not complete?

9           A. They all have the barcode scan label on them,  
10 but some of them have an additional label on top of the  
11 barcode scan that you can pull off and it would tell you  
12 what server made that tape or backed that tape up and  
13 then sometimes it has the date range on it.

14          Q. And by server do you mean Backup Exec 1 or 2 or  
15 3?

16          A. Correct.

17          Q. The tapes that have an additional label on it  
18 over the barcode label, would that be either a file  
19 server backup or an e-mail backup?

20          A. Yes. They are all mixed together. It's  
21 whatever was tape available and whatever server you  
22 happen to be backing up.

23          Q. And are these in the cabinet that you had  
24 previously mentioned in your -- in one of the other  
25 sessions of your deposition?



1 A. Yes.

2 Q. And am I right that that's the -- which  
3 location is that cabinet located in?

4 A. The MCDC, the Metro Dispatch.

5 Q. So when we last were here we were talking about  
6 how many tapes might be required to -- how many tapes  
7 one might have to pull in order to restore one user's  
8 e-mail from one month. Do you remember that  
9 conversation?

10 A. Yes.

11 Q. And am I right that -- so is it possible that a  
12 user's post office for one month could be split among  
13 several tapes?

14 A. It's possible.

15 Q. And in what situations would that happen?

16 A. If the tapes that are in the library -- let's  
17 say there is 10 tapes in there and they've all been  
18 used, but they've all been used partially, you could  
19 potentially have a backup that's been placed on several  
20 tapes.

21 Q. And would that be limited by the number of  
22 tapes that can be in the library at one time?

23 A. Yes.

24 Q. And how many tapes can be in the library at one  
25 time?

1           A. Depending on the library that was backing it  
2 up, anywhere from -- there is 10 on the old ones and I  
3 think might be 16 or 20 on the new library, the newer  
4 library.

5           Q. In the normal -- in the typical operation of  
6 the tape drive if one tape becomes full does the tape  
7 drive then begin to write onto the next tape adjacent to  
8 it?

9           A. Yeah, it might do that.

10          Q. So in the normal course am I right that if one  
11 tape becomes full there should usually be a second tape  
12 that would contain some of the data for the post office  
13 that couldn't fit on the first tape?

14          A. Well, there is two drives in the library, so  
15 you could potentially be doing two backups at the same  
16 time. So those two tapes may or may not be completed.  
17 So it's possible to continue on another one, there would  
18 be four of them.

19          Q. Have you ever seen a post office that was  
20 spread across two tapes?

21          A. Yes.

22          Q. Have you ever seen a post office that was  
23 spread across three tapes?

24          A. Yes.

25          Q. Have you ever seen a post office that was

1 spread across four tapes?

2 A. I don't recall four tapes.

3 Q. And when you say you don't recall, do you mean  
4 that you don't know one way or the other, or do you mean  
5 that you've never seen it?

6 A. Well, the ones that I have looked at just  
7 recently on the server, I haven't seen one that's had  
8 more than three tapes involved, so I'm just basing it on  
9 that.

10 Q. So you've never seen one that had more than  
11 three tapes?

12 A. Not on -- I may have in the past, but I don't  
13 recall that. I just know the one that I was looking at  
14 recently, I hadn't seen more than about three tapes on  
15 that backup set.

16 Q. And why do you think you may have seen that in  
17 the past?

18 A. Well, it's possible, so I'm just saying I don't  
19 want to say that I've -- I don't remember seeing it,  
20 so -- but it's a possibility.

21 Q. But as you sit here today there is no specific  
22 reason that exists in your mind that makes you think  
23 that there would be more than -- there would be a post  
24 office that's spread across more than three tapes?

25 A. Well, I'm saying that that's probably -- that's

1 probably true because as the time goes by we used to get  
2 larger tapes, and the tape libraries have changed, but  
3 if I was to have to use an older tape library to back  
4 something up then I would have to use a lot more tapes  
5 because it's bigger. So I'm going to say that yeah, I  
6 don't think there is more than three.

7 Q. And when you say "older," what time period are  
8 you referring to?

9 A. The 2004 through around 2006 probably we were  
10 using the 40/80 tapes, 40 gig uncompressed and 80 gig  
11 compressed. And then we went to a higher Super DLT, so  
12 then we were able to put more on one tape, and then by  
13 2008 I think it was the 300/600 ones.

14 Q. So am I right that after 2006 it's unlikely  
15 that there would be one post office spread across  
16 multiple tapes because the capacity of the tapes had  
17 increased by that point?

18 A. Well, so did the Group -- so did the GroupWise  
19 servers, so I would say that you could still have more  
20 than one tape even after you have the higher size tapes,  
21 but I don't think you're going to have more than three  
22 in a set.

23 Q. And am I right that before 2006 not only were  
24 the tape -- let me back up.

25 Am I right that before 2006 the tape capacities

1 were smaller?

2 A. Yes.

3 Q. And am I right also that before 2006 the amount  
4 of data in a mailbox would also tend to be smaller?

5 A. Yes.

6 Q. Are there any other circumstances other than  
7 the issue with tapes being -- with information being  
8 spread across tapes because of the operation of the tape  
9 library, are there any other reasons why a post office  
10 would be spread across multiple tapes?

11 A. That's the only thing I can think of as to why  
12 it would be spread across multiple tapes, just ran out  
13 of space.

14 Q. How often have you -- let me rephrase that.

15 What proportion of post offices are spread  
16 across multiple tapes as opposed to being on just one  
17 tape?

18 A. I'd have to guess to answer that question.

19 Q. Can you estimate a range?

20 A. Of how many post offices could potentially be  
21 more than one tape?

22 Q. Yeah. Like, 10 percent, 20 percent, something  
23 like that?

24 A. I'd have to guess. I don't want to guess.

25 Q. Could you estimate it as being, say, less than

1 50 percent?

2 A. That were on more than -- or on three tapes?

3 Q. Well, just on more than one tape.

4 A. Oh, more than one tape. I'm trying to think  
5 when I was looking at the backups. And we're just  
6 talking about one server right now, because I would  
7 never know about the other two.

8 Q. And when you say one server you mean Backup  
9 Exec 2?

10 A. Yes, because the other two servers are not in  
11 existence anymore, so all the other backups that they  
12 did, the tapes that are in that cabinet I would have to  
13 inventory them and catalog them before I could even tell  
14 how many tapes were being used for one backup, so...

15 Q. So just focusing on Backup Exec 2 then.

16 A. Backup Exec 2. So I would say out of  
17 100 percent of the backups maybe -- maybe 10, 10 to  
18 15 percent might be three tapes and another maybe a  
19 third might be two tapes.

20 Q. And what's that estimate based on?

21 A. I'm just trying to remember the backup, when I  
22 was looking at the backups and looking to see what tapes  
23 I would have to go grab. Yeah, maybe 30 percent.

24 Q. Am I right the only way that you could know for  
25 sure is to actually begin the process of attempting to

1 restore tapes?

2 A. No, I wouldn't have to begin the process. I  
3 can look at the same -- I have some logs that I --  
4 that's in the document production for the restores, I  
5 could do the same looking at the logs for the backups  
6 and then see how many tapes each backup used. There is  
7 a log still on the server, so...

8 Q. Did you review that log to prepare for your  
9 deposition today?

10 A. No. I have looked at it briefly weeks ago,  
11 maybe even months ago when we first were starting the  
12 depositions. So I can't really recall exactly how many  
13 there were.

14 Q. Why didn't you look at it to prepare for your  
15 deposition today?

16 A. There is -- just didn't -- didn't think I need  
17 to know an exact number.

18 Q. If a user's post office changes mid-month,  
19 would that cause there -- how would that affect your  
20 ability, if at all, to retrieve that user's backed up  
21 e-mail from the month during which the post office was  
22 changed?

23 A. It would depend on when the backup was done,  
24 the monthly backup.

25 Q. How so?

1           A. Well, if there -- if the person was on the post  
2 office on the 2nd of a month, and we did the backup on  
3 the 1st -- if they had moved on the 2nd and we did the  
4 backup on the 1st, then they would still be on the  
5 previous post office, but if we do the backup after they  
6 move, then they wouldn't be on that post office anymore.

7           Q. So in looking at the example you gave where you  
8 do the backup on the 1st and they move on the 2nd, the  
9 fact that they moved on the 2nd doesn't affect the  
10 backup that was done on the 1st; correct?

11          A. Correct.

12          Q. So you'll be able to retrieve -- assuming that  
13 you are able to retrieve that backup, the fact that the  
14 post office moved afterwards doesn't affect anything  
15 that you would have to do in retrieving that backup?

16          A. The person moved, not the post office. The  
17 individual -- just to make sure, I want to clarify.

18          Q. Sure.

19          A. We're discussing the user was on, for example,  
20 post office 2 and they moved to post office 4. The post  
21 offices didn't change but the user moved. Their account  
22 was on post office 2 on the 1st of the month and we  
23 moved them on the 2nd of the month over to the fourth --  
24 over to PO 4. So then, yeah, we would have a backup  
25 from post office 2 on the 1st, his mail. If you wanted



1 his mail from the 2nd on you would have to know what  
2 post office he got moved to and do the next month's  
3 backup on that post office, to look at that post office.

4 Q. Okay.

5 A. So if you want December 2007 e-mail all the way  
6 to December 31st, I would want to be looking at  
7 January 2008 backup, not December's -- especially if it  
8 started -- if it backed up early in the month, I  
9 wouldn't get the whole month's worth of e-mail.

10 Q. So am I right that in that example -- well,  
11 actually, let me back up.

12 So say that I want to see a user's e-mail from  
13 2007, all of their 2007 e-mail that they haven't deleted  
14 at the time of a backup. If I look at the December  
15 backup for 2007, am I right that I would see all of that  
16 user's e-mail going back for all of 2007 as long as they  
17 hadn't deleted any of that e-mail prior to the  
18 December 2007 backup?

19 A. Yes.

20 Q. And am I right that if a user had changed post  
21 offices several times during that year, the fact that  
22 they had changed post offices wouldn't affect what was  
23 in the backup performed in December 2007; correct?

24 A. Not as long as you knew the post office in 2007  
25 where they were in.

1 Q. And when you say "as long as you knew the post  
2 office," do you mean that as long as you knew the post  
3 office where that user's account could be found in  
4 December of 2007 to pull that particular backup tape?

5 A. As long as the backup was run -- if the person  
6 didn't move, yeah.

7 Q. So yes?

8 A. Yes.

9 Q. And am I right that the default is to have one  
10 month of one user's e-mail on one post office that's  
11 stored on one backup tape?

12 A. Can you repeat that?

13 Q. Sure. Am I right that the default way that the  
14 e-mail system was backed up from 2001 to 2008 is to have  
15 one user's e-mail for one month stored on -- I'm sorry.

16 The default would be to have one month of one  
17 user's e-mail on one post office backed up onto one  
18 backup tape, that that would be the default way of doing  
19 it?

20 A. Well, the user is irrelevant. It's the post  
21 office -- it's the server that I'm backing up, not the  
22 user. So if the user's on that server then they get  
23 backed up. So you are -- from 2004 to 2008 is monthly  
24 backups. You do a month -- yes, every month you're  
25 supposed to back up each server and keep that and you

1 had incrementals on weekly and daily and those were  
2 reused. So the monthlies we kept.

3 From 2001 to 2003 is a completely different  
4 system and they did things completely different then.  
5 They reused monthly tapes back then from 2001 to 2003.  
6 We didn't reuse them from 2004 to 2008. But the  
7 practice was to, yes, do a monthly backup, and we put  
8 several tapes in a library and we didn't think or care  
9 how many tapes were being used to back it up because the  
10 library would tell us when it needed -- a new tape  
11 needed to be put in and we didn't worry about how many  
12 tapes. We didn't pay attention to how many tapes as  
13 long as we had enough in there that could back it up.  
14 It would tell us, you know, replace a tape, and then it  
15 would have a log, the catalog that would tell us what  
16 tapes to go get if we needed to restore it.

17 Q. So thank you for that clarification.

18 From 2004 to 2008 am I right that when the  
19 backup system was backing up a server it would as a  
20 default attempt to place the backup data for that server  
21 on one tape, and if it couldn't do so it would then move  
22 on to another tape, but the default would be to try to  
23 place it all on one tape; is that correct?

24 A. Yes. Yeah, that would be correct.

25 Q. Is there any circumstance in which each and

1 every tape containing e-mail prior to 2010 would need to  
2 be searched if you were looking for e-mail backups --  
3 excuse me -- one e-mail backup of one user's post  
4 office -- actually, no, let me rephrase that.

5 In what circumstances would each and every tape  
6 containing e-mail prior to 2010 need to be searched if  
7 you were trying to obtain e-mail backups from 2004 to  
8 2008?

9 A. Well, we have one server right now, one backup  
10 server, so that backup server has its catalog. Backup  
11 Exec 1 and 3 don't exist. So in order to know what  
12 backups were on those tapes you would have to catalog  
13 and inventory each and every one of those into Backup  
14 Exec 2 in order to see them. If we didn't find Backup  
15 Exec 2, we would have to catalog each and every one just  
16 to start the process. So the fact that we have Backup  
17 Exec 2 helps with one-third of the backups but the other  
18 two-thirds are -- we still don't know necessarily which  
19 tape -- what's on which tape. And if -- in Backup Exec  
20 2 if you're asking for e-mail backups from a certain  
21 month of a certain year and that particular server did  
22 not back up that month that year, it would most likely  
23 have been on one of the other two, requiring us to go  
24 and try to find the tape that we're looking for.

25 Q. So am I correct that the circumstance in which

1 you might have to look at a lot of tapes, maybe even --  
2 let me rephrase.

3 Am I right that the cataloguing process you'd  
4 have to do for tapes that were on Backup Exec 1 or  
5 Backup Exec 3, that would only be about two-thirds --  
6 that would only -- that cataloguing process would only  
7 be required for about two-thirds of the tapes you have,  
8 since one-third of the tapes were made from Backup  
9 Exec 2?

10 A. Yes, since we found Backup Exec 2, the catalog  
11 is intact and I can read it.

12 Q. And am I right that the only circumstance you  
13 would need to catalog and index a tape would be if that  
14 tape was made on Backup Exec 1 or Backup Exec 3?

15 A. Correct. To inventory and catalog, correct.

16 Q. But the Backup Exec 2 tapes can be readily  
17 identified to a particular backup by using the WP domains  
18 and the server log on Backup Exec 2?

19 A. The catalog on Backup Exec 2, and then when  
20 you're talking about the WP domain files, those are on  
21 tapes as well. So before you could even start the  
22 process of restoring a post office you'd want to restore  
23 that tape that had the WP domain file on it. That's not  
24 necessarily the same tape that the post office that  
25 you're asking for is on, so that's potentially at the

1 minimum two tapes, but once you had done that, then  
2 yeah, you would go looking for that post office. And if  
3 it was backed up on Backup Exec for that month and that  
4 year, you would know the name of the tape and that would  
5 be a heck of a lot easier than attempting the other --  
6 looking for the other two because you'd have to do all  
7 that cataloguing first.

8 Q. And am I right that WP domain files are pretty  
9 small files?

10 A. They are.

11 Q. And so they are likely to be contained on --  
12 each WP domain file is likely to be contained on only  
13 one tape; right?

14 A. Yes.

15 Q. It wouldn't be spread across more than one  
16 tape?

17 A. No. That's too small of a file. But that's  
18 for each month for each year, to clarify.

19 Q. Sure.

20 A. So the WP domain file changes on a daily basis  
21 potentially.

22 Q. Am I right that you previously testified that  
23 in looking at the way that the backups were done you saw  
24 that there was a consistent pattern in which some of  
25 the -- some months in Backup Exec 2 were missing that

1 led you to believe that those months would have been  
2 backed up on Backup Exec 1 or Backup Exec 3?

3 A. Yes.

4 Q. And when you said that pattern was consistent,  
5 what did you mean?

6 A. I mean that clearly months were missing in  
7 Backup Exec 2 for certain post offices for certain  
8 months or certain years, so -- and I knew we had more  
9 than one, and it makes sense to not put all your backups  
10 on one server because if you lose that server then you  
11 lose everything; right? So if we were going --  
12 balancing them month to month then that explains why I  
13 see one and then one or two months are missing then I  
14 see another one.

15 Q. And so is that -- does that describe the  
16 consistent pattern -- let me rephrase.

17 Is that the consistent pattern you were  
18 describing that there would be -- you know, just for an  
19 example, March would be on Backup Exec 2 and then April  
20 and May would be missing and then June would be on  
21 Backup Exec 2 and then July and August would be missing,  
22 and then you would see September on Backup Exec 2?

23 A. Yeah, something like that.

24 Q. And am I right that if -- say that I wanted  
25 e-mail from March of 2007, am I right that the first

1 thing you would do is you would look for the March of  
2 2007 -- look for the backup tape containing that user's  
3 account for March of 2007?

4 A. Yeah. I'd first have to know which post office  
5 they are on and then look for the backup tape for the  
6 e-mail server that that person was located on.

7 Q. And am I right that the way you -- that you can  
8 figure out what post office a user is on if the backup  
9 tape was made with Backup Exec 2?

10 A. No. I can only see -- I can retrieve the  
11 WP domain file from that month from that year, and then  
12 once I read that file then I would know what post office  
13 the user was on, then I could go back to Backup Exec 2  
14 and see if that post office was backed up for that month  
15 for that year on that server.

16 Q. And that process is available for Backup  
17 Exec 2 -- excuse me, for backups made using the Backup  
18 Exec 2 server but not for the other two servers?

19 A. Correct, because I don't have the catalogs for  
20 the other two servers. I don't have the servers.

21 Q. And am I right that if you're using that  
22 process involving the WP domains for backups made from  
23 Backup Exec 2 server, you would only have to look at the  
24 one tape containing the WP domain file and then the one,  
25 two, at most three tapes that would contain the actual



1 post office; is that correct?

2 A. If -- and we're saying that the backup that we  
3 want is the one that Backup Exec 2 did?

4 Q. Right.

5 A. Yes.

6 Q. And so in this example we were looking for  
7 March 2007 e-mail, if you look at -- if you try to find  
8 March 2007 on Backup Exec 2 and see that it's not there,  
9 could you then go to the next month and see if that  
10 user's account was backed up using Backup Exec 2 in  
11 April?

12 A. Yes, you can try that.

13 Q. And am I right that given this consistent  
14 pattern that you describe you would be likely to find a  
15 backup made using Backup Exec 2 within a few months  
16 after March 2007?

17 A. Yes, that's possible, but I would still get the  
18 WP domains for all those months, too, because you still  
19 don't know if they moved in that time frame, so you'd  
20 want all of those tapes for all the WP domain files just  
21 so you could make a history of where they were on what  
22 post office.

23 Q. So for each month you would have to look at one  
24 tape containing a WP domain file; is that correct?

25 A. Yes.

1 Q. So and it sounds like about every three months  
2 or so there is likely to be a Backup Exec 2 backup?

3 A. That's what it looks like.

4 Q. So and am I right that you get to April or May  
5 and you find a Backup Exec 2 backup, would that Backup  
6 Exec 2 backup from April or May contain e-mail from  
7 March 2007?

8 A. As long as the user did not delete it.

9 Q. Right. But as long as the user didn't delete  
10 it, the later months would contain e-mail from the  
11 earlier months; correct?

12 A. As long as they didn't delete it, yes.

13 Q. And so if you used that process am I right that  
14 you could avoid having to look at each and every tape in  
15 order to find, at least in this instance, one user's  
16 e-mail from one particular month?

17 A. Well, as long as the user didn't delete it,  
18 then we could potentially use -- yeah, because there  
19 should be one year's worth of mail in the post office at  
20 any one -- at any given time. So as long as they didn't  
21 delete it then we should be able to do that. If they  
22 did, then that's when you would want to go month to  
23 month.

24 Q. Okay. And so in that example I just described  
25 where we go a few months forward in order to find the

1 tape that was made using -- made from the Backup Exec 2  
2 server, am I right that we're talking about at most  
3 three tapes containing WP domain servers and then one to  
4 three tapes that actually contained the e-mail data?

5 A. Correct. It's the W -- WP domain files are  
6 going to be on each tape and then for each month, and  
7 then yes, the post office could potentially have up to  
8 three tapes per. And this is for one person, we're just  
9 talking about one user for one month for one year.

10 Q. Gotcha.

11 A. I just want to clarify one thing.

12 Q. Sure.

13 A. So in the instance, the example that you're  
14 giving us you're saying you don't -- we don't  
15 necessarily have to be thorough.

16 Q. What do you mean by that?

17 A. I mean if we're basing on the fact that the  
18 user didn't delete any e-mail, so as long as we don't  
19 have to be thorough about it, checking every month that  
20 we have, then the scenario would work, as long as we  
21 don't have to be thorough.

22 Q. So is another way of putting that that if  
23 you're not checking every single month there is a  
24 greater possibility that one month's backup might be  
25 missing a few e-mails that were deleted by the user --

1 A. Correct.

2 Q. -- in that month?

3 A. And that could potentially be what you're  
4 looking for. So I just want to make sure that we  
5 clarify that.

6 Q. But am I right that that's a speculative  
7 problem, we don't know what --

8 A. We don't know whether they deleted or not, but  
9 I have the ability to be thorough or not thorough if  
10 you're asking me for one tape versus 12.

11 Q. Gotcha.

12 A. Or one month versus 12 months.

13 Q. But am I right that this process that I'm  
14 describing that's a little bit less thorough would  
15 reduce the burden on the department in getting e-mail  
16 from a particular user?

17 A. Yes.

18 MR. CHARNEY: I'd like to ask the court  
19 reporter to mark for identification a document produced  
20 by the Los Angeles Police Department in this matter  
21 Bates numbered LAPD RFP-2 00097 to 00098.

22 (Exhibit 29 marked)

23 BY MR. CHARNEY:

24 Q. Ms. McClain.

25 A. Yes.

1 Q. Please take a look at this document and let me  
2 know when you've had a chance to familiarize yourself  
3 with it.

4 A. Okay.

5 Q. Have you seen this document before?

6 A. Yes.

7 Q. What is this document?

8 A. This is a summary from our PTS regarding a  
9 request from a captain for some old e-mail.

10 Q. And when you say "old e-mail," what time period  
11 are you referring to?

12 A. He's asking from July of 2008 to March of 2010.

13 Q. And he made that request in May of 2011?

14 A. He did.

15 Q. Did you participate in retrieving e-mail in  
16 response to this request?

17 A. I did.

18 Q. Were you successful?

19 A. I was successful in getting some e-mail, yes.

20 Q. And what e-mail were you successful in on  
21 obtaining?

22 A. I don't know exactly because I don't have the  
23 results with me.

24 MR. CHARNEY: I'm going to ask the court  
25 reporter to mark for identification a document produced

1 by the LAPD in this matter Bates numbered -- the  
2 beginning Bates number is LAPD RFP-2 00099 and ending  
3 000125.

4 (Exhibit 30 marked)

5 BY MR. CHARNEY:

6 Q. Ms. McClain, please take a look at the document  
7 and let me know when you've had a chance to familiarize  
8 yourself with it.

9 A. Okay.

10 Q. Have you seen this document before?

11 A. Yes.

12 Q. What is this document?

13 A. It's a restore log.

14 Q. Does this restore log relate to the documents  
15 that are marked as Exhibit 29?

16 A. I'm sorry. Are you -- are you asking me if the  
17 Exhibit 30 is in regards to Exhibit 29?

18 Q. Yes, I am.

19 A. No, I don't think so.

20 Q. And I know it's a somewhat long document.

21 A. There is multiple restores on here.

22 Q. So maybe you could help me --

23 A. Okay.

24 Q. -- in identifying which pages, if any, relate  
25 to the restoral that's indicated on document -- on

1 Q. Well, putting aside what documents were  
2 requested --

3 A. Okay.

4 Q. -- but just am I right --

5 A. This is just 20 -- this is the most recent  
6 restores from Backup Exec 2. So there isn't anything  
7 more recent than the ones that I have here. These are  
8 all for 2011. However, I have done restores prior to  
9 2011, in 2010 or 2009, and 2008. I may have done them  
10 all the way back to 2005.

11 Q. But after 2010 you did other restorals of  
12 e-mail from 2004 to 2008 in addition to the --

13 A. Yes.

14 Q. -- restorals indicated on Exhibit 30?

15 A. Yes. These are just 2011 forward to the  
16 present.

17 Q. So then am I right that Exhibit 25 indicates  
18 one restoral that was successful?

19 A. Exhibit 25 just says that I gave results from  
20 2006 to the present to Detective Cryer. So the question  
21 is the results are from 2006 to the present, since we  
22 only keep a year's worth of mail, I had to have done  
23 some sort of restore.

24 Q. So Exhibit 25 indicates that after 2010 you  
25 were able to restore e-mail from 2004 to 2008?

1 A. Yes, that's what it's saying.

2 Q. And does Exhibit 29 indicate a --

3 MR. JOHANSEN: Objection. I think that  
4 misstates the evidence. Exhibit 25 is results of 2006  
5 to the present.

6 THE WITNESS: Oh, yes. Sorry. That's not  
7 2004. Sorry.

8 BY MR. CHARNEY:

9 Q. And 2006 is within the period of 2004 to 2008?

10 A. Yes.

11 Q. So does Exhibit 29 indicate another separate  
12 instance in which after 2010 you were able to retrieve  
13 e-mail backups from the period between 2004 and 2008?

14 A. Not necessarily on Exhibit 29, for the same  
15 reason that we were discussing earlier. It's possible  
16 that I could have looked at his 2009 data and seen some  
17 of his 2008 data there, and then contacted him with what  
18 I found and asked him if that was good enough, or if he  
19 needed me to search further. So this doesn't  
20 necessarily indicate that I went to tape, because in  
21 2010 we had some mail in -- in Google. We don't have  
22 that ability to get to that anymore, but we did have  
23 some backups from 2009 in there. So I can't for sure  
24 say if I went to tape or not for Exhibit 29. But for  
25 Exhibit 25 I would have had to.



1 Q. And so it's possible with respect to Exhibit 29  
2 that this indicates a post-2010 retrieval of e-mail from  
3 2008 but you're not sure?

4 A. It's -- he's asking from July 15, 2008, to  
5 March 28th, 2010, so it's possible that some of the mail  
6 in the 2009, when we had a little bit of Google data,  
7 it's possible that there was some 2008 in there, or I  
8 would have had to go to some sort of tape, but I can't  
9 tell for sure, but there is a possibility I may have not  
10 gone to tape there.

11 Q. But there is also a possibility you might have  
12 also gone to tape?

13 A. That's correct.

14 Q. Do you know the purpose that Jeff Jantz made  
15 the request?

16 A. Jeff Jantz didn't make the request. He just  
17 forwarded the request from Captain Trotter.

18 Q. Oh, thank you for that.

19 So do you know the purpose that Captain Trotter  
20 was making the request?

21 A. No, I have no idea why he needed that.

22 Q. Do you remember any conversations about this  
23 request in terms of whether or not what you provided was  
24 sufficient?

25 A. I don't remember.

1 Q. If you retrieved e-mail from Google in 2009  
2 that you were concerned might not be complete, would you  
3 have told somebody about your concerns that it might not  
4 be complete?

5 A. What do you mean? The person who is asking for  
6 the mail? I would have told them.

7 Q. And that would be Captain Trotter?

8 A. Yes.

9 Q. Would you have told your supervisor, Leshon  
10 Frierson?

11 A. He would have been aware, yes.

12 Q. And would you have -- would you or Mr. Frierson  
13 have entered a note in the project tracking system about  
14 the fact that the e-mail retrieved from Google might not  
15 have been a complete record of all the e-mail requested  
16 by Captain Trotter?

17 A. No. I wouldn't have wrote that in the system.  
18 I would have just asked Captain Trotter yes or no, and  
19 then he would have told me, then I would have continued  
20 on.

21 Q. Would you have done that via e-mail?

22 A. It's possible or I may have just called him. I  
23 mean I usually don't e-mail until I'm done and I just  
24 e-mail the results and tell them where to look for the  
25 results. I don't usually e-mail until it's complete.

1 So I may have just given him a call. I know I've called  
2 Legal Affairs many a time to clarify 15.2s.

3 Q. Is there anything you could do to find out  
4 whether or not you accessed backup tapes in order to  
5 provide the e-mail requested in Exhibit 29?

6 A. No, because the other servers' catalogs aren't  
7 available for me to look at their restore logs.

8 Q. And am I right that -- let me back up.

9 Is it correct that Exhibit 30 indicates a  
10 successful restoral of data contained on e-mail backup  
11 tapes from 2004 to 2008 after 2010?

12 A. These are after -- from January 1st, 2011, to  
13 the present, and they are just Backup Exec 2. They are  
14 multiple restores. This isn't just -- this exhibit is  
15 not just one restore. It's multiple restores done on  
16 multiple days, not necessarily a whole post office.  
17 Sometimes just a few files.

18 Q. So Exhibit 30 indicates multiple restorals.  
19 How many?

20 A. 19.

21 Q. And does that mean -- so let's go -- do you  
22 know how many tapes had to be pulled and restored in  
23 order to do these 19 restorals?

24 A. It should tell us on the media -- device and  
25 media information it will tell you the name of the tape.

1 trying to restore somewhere, sometimes it errors out, so  
2 what I've learned is to make your jobs smaller and do  
3 them incrementally so that way if one fails at least you  
4 don't have to start the whole job over again. So that's  
5 what I did here.

6 Q. And so am I right that these jobs together  
7 indicate the restoral of an entire post office?

8 A. That's -- it's 2004, so yeah, it might be the  
9 size of it because the -- on Page 118 the restore set is  
10 299,863 files. And that's about right for an offile.  
11 And then I have an additional 31 files. Is that the  
12 same month? Yeah it is. November.

13 Q. Is it --

14 A. Yeah, so there is three -- I'm sorry. I keep  
15 going through these job logs. The next one on Page 119  
16 also refers to the other two.

17 Q. So how much -- so just to be clear --

18 A. The next day.

19 Q. -- the pages on Bates numbered --

20 A. 112.

21 Q. -- 000112 to 000119 indicate the restoral of an  
22 entire post office box?

23 A. For November of 2004, post office 10.

24 Q. Not a post office box, a post office.

25 A. Right.

1 Q. And how much machine time was required to do  
2 so?

3 A. It looks like the first one was -- the first  
4 job went one hour, 43 minutes, 55 seconds. The second  
5 job went four hours, 36 minutes, eight seconds, and the  
6 third job went two hours, 19 minutes and 34 seconds.

7 Q. Was that concurrently or one after another?

8 A. One after the other because this -- well,  
9 actually this library -- well, I don't know. This is a  
10 different library now. We were using HP 1. There is  
11 two drives in it, but it's possible that I could have  
12 been backing up, too. Well, maybe not, because it's  
13 2011. I wouldn't be backing up. I'm not sure why I  
14 didn't -- they are not concurrent though.

15 Q. Could that have been done?

16 A. Concurrently? They're supposed -- there is two  
17 tape drives in there, so potentially you could put two  
18 in there, but it didn't do that, even though I set these  
19 jobs up, because this one ran at 8:00 p.m. and I know I  
20 wasn't there. So I set up the job to run -- run this  
21 one, run this one, run this one. So if it had the tape  
22 drive available it should have been able to do it. I  
23 don't know why -- I can't answer why.

24 Q. But because you were doing it overnight it  
25 didn't really matter if it ran concurrently or not

1 because you weren't there anyway?

2 A. Right. I came back the next day, and the next  
3 day, on the 15th is Page No. 119. So at 9:40 in the  
4 morning I had to have looked at these jobs and saw what  
5 was -- what errored out or what was missing and then  
6 went back and set it up again to run the last 31 files  
7 so that I could have a set, and that took two hours and  
8 19 minutes and 34 seconds.

9 So all of those restore set summaries, if you  
10 add them all together that was one post office for 2004.  
11 PO 10 is -- gets much larger as the years go by, but  
12 this is a really early, early one.

13 Q. So there might be more machine time in order to  
14 restore a larger post office?

15 A. Correct. Correct.

16 Q. But not necessarily more human time?

17 A. Not necessarily, other than just looking for  
18 the tapes that might take me a little longer now than it  
19 did back then. I was way more organized.

20 Q. And how much human time did it take you to  
21 perform this restoral of a post office?

22 A. So I had to set up the jobs, look for the  
23 tapes, and then go through the ones that errored out, so  
24 I'm going to give myself a little more time for that  
25 since I started it at, like, 9:40 in the morning.

1 Maybe, let's see, maybe somewhere between an hour, an  
2 hour and a half to do one restore.

3 Q. Are there any other -- within this collection  
4 of documents are there any other documents that show the  
5 restoration of a post office other than what we've just  
6 been describing?

7 A. Yes.

8 Q. Or discussing?

9 A. Yes. So that same post office 10 that we were  
10 describing for 2004, in March of 2011, this is -- I'm  
11 referring to Page 120 --

12 Q. Okay.

13 A. -- this one was done on March 17th, 2011. So I  
14 tried to restore that same post office 10 but now it's  
15 2007 versus 2004 data, and the first set I did the same  
16 thing, I started out with the 6,961, which is probably  
17 the ofuser and ofmsgs and then tried to get the  
18 attachments, and so this is where on Page 121 --

19 MR. JOHANSEN: Make sure you go slow enough for  
20 the court reporter.

21 THE WITNESS: I'm sorry. Am I speeding?

22 THE REPORTER: It's okay.

23 THE WITNESS: You got me? Okay.

24 Page 121 the process took 31 hours, 19 minutes,  
25 and 43 seconds to restore just the attachments from 2007

1 for post office 10.

2 BY MR. CHARNEY:

3 Q. And that's machine time?

4 A. That's machine time, in addition to the three  
5 hours, 11 minutes, and 36 seconds it took for the other  
6 portion.

7 Q. And that's also machine time?

8 A. It is.

9 Q. And was this restoral successful?

10 A. It was.

11 Q. How much human time did it take you?

12 A. Probably the same. I would say a standard  
13 anywhere from 15 minutes to 30 minutes to find the  
14 tapes, put them in, get the restore job started. And  
15 this is assuming already that I know what post office  
16 I'm looking for and what month and what year, so I'm not  
17 going to a WP domain file for that.

18 Q. Are there any other documents in this  
19 Exhibit 30 that show the restoral of a complete post  
20 office?

21 A. Yes. So this is Page 122 and 123, and this is  
22 a restoral of a full post office, post office 6, and I  
23 think this is the one that I was referring to when we  
24 first started the depositions, when I had mentioned that  
25 it took about eight hours for this post office to



1 restore. So this was in 2005. Or this was the name --  
2 it was in 2011 that we did the restore but the post  
3 office was from 2005.

4 Q. And it was successful, the restoral?

5 A. And it was successful. Yes. It took eight  
6 hours' machine time to do it.

7 Q. And how much human time?

8 A. Again, somewhere between 15 and 30 minutes to  
9 set it up, look for the tapes and start the restore.  
10 And again, I'm not adding into the idea that I have to  
11 find out which post office the person is. This is  
12 already knowing what post office it is.

13 Q. Sure. Are there any other documents in this  
14 Exhibit 30 that show the restoral of a complete post  
15 office?

16 A. No. The last one is not a complete post  
17 office. It's just the user files. So it looks like  
18 there are two in here and they go anywhere from eight  
19 hours to 35 hours to restore.

20 Q. There is two or three?

21 A. Post office 10 was a full post office -- oh,  
22 yeah, two post office 10s, one from 2004 and one from  
23 2007, and then one from 2005, it was post office 6. So  
24 two post office 10s and one post office 6, so that's  
25 three.

1 A. Right, from back then, yes.

2 Q. Anything else?

3 A. Then I'd just need to know the password of the  
4 individual.

5 Q. Or you could use the ConsoleOne bypass?

6 A. Well, that's -- that would also have to be set  
7 up on that server. So that's an additional step. And  
8 that's -- like I said, we've had some success but not  
9 100 percent successful, so that's not always useful.

10 Q. Is there anything else?

11 A. Then I guess the only other thing is I need  
12 some kind of way to -- well, I can search -- if the  
13 client's on there from that time frame and it can talk  
14 to the post office, then I just need a way to print it,  
15 export the data.

16 Q. And of course you'd also need to find the  
17 tapes; right?

18 A. Oh, yeah. I'm sorry. That's the very  
19 beginning but that's the same process -- the cabinet is  
20 still in the same place that it was then, so there is  
21 no -- there is nothing new that I have to do.

22 Q. Okay. So in terms of building a server that  
23 can serve as a target drive --

24 A. Right.

25 Q. -- to hold the data, am I right that you were

1 able to get that server from Networks?

2 A. Networks will be able to give me a server.  
3 It's just a matter of I don't know how long -- they  
4 would know how long it would take for them to be able to  
5 talk to each other, the NetWare -- I'm sorry, not  
6 NetWare -- the Backup Exec server and the target server.

7 Q. And when you say how long it would take for  
8 them to talk to each other, do you mean how long it  
9 would take for you to set it up?

10 A. Yeah, set it up and test it.

11 Q. And am I right that the only way to know that  
12 is to actually attempt to do so?

13 A. Well, we could ask Networks about how long it  
14 would take them to do that.

15 Q. Did you do that -- did you ask Networks that in  
16 preparing for your deposition today?

17 A. I talked to Anthony about whether or not they  
18 would have the equipment and he said that he would be  
19 willing to give me some of his people to help me, but we  
20 didn't discuss an exact time, but I mean they have the  
21 experience, so...

22 Q. Do you have a sense of how long it might take?

23 A. Well, he mentioned that it may take, like,  
24 three days to set up a server.

25 Q. And am I right that he doesn't know that for

1           A. Yeah, but again, like I said, then you're  
2 talking about messing up work that I'm trying to do  
3 today, so I wouldn't want to -- I wouldn't want to  
4 attempt it even though you're asking me that's what I  
5 have to do.

6           Q. So your preference would be to just get another  
7 license?

8           A. It would.

9           Q. Do you have any tape drives that work  
10 currently?

11          A. Yes.

12          Q. So I know you mentioned that the ADIC 1 doesn't  
13 work?

14          A. Correct.

15          Q. But there are others that do work?

16          A. Yes. There is an HP -- I think it's the same  
17 library, Page 121, this robotic library name HP 1 and  
18 the drive is HP 3, that one, that one works.

19          Q. You have a -- let me back up.

20                   Am I right that the only way for you to know  
21 how long it will take to retrieve tapes that contain  
22 certain users' e-mail from certain months in 2004 to  
23 2008 would be to actually try to retrieve those tapes?

24          A. The tapes don't tell me who is where.

25          Q. So just backing up, we talked about the process

1 of using WP domains to find where a user was in the post  
2 office and then use either the server log to find out  
3 what tape that post office was backed up to or using the  
4 cataloguing process to catalog the tapes. And am I  
5 right that you are not exactly sure that for any given  
6 user's e-mail for a given month exactly how long it will  
7 take to find the tapes for that user's e-mail?

8 A. Well, it depends on the month and the year that  
9 you're talking about. If you're talking about a post  
10 office that was backed up on Backup Exec 2, it wouldn't  
11 take very long to go see if I can find the tape in the  
12 cabinet. But if it's for one of the other servers,  
13 then, yeah, you'd have to -- the cataloguing process  
14 takes about four hours per tape. And whether the tape  
15 was labeled or not would help. So, you know, it might  
16 not take very long or it might take a really long time.

17 Q. And am I right that the only way that you could  
18 know whether it would not take very long or whether it  
19 might take a longer time is to actually try to pull a  
20 particular tape for a particular user's e-mail, or a set  
21 of tapes for a particular user's e-mail?

22 A. Yeah, I can just approximate, yeah, like I  
23 said, if it's post office -- I mean if it's Backup Exec  
24 2, it wouldn't take as long, but yeah, I would need to  
25 know what the post office was and I need to know whether

1 the backup is on Backup Exec 2 or not.

2 Q. And am I right that the only way that you could  
3 know that for certain would be to actually attempt to  
4 pull the relevant tapes?

5 A. Yeah, I'd need to know what month and what year  
6 and what post office we're looking for.

7 Q. And so the only way you could know for any  
8 given month and post office is to actually pull the  
9 tapes that relate to that user and month in that post  
10 office?

11 A. You're saying if we have them?

12 Q. Sure.

13 A. Yeah.

14 Q. And am I right that the only way for you to  
15 actually know if you have them is to check as part of a  
16 process of attempting to restore that particular user's  
17 e-mail for a particular month?

18 A. Yeah. The only thing I can think of right now  
19 while we're discussing this is that Backup Exec does  
20 have a catalog of backups and I would at least know what  
21 those are. So that's a list that I, you know, could  
22 obtain.

23 Q. So it could be fairly simple if you're using  
24 tapes that were created from the Backup Exec 2 server?

25 A. As far as time on the restoral of the tape

1 process, yes.

2 Q. And it could take longer if we're not talking  
3 about tapes on Backup Exec 2?

4 A. Right. So we mentioned how many tapes we had,  
5 you know, 200 tapes maybe, maybe more, maybe, let's say,  
6 300 tapes, so 100 of them were in Backup Exec 2, but the  
7 other 200 are for the other two. So potentially  
8 800 hours to catalog every single tape and then you  
9 would have everything.

10 Q. And am I right that --

11 A. So somewhere between 20 minutes and 800 hours,  
12 there is your estimate.

13 Q. Well, that's assuming that we're cataloguing  
14 all of the tapes; right?

15 A. Correct.

16 Q. And assuming that we're not cataloguing all of  
17 the tapes, we're just focusing on the tapes that are  
18 in -- that were made with Backup Exec 2 where the  
19 process is simpler, am I right that the only way to know  
20 exactly how many tapes you'll need to pull and whether  
21 or not those tapes were made using Backup Exec 2 and all  
22 the other information you'll need to know to determine  
23 how long it will take to restore those tapes, the only  
24 way you can know how long it will take to restore those  
25 tapes is to actually attempt to do so?

1           A. Well, I know it will be less than 800 hours;  
2 right? Because that's how many tapes it could  
3 potentially be, so it's less than 800 hours, I know that  
4 much.

5           Q. And in terms of the specific --

6           A. And that's all machine time.

7           Q. And in terms of the specific amount of time it  
8 would take you to locate the relevant tapes for a  
9 particular user's e-mail on a particular month, am I  
10 right that the only way you'll know how long it will  
11 take you to obtain those tapes is to actually go looking  
12 for them as part of the restoral process?

13          A. Well, I can probably estimate based on how many  
14 people, how many post offices for how many months;  
15 right? And then, yeah, it would depend on whether or  
16 not those tapes are labeled or not.

17          Q. And you're not sure whether they are labeled or  
18 not?

19          A. Not all of them are labeled, I know that not  
20 all of them are labeled. Some of them are.

21          Q. So given these areas of uncertainty, is it true  
22 that the only way you'll know how many tapes you'll have  
23 to pull and how long it will take you to pull them is to  
24 actually attempt to do so?

25          A. Yeah.



1 MR. CHARNEY: Do you want to go off the record?

2 MR. JOHANSEN: Sure.

3 \* \* \*

4 (LUNCHEON RECESS)

5 \* \* \*

6 BY MR. CHARNEY:

7 Q. Ms. McClain, do you understand that you're  
8 still under oath?

9 A. Yes.

10 Q. As you sit here today can you accurately  
11 calculate the number of hours that would be -- number of  
12 human hours that would be necessary for the LAPD to  
13 expend to retrieve e-mail from 2001 to 2010 for seven  
14 LAPD personnel?

15 A. I would just go with the estimate that my  
16 supervisor already stated.

17 Q. Do you know how that estimate was calculated?

18 A. He said that he based it on the original  
19 request.

20 Q. Do you know the method that he used to  
21 calculate that hourly sum?

22 A. No.

23 Q. So as you sit here today can you calculate  
24 independently, as the person most qualified on e-mail  
25 backups and the undue burden claim with respect to them,

1 Q. And does she have responsibilities -- let me  
2 back up.

3 Does she have the expertise that's required in  
4 order to retrieve e-mail backups?

5 A. No. She just got to our unit last summer, so  
6 I'm the most qualified after Leshon.

7 Q. So other than you, is there anybody else in the  
8 LAPD that has the expertise to retrieve e-mail backups?

9 A. Leshon Frierson.

10 Q. And as far as you're aware he is still with the  
11 department?

12 A. He is currently still with the department, yes.

13 Q. And as far as you're aware is there any date on  
14 which -- let me back up.

15 Do you know whether or not he is planning to  
16 leave the department any time soon for any reason?

17 A. I don't know that.

18 Q. So as far as you're aware he's going to  
19 continue indefinitely with the department?

20 A. Yes.

21 Q. In preparing to testify as the LAPD's person  
22 most qualified did you talk to Mr. Frierson about the  
23 method by which he calculated the 960 hour claimed  
24 amount of time that it would take to search e-mail  
25 backups?

1           A. No. I just had him clarify what he considered  
2 machine time versus his human time, and he said to take  
3 80 hours off of the estimate that he had done because  
4 that was what he thought that it would take in machine  
5 time. So in his mind all the other hours would be what  
6 it would take for him to recreate the system and do the  
7 searches.

8           Q. Why didn't you ask Mr. Frierson about the  
9 method by which he calculated the 960-hour figure?

10          A. I take it at face value that he has the  
11 experience, so I just wanted to clarify machine time  
12 versus human time because you had asked me those  
13 questions before.

14           MR. CHARNEY: I'm going to ask the court  
15 reporter to mark for identification a document produced  
16 by the LAPD in this matter Bates numbered  
17 LAPD RFP-2 00072.

18                   (Exhibit 31 marked)

19 BY MR. CHARNEY:

20          Q. Please take a look at the document and let me  
21 know when you've had a chance to familiarize yourself  
22 with it.

23          A. Yes. I see it. I remember this.

24          Q. Is this a text message exchange between you and  
25 Leshon Frierson?

1 A. It is.

2 Q. And "me" refers to you?

3 A. Yes, it does.

4 Q. Is this an accurate representation of the text  
5 message exchange that you had with Mr. Frierson?

6 A. Yes.

7 Q. And so just to clarify, when you said that you  
8 asked Mr. Frierson about machine time versus human time  
9 in his calculation and he gave you an answer about  
10 knocking off 80 hours, is this the communication in  
11 which that -- you asked that question and he gave you  
12 the response?

13 A. Yes.

14 Q. Did you ask him the basis for his conclusion  
15 that 80 hours should be knocked off the estimate?

16 A. No.

17 Q. And by basis I mean method.

18 A. No.

19 Q. Why didn't you?

20 A. Because I believe what he says. He's been  
21 doing this for a very long time.

22 Q. And just to be clear, you don't know the method  
23 by which he calculated this 80 hours of machine time;  
24 right?

25 A. Oh. No. I know the 80 hours of machine time

1 is machine time that he's talking about retrieving --  
2 the restore process, that's -- that's those 80 hours  
3 that he's talking about, because I asked him would  
4 that -- did the 960 hours include the time that it would  
5 take to restore the tape, and so that's what we were  
6 talking about, restoring the tape. And so he said yes,  
7 it did. And so I asked him well, what's the estimation  
8 without counting the tape restoration process and he  
9 said to knock off 80 hours.

10 Q. Sorry if that wasn't clear.

11 Do you know the method by which he arrived at  
12 80 hours as opposed to some other number of hours?

13 A. No.

14 Q. And so am I right that sitting here today you  
15 are not able to provide your own independent calculation  
16 of the amount of hours it would take for the department  
17 to retrieve e-mail from 2001 to 2010 for seven  
18 personnel?

19 A. I know that if my supervisor said 960 hours and  
20 80 hours is machine time, which makes it 880 hours, and  
21 that's how long it would take him, it's going to take me  
22 longer, that's what I know.

23 Q. And that's based simply on your belief that  
24 Mr. Frierson is more knowledgeable about this process  
25 than you are?

1           A. He's more knowledgeable about the recreating of  
2 the actual GroupWise server than I am.

3           Q. Do you know if the 960-hour calculation -- let  
4 me rephrase.

5                   Did you ever ask Mr. Frierson whether the  
6 960-hour calculation includes time to catalog tapes that  
7 were created from the Backup Exec 1 or Backup Exec 3  
8 servers?

9           A. I don't believe that that number has anything  
10 to do with that.

11           Q. Did you ever ask him whether the 960 hours  
12 includes the time to catalog tapes made with  
13 Backup Exec 1 or Backup Exec 3?

14           A. Only based on my text, I said about tape  
15 restoration. So my understanding of our texts back and  
16 forth is that he estimated that it would take him  
17 80 hours for the tape restoral process, and that's far  
18 less than it would take to do the cataloguing, so he's  
19 not taking that into consideration.

20           Q. Did you ask him explicitly?

21           A. No, I didn't ask him explicitly. I just asked  
22 him about the tape restoration process. So in my mind  
23 that encompasses everything that has to do with  
24 restoring a tape.

25           Q. And the amount of time that it would take to

1 catalog all the tapes, how long would that take in your  
2 judgment?

3 A. I know that it takes about four hours to  
4 catalog a tape and we have anywhere from 200 to 300  
5 tapes in there and a third of them are probably from  
6 Backup Exec 2. So at max it's 200 tapes times four  
7 hours.

8 Q. Did Mr. Frierson ever tell you that  
9 calculation?

10 A. No. I found that based on the Veritas website  
11 and how long it would take if I needed to catalog a tape  
12 that didn't -- that wasn't part of the server that had  
13 originally backed it up.

14 Q. Did you ever tell Mr. Frierson your calculation  
15 of how long it would take to catalog all of the tapes  
16 prior to January 25th, 2017?

17 A. No.

18 Q. So how can you be sure that Mr. Frierson was  
19 aware of your calculation that it would take 800 hours  
20 to catalog all of the tapes if you never told him?

21 A. I didn't -- can you say it again? Repeat the  
22 question?

23 Q. So let me back up. Am I right that -- so am I  
24 right that your understanding of this text message  
25 exchange is that he said that there would be 80 hours of

1 machine time involved in this 960 hours?

2 A. Right. That's his calculation for the tape  
3 restoration process of which he's not an expert in.  
4 That's -- I'm the one that was in the backup unit.

5 Q. And you think that this 960-hour calculation  
6 doesn't take into account the amount of time it would  
7 take to catalog the tapes because his 80 hours of  
8 machine time is less than the 800 hours of machine time  
9 that you believe it would take to catalog the tapes; is  
10 that right?

11 A. Yes.

12 Q. But am I right that prior to this text message  
13 exchange you never told Mr. Frierson about your  
14 calculation that it would take 800 hours to catalog the  
15 tapes; correct?

16 A. No, I did not tell him that.

17 Q. So how do you know that he's aware of the  
18 800-hour calculation that you made?

19 A. He's not aware of that. So his -- his  
20 960 hours doesn't include those 800 hours. So it would  
21 be, like, 1,760 hours that he would have to say, if I  
22 had told him that.

23 Q. But he never told you that; right?

24 A. Well, I asked him how much time did you say it  
25 would take to restore a tape. In your calculation of



1 your 960 hours how much hours did you actually put in  
2 there for machine time? And he said 80 hours. So he's  
3 obviously not aware of all of the cataloguing that needs  
4 to go on if we were to try to get some of the tapes from  
5 Backup Exec or Backup Exec 3.

6 Q. Is it possible that Mr. Frierson would have a  
7 different calculation of how long it would take to  
8 catalog all of the tapes?

9 A. He would probably ask me how long does it take  
10 to catalog a tape, because I'm the one who does backup.  
11 He doesn't do backup.

12 Q. So if you're the one who does backup why are  
13 you relying on him to be the one to tell you how long it  
14 would take to retrieve backups?

15 A. Because the retrieval of the backup is not the  
16 only part of this process. The process that I need him  
17 to tell me how long it takes is the restoral of an  
18 e-mail system and how long does it take to try to break  
19 into these post offices and get them to set up and all  
20 the IP configuration issues, everything that happens  
21 after the restore of the raw data, and he's saying minus  
22 80 hours, so he's telling me it's going to take you  
23 880 hours, Rachel, in order to try to set this up for  
24 all of the tapes that you're -- all of the post offices  
25 that we're trying to get, that's my understanding of

1 this.

2 Q. And am I right that you never asked him the  
3 specific components of that 880- or 960-hour  
4 calculation?

5 A. No. I only asked him to clarify the machine,  
6 the machine time, because I didn't want that to be added  
7 in since we were making that distinction in the  
8 depositions before.

9 Q. And is it correct that you don't know for  
10 certain what Mr. Frierson included in this calculation?

11 A. No. He didn't tell me what part was  
12 ConsoleOne, what part was setting up the server, what  
13 part -- he didn't tell me that. He just gave me -- he  
14 just told me what the total was.

15 Q. Have you ever provided an estimate for how long  
16 it would take to restore e-mail backups?

17 A. Have I ever?

18 Q. Have you ever?

19 A. No. I mean other than our deposition we were  
20 trying to go through how long it would take to set up a  
21 server, stuff like that, we talked about that, three  
22 days to two weeks, something like that.

23 Q. That's fair. So other than this deposition and  
24 the previous sessions we've had as part of this  
25 deposition, have you ever provided an estimate for how

1 long it would take to restore e-mail backups?

2 A. No. That would be -- Leshon would normally do  
3 that.

4 Q. So putting aside your reliance on Leshon and  
5 just focusing on your knowledge of the backup system  
6 that you've testified to, and your knowledge of the  
7 restoral process, can you calculate as we sit here today  
8 an estimate for how long it would take to restore e-mail  
9 from 2001 to 2010 for seven individuals?

10 A. I would just defer to Leshon's answer because  
11 he has more experience.

12 Q. You outlined all of the steps that would be  
13 required in order to restore e-mail backups; correct?

14 A. Yes.

15 Q. And you have estimates for how long each of  
16 those steps would take?

17 A. Did we go through it -- if we went through it,  
18 then yes.

19 Q. So do I understand you correctly in saying that  
20 I should -- that -- actually, let me take that back.

21 So do you, as you sit here today, are you able  
22 to estimate how long each of those steps would take?

23 A. Well, when we were doing the examples it was  
24 one person for one month, so and you're asking me for  
25 seven people for ten years, so it's going to be a lot

1 longer than one person for one month when it comes to  
2 the restore process of the tape as well as getting all  
3 of the data together.

4 Q. So just to be clear, it would take a lot longer  
5 to restore the e-mail backups of seven people over ten  
6 years than it would take to restore one person's e-mail  
7 backup from one month?

8 A. Yes.

9 Q. So going back to the steps that you've  
10 discussed to restore e-mail backups -- actually, let me  
11 take that back.

12 MR. CHARNEY: I'm going to ask the court  
13 reporter to mark for identification errata pages from  
14 Ms. McClain's January 12th, 2017, deposition.

15 I'm also going to hand you, Ms. McClain, pages  
16 that refer -- excuse me -- pages from your deposition  
17 that are referenced in the errata page. I'm not going  
18 to mark this because it's your certified deposition  
19 transcript, but here it is for reference.

20 (Exhibit 32 marked)

21 MR. CHARNEY: And I have a copy for you, too,  
22 Kjehl.

23 Q. So in particular, Ms. McClain. Well, first,  
24 please take a look at the exhibit and let me know when  
25 you had a chance to review it.

1 Q. For 2001 to 2003 tapes you mentioned before  
2 that they were reused; is that true?

3 A. Yes. I spoke to Thomas Wu, who was in the  
4 backup unit in that time frame, and he said that they  
5 were doing local backups at the time and he had some  
6 tapes at each location versus what I'm used to, which is  
7 an automated -- I'm sorry, not automated, but a  
8 consolidated place where all my tapes are in one space.  
9 He had to spread it out throughout the whole city with  
10 all the different divisions, so we only had so many  
11 tapes at each place. So after a few months he just  
12 reused the tapes.

13 Q. But am I right that the LAPD does have some of  
14 the tapes from 2001 to 2003 in an off-site storage  
15 facility?

16 A. Yes. Just not all of the tapes from 2001 to  
17 2003.

18 Q. So the fact that they were reused doesn't mean  
19 that none of them are available; right?

20 A. That's correct.

21 Q. We talked earlier about applying IP addresses  
22 to a GroupWise server so that the GroupWise server would  
23 be able to provide retrieved e-mail on the server to a  
24 workstation running a GroupWise client; is that right?

25 A. The configuration settings, it knows what it

1 was back then, so the configuration settings would be  
2 where the IP address is.

3 Q. And am I right that you expressed some  
4 uncertainty as to whether or not you could apply those  
5 IP addresses appropriately so as to allow the two pieces  
6 of equipment to communicate so that the e-mail could be  
7 retrieved?

8 A. Yes. It was more about the network, whether it  
9 would allow me to call the server by the same name of  
10 something that it already knows exists.

11 Q. And by name do you mean IP addresses?

12 A. Both server name and IP address, yes, IP  
13 address.

14 Q. And am I right that the only way that you could  
15 find out if the network would allow you to call the  
16 server by the right name and IP address would be to  
17 actually attempt to set up that server?

18 A. Well, I -- I could probably ask Leshon because  
19 he's had to do this before, and looking at those  
20 restores that we did, there was a GWRESTOR server that I  
21 was sending the data to and that doesn't necessarily  
22 have the same name. So I can ask him how he got around  
23 that.

24 Q. So he was actually able to do the process  
25 you're describing where an IT professional in the LAPD

1 would need to sort of recreate the world that existed at  
2 the time of a backup in order to retrieve that backup?

3 A. He was able to do that for some of the post  
4 offices. I'm not sure if that's because they were named  
5 the same or not named the same, because it's different  
6 now. We've made a lot of changes since 2011. So I'd  
7 have to ask him if that -- what he did in 2011 to the  
8 mail between 2004 and 2008, can you still do the same  
9 thing now with the system the way it is today.

10 Q. And am I -- so putting Mr. Frierson aside and  
11 just focusing on your knowledge as the person most  
12 qualified as you sit here today, is there anything you  
13 could do, other than speak to Mr. Frierson, to find out  
14 if you would be able to apply the right IP addresses so  
15 as to recreate a server that can kind of recreate the  
16 world of the time that a backup was made?

17 A. The only other person I could refer to would be  
18 the Novell consultant.

19 Q. And other than asking other people, am I right  
20 that the only thing you could do yourself to find out if  
21 it's possible to recreate that world with the right IP  
22 addresses on the server would be to actually attempt to  
23 recreate that server with IP addresses?

24 A. I would -- I would actually consult the Novell  
25 consultant, because I need the software from them

1 anyway, so I would probably ask him that before I  
2 attempted it.

3 Q. So that would be the first step of the process  
4 of attempting it?

5 A. Yes.

6 Q. And we also talked about the fact that -- or  
7 the possibility that if -- in order to avoid the need to  
8 recreate the world with the right IP addresses on a  
9 server, you might be able to create a closed network.  
10 Do you know as you sit here today if it would be  
11 possible to create a closed network into which you could  
12 put a server and a client and all the stuff you'd need  
13 to do to restore 2004 to 2008 backups?

14 A. I have spoken to the Networks Section and they  
15 have a production environment, so I did ask them if  
16 that's something that they could probably maybe help me  
17 create, and they said that that would be possible as  
18 long as they had the space.

19 Q. And what do you mean by space?

20 A. Well, they would just need the equipment to do  
21 it and the time, you know, because they are busy, too.

22 Q. When you say space, equipment do you mean,  
23 like, a hard drive and a server and that kind of thing?

24 A. Yes.

25 Q. And how much time would it take them?



1           A. I don't know. It would depend on how big of a  
2 system I'm asking them to create, how many servers, what  
3 exactly are we doing.

4           Q. How big of a server would you need to create?

5           A. Well, it depends. I mean, if you're asking --  
6 you're asking me for one person's mail for one month, or  
7 are you asking me for seven people's mail for ten years?  
8 There is a big difference in space or how much equipment  
9 I'll need.

10          Q. Let's start with the first, one person's e-mail  
11 for one month.

12          A. Then we discussed before what servers I would  
13 need and I would ask them to try to help me put that in  
14 a closed environment. And that would have to be --  
15 well, that would have to be after I moved the data from  
16 the backup server, because I need to talk to it and then  
17 stop talking to it.

18          Q. So we're at the step now where we're not just  
19 moving data from a backup tape to a target drive, we're  
20 actually recreating a server that can host a post  
21 office; correct?

22          A. Right.

23          Q. So if we were doing that for one person's  
24 e-mail for one month, how long would it take the Network  
25 Section to do that?

1           A. We can base it on the estimates of bringing up  
2 a server, so we'd probably put at least two servers in  
3 that closed system, so three days per server, so a  
4 little over a week to get the two servers up, and then  
5 attempt to start the post office up after that, because  
6 they wouldn't do the GroupWise part. They would just do  
7 the equipment part and the operating system.

8           Q. And why would you need two servers as opposed  
9 to one?

10          A. Well, I would probably want one server to be my  
11 primary where I would put ConsoleOne on there and I'd  
12 try to read the WP domain files, and then the other  
13 server would be my post office. So depending on -- and  
14 then from there, you know, depending on how many post  
15 offices would that just be -- since we're just talking  
16 about one, it's just one server for one post office.

17          Q. And the primary server to read the WP domain  
18 files, that relates to an earlier step of identifying  
19 which tapes contain the correct backups for  
20 Backup Exec 2 backups?

21          A. Yes, because you're telling me one person, but  
22 I don't know -- as we stand here I don't know what post  
23 office that individual's in.

24          Q. But in terms of the step where we're creating a  
25 server that can pretend that it's in the time of the

1 backup in order to host a post office, you would only  
2 need one server for that; right?

3 A. For the post office part, yes, but as we're  
4 talking about the different steps and the potential --  
5 the potential step of trying to clear a password, I'd  
6 want it to be able to authenticate to another server  
7 with ConsoleOne on it to try to clear the password. So  
8 I was saying we'd need at least two servers in this  
9 closed environment to attempt one person.

10 Q. But just to be clear, those two servers aren't  
11 for -- let me back up.

12 Just to be clear, you would need two servers  
13 anyway; right? Because you need one for the WP domain  
14 and then one for the post office; right?

15 A. Yeah. I'd want to keep them separate.

16 Q. And that's part of the process that we've been  
17 talking about throughout this deposition?

18 A. Yes.

19 Q. Do you have any concern that you wouldn't be  
20 able to set up this closed network with the two servers  
21 and all of the other things you'd need to do that?

22 A. Well, it just depends on the operating system  
23 that we're trying.

24 Q. What do you mean by that?

25 A. I mean -- okay. So are you asking me for mail

1 from 2008 or are you asking me mail from 2004, or are  
2 you asking me to try to do the mail from one of those  
3 really old tapes from 2001? That's all going to depend  
4 on what software we're trying to use on these post  
5 offices.

6 Q. So do I understand you correctly that depending  
7 on the time period the backup was made you would need to  
8 have the right software from that period loaded onto the  
9 restoral system?

10 A. Yes. Or it's possible that -- it's possible  
11 that a 2008 could read a 2007, but if we start with 2007  
12 I may have to make another one for 2008.

13 Q. So do you have any concerns that you wouldn't  
14 be able to obtain that software and set it up for any of  
15 those time periods?

16 A. No.

17 Q. And do you know exactly how long it would take  
18 you to set up that software and server within the closed  
19 system for 2004 to 2008 backups?

20 A. Are you asking me for all of that or just we're  
21 still talking about one person?

22 Q. Good point. Let's just say one person, one  
23 month.

24 A. One person, one month. Well, I'll just go on  
25 the estimates of what I know when I try to create a

1 server. So it takes about three days. So two servers,  
2 six days, plus just getting with Networks to make sure  
3 they have that equipment that we can rack, physically  
4 put somewhere, and, you know, I'm thinking that would  
5 probably -- if we have it available right there in  
6 storage, maybe just a day to do that, to rack it all and  
7 put the electricity and get it ready to run, and then  
8 three days for each server to get it up and running.

9 Q. Do you have any reason to believe that there  
10 would be -- let me take that back.

11 Do you have any reason to believe that the LAPD  
12 would be unable to rack and put the electricity and get  
13 it ready to run?

14 A. I'm basing this on what the supervisor in  
15 Networks told me, that they do have some equipment that  
16 I can use and that they would allow one of the Network  
17 support to help me. So I'm basing it on the fact that  
18 he's saying that he has some equipment. If we get that  
19 equipment and we put it in the rack and try to turn it  
20 on and it doesn't turn on, then that might be an issue,  
21 but as far as we're sitting here today my understanding  
22 is that he's going to allow me to use some of his  
23 equipment to attempt.

24 Q. As you sit here today as the LAPD's person most  
25 qualified do you have any reason to believe that it

1 wouldn't turn on?

2 A. No. I haven't seen the equipment yet, so I  
3 don't. I'm just using that as an example of, you know,  
4 an "oh crap" moment, you tried to plug it in and it  
5 doesn't work. That's all. I'm just thinking of the  
6 worst, you know, case.

7 Q. Am I right that the only way to know whether  
8 you'll be looking at the best case or the worst case  
9 scenario is to actually attempt to do the restoral  
10 process?

11 A. We just can estimate. So based on my  
12 estimation of if things are fine then it should take  
13 about three days to start one server.

14 Q. And that estimate involves a certain amount of  
15 uncertainty; correct?

16 A. Yeah, there is some uncertainty there but  
17 not -- not every -- not every potential problem. Just  
18 based on my experience of putting in post offices  
19 currently in the current system.

20 Q. You've testified in a variety of contexts --  
21 let me back up.

22 In the context of the restoral process you've  
23 testified on a variety of areas of that restoral process  
24 that there is a best case scenario and a worst case  
25 scenario; right?

1           A. Well, I think we were talking about the  
2 cataloguing at the time, the best case is everything's  
3 on Backup Exec, worst case we have to catalog  
4 everything.

5           Q. And there are other best case, worst case  
6 scenarios; right?

7           A. Right. I think we talked about that with the  
8 server, best case would be three days, not giving me  
9 really any much drama.

10          Q. And there are also best case scenarios with,  
11 you know, best case the equipment works and worst case  
12 it doesn't work?

13          A. Right.

14          Q. And between those best case scenarios and the  
15 worst case scenarios there can be a pretty big variation  
16 of time and effort that would be required; right?

17          A. Yes.

18          Q. And am I right that the only way to know  
19 whether you'll be looking at a best case scenario or a  
20 worst case scenario is to actually go in and attempt to  
21 do the process; right?

22          A. Do we have to have a certain amount of time?

23          Q. I'm sorry. I don't understand.

24          A. I mean if you're saying the only way I'll know  
25 is if I attempt it, do I have a deadline on how long it

1 may take me?

2 Q. I don't --

3 A. I mean it's the worst case scenario if every  
4 single thing I attempt fails on me, I try to get the  
5 tape -- well, if the tape doesn't work then I guess we  
6 can't go anywhere after that, but...

7 Q. And so what's the significance of there being a  
8 deadline? I'm not sure I follow that.

9 A. Because you're asking me that the only way I'll  
10 know if this really works is to attempt it, and if I  
11 attempt it and everything that I attempt is a failure,  
12 how long do I have before I have to say I'm done? Like,  
13 I can't do anything? Like, how long are you -- you  
14 know, because you're saying I have to attempt it, but if  
15 I have to attempt it then do I have an -- I mean how  
16 long of a time?

17 Q. So I'm not focused on the consequences of  
18 failure --

19 A. Right.

20 Q. -- and whether you might blow a deadline. What  
21 I'm focused on is how you would know whether or not you  
22 are in the best case scenario of your equipment and  
23 software and all the other variables that we've talked  
24 about, or whether you're in the worst case scenario.

25 A. Oh, okay.



1 Q. Putting aside whether or not somebody is giving  
2 you a deadline or anything like that. So I'll -- just  
3 to restate.

4 A. Okay.

5 Q. Am I right that the only way that you'll know  
6 whether or not you're in the best case scenario or the  
7 worst case scenario is to actually try to attempt the  
8 process?

9 A. Or talk to Leshon. That's the only other way,  
10 because he's done it before. So that's why I keep going  
11 back to what his estimate was because he has an idea of  
12 what he's going to be up against.

13 Q. He knows how to do this process because he's  
14 done it before?

15 A. Yeah.

16 MR. CHARNEY: I've got a few more questions but  
17 why don't we go off the record while I look this over  
18 and that way you guys can stretch your legs.

19 MR. JOHANSEN: Sure.

20 (Recess)

21 BY MR. CHARNEY:

22 Q. Ms. McClain, you understand you're still under  
23 oath?

24 A. Yes.

25 Q. Do you know if any City agencies other than the

1 A. Sorry.

2 Q. No. I asked you about a log, not a catalog.

3 So what is a catalog with respect to a Backup  
4 Exec server?

5 A. Okay. So the catalog tells you what's been  
6 backed up and where, and it will tell you what tape  
7 those backups are on, that's what the catalog does.

8 Q. And what is a WP domain file?

9 A. That's a file that will give you information  
10 where everybody is in the post office at the time that  
11 it was copied.

12 Q. And that can be used in conjunction with a  
13 catalog to find the tape on which a particular post  
14 office backup can be found if the backup was made with  
15 Backup Exec 2?

16 A. Well, yeah. In order to read it -- of course  
17 we've been all through this. In order to read that  
18 domain file you have to be able to read it with  
19 ConsoleOne, but once you do that, if I know who I'm  
20 looking for for that month of that year, then I'll know  
21 what post office they are on based on that WP domain,  
22 and then I can take that information as I know what post  
23 office, you told me what month and year to look for, I  
24 can go to Backup Exec 2 from that catalog and see, oh,  
25 it's post office 2 for July of 2007, this is the tape

1 number, and then I can go looking for that tape, if it's  
2 on Backup Exec 2.

3 Q. And what is a library with respect to backup  
4 tapes?

5 A. A library is the hardware. It's an actual  
6 piece of equipment that holds multiple tapes and has --  
7 it could have one drive or multiple drives in it. And  
8 so that allows you to do more than one backup at one  
9 time potentially, or -- because it's a library, you  
10 don't have to keep replacing the tape every time it runs  
11 out of space.

12 Q. What is a post office with respect to e-mail  
13 backups?

14 A. A post office is a location where a particular  
15 person's e-mail would reside.

16 Q. And does a post office contain more than one  
17 person's e-mail?

18 A. Yes. It contains hundreds and sometimes  
19 thousands.

20 Q. And there are -- there is more than one post  
21 office maintained within the LAPD's e-mail system?

22 A. Yes. The number has changed over time.  
23 Currently we have 15 post offices, but at one point we  
24 had 10, then it went to 12 and then back and forth  
25 depending on as we got larger hard drives, but we have,

DECLARATION UNDER PENALTY OF PERJURY

I, Rachel McClain, hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on March 23, 2017; that I have made such corrections as appear noted on the Deposition Errata Page, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this 7<sup>th</sup> day of April, 2017, at Los Angeles, California.



Rachel McClain

DEPOSITION ERRATA SHEET

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

Page No. 530 Line No. 3

Change: from "Backup Exec" to "Backup Exec 2"

Reason for change: clarification

Page No. 530 Line No. 11

Change: add "In the Catalog" after "lose everything"

Reason for change: clarification

Page No. 608 Line No. 15

Change: from "production" to "test"

Reason for change: clarification

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_

Change: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_

Change: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_

Change: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_

Change: \_\_\_\_\_

Reason for change: \_\_\_\_\_

  
Rachel McClain

4/7/17  
Dated

1 STATE OF CALIFORNIA )  
2 COUNTY OF LOS ANGELES ) SS

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

I, Jean F. Holliday, a Certified Shorthand Reporter, do hereby certify:

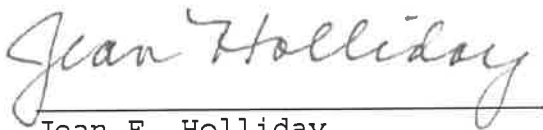
That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and place therein set forth, and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name.

Dated: March 25, 2017



Jean F. Holliday  
CSR No. 4535, RPR, CRR

**EXHIBIT EE**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

MUSLIM ADVOCATES,  
Petitioner,

vs.

Case No. BS163755

THE CITY OF LOS ANGELES; THE LOS  
ANGELES POLICE DEPARTMENT; DOES  
1-10, INCLUSIVE,  
Respondents.

---

DEPOSITION OF PERSON MOST QUALIFIED

AT LOS ANGELES POLICE DEPARTMENT

GREG TOYAMA

VOLUME I

Wednesday, February 15, 2017

10:20 a.m. - 5:03 p.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Jean F. Holliday

CSR No. 4535, RPR, CRR



1           A.    I went to what's called Arrest and Control  
2 School.

3           Q.    And what's that?

4           A.    At the time the Department was moving towards a  
5 different type of ways to effect an arrest, I guess you  
6 can call it, so there is a demonstration as to how to  
7 arrest a suspect.

8           Q.    And did you go to that training -- let me  
9 rephrase.

10                   Why did you go to that training?

11           A.    Because our whole division was required to do  
12 that.

13           Q.    But you don't have any role with respect to  
14 arresting suspects; is that correct?

15           A.    Yes, that's correct, yes.

16           Q.    Did you receive any training with respect to  
17 records management or anything having to do with  
18 records?

19           A.    Not that I recall.

20           Q.    Did you receive any training with respect to  
21 the California Public Records Act?

22           A.    Yes, I did.

23           Q.    And what was that training?

24           A.    I believe it was an hour or hour and a half  
25 presentation by our City Attorneys.

1 Q. And when was that?

2 A. My best guesstimate would be 2003 or '4. I  
3 can't really recall.

4 Q. Is that the first time you received any  
5 training with respect to the California Public Records  
6 Act?

7 A. Yes, I believe so.

8 Q. And what did the City Attorneys tell you about  
9 the California Public Records Act at that training?

10 A. From what I recall that it's basically, as I  
11 said earlier, we have to provide the public with access  
12 to governmental workings.

13 Q. Did they give you any information regarding the  
14 technical aspects of responding to records requests?

15 A. I'm not sure I understand the question.

16 Q. Sure. Did you receive, for instance, any  
17 training on best practices for maintaining records?

18 A. Not that I recall.

19 Q. Did you receive any training with respect to  
20 best practices for retrieving records?

21 A. Not that I recall.

22 Q. Or any practices with respect to retrieving  
23 records?

24 A. Not that I recall.

25 Q. What about training with respect to verifying

1 that all records had been produced in response to a  
2 California Public Records Act request?

3 A. Not that I recall.

4 Q. So it sounds like the training was a pretty  
5 broad overview of this is what the California Public  
6 Records Act is?

7 A. To the best of my recollection, yes, I believe  
8 it was a general, not specific to the LAPD.

9 Q. Did you ever receive any training about how to  
10 actually respond to California Public Records Act  
11 requests?

12 A. I believe that the training I just mentioned  
13 that they provided us with, I guess, examples or  
14 scenarios of what records can or cannot be disclosed.

15 Q. Would those be referred to as exemptions for  
16 records?

17 A. Yes.

18 Q. So is it accurate to say that the training  
19 focused on the type of records that should be disclosed  
20 versus the type of records that are exempt from  
21 disclosure?

22 A. Best that I recall that was part of it, yes.

23 Q. Was there any training on how to conduct a  
24 reasonable search for records?

25 A. I don't recall.

1           A.    Yes.  I believe in 2007 or 2008 we hired  
2 somebody to oversee the Pitchess unit, so I moved back  
3 solely to the California Public Records Act unit.

4           Q.    And I'm sorry, what year was that?

5           A.    Either 2007 or 2008.  I'm not sure.

6           Q.    Did that entail any new job duties?

7           A.    Not that I recall.

8           Q.    Am I correct that they basically just took away  
9 your duties with respect to the Pitchess unit?

10          A.    Yes.

11          Q.    Did you receive any training with respect to  
12 the California Public Records Act when you became the  
13 sole Senior Management Analyst in that unit?

14          A.    Not that I recall.

15          Q.    And am I right that you would be the sole  
16 Senior Management Analyst in that unit?

17          A.    Of the California Public Records Act unit, yes.

18          Q.    Is that the sort of the highest level of  
19 management in that unit?

20          A.    In that unit, yes.

21          Q.    And so after 2008 when you became the sole  
22 Senior Management Analyst in the California Public  
23 Records Act unit did your job duties ever change after  
24 that?

25          A.    No.

1 Q. And so that's the role you currently hold?

2 A. No. I retired from the City on January 6th of  
3 this year.

4 Q. Oh, congratulations.

5 A. Thanks.

6 Q. And thank you very much for being here.

7 Is there anything that caused you to retire?

8 A. I did 31 years and my wife wanted me to go, so  
9 I didn't argue with her.

10 Q. Good choice.

11 So it sounds like in your role as a Senior  
12 Management Analyst for the California Public Records Act  
13 section you would have a role in responding to  
14 California Public Records Act requests?

15 A. My staff would, yes.

16 Q. And you would oversee what they would do; is  
17 that correct?

18 A. Yes.

19 Q. How many California Public Records Act requests  
20 have you worked with directly in your time with the  
21 LAPD?

22 A. I don't know.

23 Q. Can you give me an estimate? It can be a  
24 range, like 100 to 200 maybe, or 1,000 to 1,500, any  
25 range like that?

1 Q. So in that role as acting head of or acting  
2 supervisor of all three divisions you weren't involved  
3 in actually checking to make sure the CPRA requests were  
4 properly fulfilled; is that correct?

5 A. No. I would still -- I was still in charge of  
6 that unit in addition to Mr. Crisp's duties.

7 Q. So is it fair to say that when you were the  
8 Senior Management Analyst in charge of the California  
9 Public Records Act unit the buck stopped with you with  
10 respect to making sure that a CPRA request was properly  
11 handled?

12 A. Yes.

13 Q. Have you ever heard of a Community Mapping  
14 program by the Los Angeles Police Department?

15 A. I have now.

16 Q. And when did you first hear about it?

17 A. I believe when the request came in.

18 Q. And when was that?

19 A. I believe December of 2013.

20 Q. What is the Community Mapping program, in your  
21 understanding?

22 A. From what I understand it's the program that  
23 was supposed to map different communities within the  
24 City of Los Angeles.

25 Q. Did you ever do anything to learn about the

1           A.    From what I remember glancing through it it's a  
2 part of testimony he gave before the Senate in regards  
3 to mapping.

4           Q.    I'm going to ask you to take another look at  
5 the document we previously marked as Exhibit 1, which is  
6 a Notice of Person Most Qualified deposition in this  
7 case. I know you previously looked at it, but if you  
8 want to refamiliarize yourself with it, please feel  
9 free.

10          A.    Yes, I reviewed it.

11          Q.    And can you just remind me when was the first  
12 time you saw this?

13          A.    Well, when it came in probably.

14          Q.    So a week or two ago; is that correct?

15          A.    I'm sorry. Are we referring to the request or  
16 the --

17          Q.    The Deposition Notice --

18          A.    Oh.

19          Q.    -- that's in front of you as Exhibit 1.

20          A.    I'm sorry. Yes, I believe that was last  
21 Thursday.

22          Q.    And how was it shown to you?

23          A.    My counsel provided me with a copy.

24          Q.    And did you ever learn that you were designated  
25 as a person most qualified of the Los Angeles Police

1 Department?

2 A. Yes.

3 Q. And when did you learn that?

4 A. I don't remember.

5 Q. Is there anything that could refresh your  
6 recollection as to when you learned that? Or let me  
7 rephrase.

8 Is there anything that you could consult to  
9 find out when you learned that you were designated the  
10 person most qualified?

11 A. I could probably ask my counsel.

12 Q. Putting that aside.

13 A. No, I don't know.

14 Q. Are you designated as the person most qualified  
15 with respect to any of the topics listed on Page 2 of  
16 this Notice? Sorry, Page 2 and 3 of this Notice.

17 A. I believe just No. 1.

18 Q. Do you remember when you learned that you were  
19 designated on Topic No. 1?

20 A. I don't remember.

21 Q. So just to break that down a little bit, are  
22 you the person most qualified at the LAPD to testify  
23 regarding the LAPD's search for hard copy and electronic  
24 records responsive to Muslim Advocates's December 12th,  
25 2013, request for all records reflecting or relating to



1 the Community Mapping program as described in the  
2 October 30th, 2007, Senate Statement of Deputy Chief  
3 Michael Downing?

4 A. Yes.

5 Q. And what did you do to prepare to testify on  
6 that topic?

7 A. I reviewed documents that are in this binder  
8 here in front of us.

9 Q. Did any of these documents refresh your  
10 recollection?

11 A. Pardon?

12 Q. Did any of these documents refresh your  
13 recollection as to a fact you once knew but had to have  
14 that fact refreshed by the document?

15 A. It refreshed my recollection as to what the  
16 Department did, yes.

17 Q. Is it true that every document in this binder  
18 refreshed your recollection as to something you once  
19 knew and had to have your recollection refreshed by the  
20 document?

21 A. No. There may be some that I don't recall, or  
22 did not refresh my recollection, I should say.

23 Q. Can you identify to me -- well -- why don't we  
24 just go one by one.

25 A. Sure.

1 Q. So I'm going to ask you to turn to Tab 1.

2 Actually, before we -- can we go off the record  
3 for a second?

4 (Discussion off the record)

5 BY MR. CHARNEY:

6 Q. So turning to Tab 1, what is this document?

7 A. Looks like the list -- a list of documents that  
8 were received in response to the request.

9 Q. And which request is that?

10 A. The December 12th, 2013, request from the --  
11 Mr. Glenn -- is it Katon or Katon? I'm not sure how to  
12 pronounce it.

13 MR. CHARNEY: I'm going to ask the court  
14 reporter to mark for identification a document reviewed  
15 by the witness to prepare for this deposition which  
16 bears a heading "List of Department Groups Receiving  
17 15.2 For Muslim Advocates."

18 (Exhibit 2 marked)

19 BY MR. CHARNEY:

20 Q. Did this refresh your recollection?

21 A. Yes.

22 Q. And what did it refresh your recollection with  
23 regards to?

24 A. As to what documents the Department received  
25 from the various entities.

1 Q. And by "various entities" what do you mean?

2 A. Entities within the Los Angeles Police  
3 Department.

4 Q. Are those the four entities listed at the top,  
5 the Commanding Officer, Counter-Terrorism and Special  
6 Operations Bureau; Planning and Research Division;  
7 Training Division; and Commanding Officer?

8 A. Information Technology Division, yes.

9 Q. Right. Commanding Officer, Information  
10 Technology Division is the last line.

11 And how did this help you prepare for your  
12 deposition today?

13 A. Just who we sent out the requests to and who  
14 prepared responses to us.

15 MR. CHARNEY: I'm going to ask the court  
16 reporter to mark for identification a document headed  
17 "Muslim Advocates Request for Records December 12th,  
18 2013, Documents Received from Department Search and  
19 Provided."

20 (Exhibit 3 marked)

21 MR. JOHANSEN: Brendan, that looks like that's  
22 Tab 2 from the documents that we gave you.

23 MR. CHARNEY: Yes.

24 MR. JOHANSEN: Okay.

25 MR. CHARNEY: Oh, I'm sorry, was that the

1 (Exhibit 4 marked)

2 MR. CHARNEY: This is Tab 3 in the binder that  
3 was provided by the witness and counsel.

4 Q. Please take a moment to look at this document  
5 and familiarize yourself with it.

6 A. Sure.

7 Q. Did you review this document to prepare for  
8 your deposition?

9 A. Yes.

10 Q. And how did it help to prepare for your  
11 deposition?

12 A. Just refreshed my recollection as to what was  
13 requested.

14 MR. CHARNEY: I'm going to ask the court  
15 reporter to mark for identification a document headed  
16 "Legal Affairs Division Discovery Section CPRA Request,"  
17 which is contained in Tab 4 in the binder provided by  
18 the witness and counsel.

19 (Exhibit 5 marked)

20 BY MR. CHARNEY:

21 Q. Take a moment to familiarize yourself with this  
22 and let me know when you're ready.

23 A. I'm ready.

24 Q. Did you review this document to prepare for  
25 your deposition today?

1 A. Yes.

2 Q. And how did it help you prepare?

3 A. Just refreshed my recollection as to who was  
4 assigned to the case and what was done on it with  
5 respect to the notes that were there.

6 Q. Does this show that analyst Caydene Monk was  
7 assigned to this CPRA request?

8 A. Yes.

9 Q. And how do you know what was done in response  
10 to this request from looking at this document?

11 A. Basically where she says -- there is the two  
12 lines in there that says, "See attached chrono" and then  
13 "City Attorney assisting me with this request."

14 Q. And what is the attached chrono, is that in  
15 this document?

16 A. I believe it's later on in the binder. It's  
17 not attached to this document, no.

18 Q. Can you tell me which tab in this binder the  
19 chrono -- well, actually, let me ask you a better  
20 question. Is Tab 5 the chrono that is referenced in  
21 this document?

22 A. Yes.

23 MR. CHARNEY: Can we just go off the record for  
24 a second?

25 (Discussion off the record)

1 MR. CHARNEY: I'm going to ask the court  
2 reporter to mark for identification a document which is  
3 contained in Tab 5 of the binder provided by the witness  
4 and headed "CPRA Request from Mr. Glenn Katon with the  
5 Muslim Advocates. Chronology."

6 (Exhibit 6 marked)

7 BY MR. CHARNEY:

8 Q. Is this list a chronology of what was done by  
9 analyst Caydene Monk in response to the request by  
10 Muslim Advocates in this matter?

11 A. I believe it is, yes.

12 Q. And am I right that this document is a document  
13 maintained in the LAPD's record system?

14 A. I don't believe this is actually in the system.

15 Q. Did you make this record?

16 A. No, I did not.

17 Q. Do you know who did make this record?

18 A. I believe Ms. Monk did.

19 Q. And how did you obtain this record?

20 A. It's part of her case file.

21 Q. And is her case file part of the Department's  
22 standard records for its business?

23 A. Yes.

24 Q. Are you familiar with this record?

25 A. Tab 5? The chrono?

1 Mr. Glenn Katon, and this is Tab 7 in the binder  
2 provided by the witness.

3 (Exhibit 8 marked)

4 BY MR. CHARNEY:

5 Q. Did you review this document --

6 A. Sorry. We're on Tab 7?

7 Q. We are.

8 A. Yes, I have.

9 Q. Did you review this document to prepare for  
10 your deposition?

11 A. Yes.

12 Q. And how did it help you prepare for your  
13 deposition?

14 A. Just refreshed my recollection that we sent an  
15 extension letter.

16 Q. And let me back up actually, going back to  
17 Tab 6. Did you review these documents to prepare for  
18 your deposition?

19 A. Yes.

20 Q. And how did they help you prepare for your  
21 deposition?

22 A. Reminding me what the Department did to respond  
23 to their request.

24 MR. CHARNEY: I'm going to ask the court  
25 reporter to mark for identification a December 20th,

1 2013, Intradepartmental Correspondence from the LAPD,  
2 which is contained in Tab 8 in the binder provided by  
3 the witness.

4 (Exhibit 9 marked)

5 BY MR. CHARNEY:

6 Q. Did you review this document to prepare for  
7 your deposition?

8 A. Yes, I did.

9 Q. And how did it help you prepare for your  
10 deposition?

11 A. Reminding me what the Department did.

12 Q. And am I correct that this document is part of  
13 the LAPD's business records, the records that it uses as  
14 part of its business?

15 A. It's what we prepare when we request records,  
16 yes.

17 Q. And do you have any reason to believe that  
18 anything in here is not accurate?

19 A. No.

20 Q. And was this record prepared at or around the  
21 time of the event that it describes?

22 A. I believe so, yes.

23 MR. CHARNEY: I'm going to ask the court  
24 reporter to mark for identification a document titled an  
25 "Official Correspondence Review," which is contained



1           A.    I don't know where it came from.  It came from  
2 our Planning and Research Division.

3           Q.    So these were provided to you by another LAPD  
4 agency?

5           A.    Yes.

6           Q.    Or excuse me, another LAPD division?

7           A.    Yes.

8           Q.    And do you believe that these were made in the  
9 regular course of the LAPD's business?

10          A.    I believe so, yes.

11          Q.    Do you believe that they were made at or around  
12 the time of the events that they describe?

13          A.    I don't know when they were made but they were  
14 provided to us on the date on the correspondence, yes.

15          Q.    Do you have any reason to believe that these  
16 documents were not made at or around the time of the  
17 events that they describe?

18          A.    No.

19          Q.    Do you have any reason to believe that they are  
20 not accurate?

21          A.    No.

22                MR. CHARNEY:  You know what, if we could go off  
23 the record for a second.

24                (Recess)

25                MR. CHARNEY:  So after a brief discussion with

1 counsel off the record and counsel for the LAPD's  
2 opportunity to review the contents of the binder  
3 provided by the witness, Muslim Advocates and counsel  
4 for the LAPD stipulate that all of the documents in the  
5 binder produced by the witness at this deposition  
6 qualify for the business records exemption under the  
7 California Evidence Code in that they are contained  
8 within the LAPD's regular system for maintaining its  
9 business records, and that documents that on their face  
10 are LAPD documents were made at or near the time of the  
11 event that they describe and are accurate in their  
12 content, but that records that on their face were  
13 provided by Muslim Advocates are contained within the  
14 LAPD's record-keeping system but the LAPD does not vouch  
15 for representations made by any -- made by Muslim  
16 Advocates in letters that Muslim Advocates sent to the  
17 LAPD.

18 MR. JOHANSEN: So stipulated.

19 BY MR. CHARNEY:

20 Q. Let's put this binder aside for a second. I  
21 just want to get back to Exhibit 1, which is that  
22 Deposition Notice.

23 MR. JOHANSEN: Give us just a moment. We need  
24 to track that down.

25 ///

1 MS. NGUYEN: They are.

2 THE WITNESS: Oh, we did? I'm sorry. Yes, I  
3 think we put them in.

4 BY MR. CHARNEY:

5 Q. And how did -- what did those screenshots -- so  
6 without looking at the documents, what did you look at  
7 in the database?

8 A. When the request came in, who was assigned to  
9 it, what was done, and the identifiers of the person  
10 making the request.

11 Q. And how did that help you prepare for your  
12 deposition?

13 A. Just reminded me what the Department did in  
14 response to the request.

15 Q. Did you do anything else to help the  
16 Department -- I'm sorry -- to help you prepare for your  
17 deposition today?

18 A. No.

19 Q. Did you talk to anyone other than the City  
20 Attorneys to prepare for this deposition?

21 A. No.

22 Q. Is there anyone you wish you had talked to to  
23 prepare for this deposition?

24 A. No.

25 Q. Is there any information you would like to know

1 Muslim Advocates's request?

2 A. Yes.

3 Q. Just talking a little more broadly about your  
4 job as a Senior Management Analyst, what do you  
5 typically do when you receive -- when the LAPD  
6 receives -- actually, let me back up even a little bit  
7 further.

8 Putting aside your specific role as a Senior  
9 Management Analyst and talking about your role as being  
10 the person most qualified, standing in the shoes of the  
11 LAPD, what does the LAPD do when it receives a CPRA  
12 request for records?

13 A. It comes in and it's given to myself. I review  
14 it. I assign it to an analyst and I input -- we have an  
15 assignment slip where I would put down the subject  
16 matter, sometimes just a brief description. I assign it  
17 to an analyst. It's given to our clerical staff and  
18 they input that information -- they transfer that  
19 information into our database.

20 Q. And which information do they transfer to the  
21 database?

22 A. Basically who was assigned to it, who the  
23 requester is, what the subject matter is, and sometimes  
24 if there is any comments as to what's being requested,  
25 that would be in there.

1 Q. And what's -- I assume that's not the last step  
2 that you take; right?

3 A. That's not the last step that I take, no.

4 Q. So what do you do next?

5 A. When the analyst receives documents they've  
6 requested they prepare a correspondence to the  
7 requester, and I review it and sign off on it if it's  
8 correct and give it back to them; if it's not, I advise  
9 them to change or correct any grammatical errors or  
10 formatting errors.

11 Q. I should have spoken a little bit more clearly.  
12 I guess what I meant is what's the next step that the  
13 LAPD takes after entering it into the database?

14 A. Oh, I'm sorry. It's given to the assigned  
15 analyst and he or she then prepares requests to whatever  
16 entities may or may not have the records -- or may have  
17 the records, rather, I should say.

18 Q. And how is that determined?

19 A. How is what determined?

20 Q. Which entities may have the records.

21 A. It's based upon the analyst's knowledge,  
22 on-the-job training, or asking their colleagues or  
23 myself.

24 Q. How many analysts are there at any given time?

25 A. Depends. From six to nine.

1 BY MR. CHARNEY:

2 Q. And what about Ms. Monk?

3 A. I don't remember.

4 Q. Ms. Belleville?

5 A. I don't remember.

6 Q. Is there anything you could do to find out?

7 A. Someone at my old office could probably check  
8 the evaluations.

9 Q. And do those evaluations refer specifically to  
10 the analyst's proficiency searching for CPRA records?

11 A. Sometimes it does, yes.

12 Q. Does it ever contain negative comments  
13 regarding an employee's lack of proficiency searching  
14 for CPRA records?

15 A. It may.

16 Q. And am I correct the only way you would know  
17 whether it does for these three people is to look at  
18 their specific evaluations?

19 A. Yes.

20 Q. Are there -- when a CPRA request is received is  
21 a written protocol or set of instructions ever created  
22 directing the LAPD how to search for those records?

23 A. Could you repeat that question?

24 Q. Sure. It was a little convoluted.

25 When you get a CPRA request and you want to

1 look for records responsive to that request, are there  
2 any written instructions created that sort of set forth  
3 here's how we're going to go look for these records?

4 A. No.

5 Q. Has that ever been done?

6 A. Yes, with respect to e-mail searches, yes.

7 Q. And what -- and why -- so it's only done with  
8 respect to e-mail searches and not other searches; is  
9 that right?

10 A. Yes.

11 Q. And why is it done with respect to e-mail  
12 searches but not other searches?

13 A. Because you have to search particular e-mail  
14 accounts, you can't just send in a request saying search  
15 e-mail records, so we have to identify who the employee  
16 is.

17 Q. And how would those instructions be recorded?

18 A. We'd send an Intradepartmental  
19 Correspondence -- for ease I'll call it 15.2 from here  
20 on in.

21 Q. Sure.

22 A. We'd send a 15.2 to our Information Technology  
23 Division.

24 Q. And that 15.2 is often written 15 point 2;  
25 right?

1 A. Yes.

2 Q. We've seen those a lot in this case.

3 So why would a 15.2 -- let me rephrase.

4 Why are written instructions not made for  
5 searches that don't involve e-mail?

6 A. Because it's up to the entities that we send  
7 the requests to to search their records.

8 Q. So you rely on those entities to give you the  
9 responsive records; is that right?

10 A. That's right, yes.

11 Q. You don't check their work?

12 A. No, we do not.

13 Q. Do you know if -- and by entities do you mean  
14 LAPD divisions?

15 A. Yes.

16 Q. Could in that -- when you use the word  
17 "entities" would that also refer to a particular LAPD  
18 personnel?

19 A. Personnel that works for the entity, yes.

20 Q. So a request would not be sent, say, to a  
21 particular personnel, it would always be sent to the  
22 entity for which that personnel is assigned?

23 A. Yes.

24 Q. Why is that?

25 A. That's just the Department protocol.



1 Q. You don't know the reason?

2 A. No, I do not.

3 Q. Did you ever know the reason?

4 A. No, I did not.

5 Q. Is there anybody in the LAPD who does know the  
6 reason?

7 A. I don't know.

8 Q. Is there anybody you could ask?

9 A. I don't know.

10 Q. Do you know if divisions, once they receive a  
11 CPRA -- well, actually, let me rephrase.

12 How do you transmit the CPRA request to a  
13 division?

14 A. Sometimes we scan and e-mail it or we fax it.

15 Q. So they, a division will get the exact same  
16 request that's sent by the requester?

17 A. Yes.

18 Q. Do you know if a division will ever create  
19 written instructions for how to respond to that request?

20 A. I do not know.

21 Q. Have you ever seen that done?

22 A. No, I have not.

23 Q. Do you have any reason to believe that it has  
24 ever been done?

25 A. I don't know.

1 Q. How do you determine which divisions to send  
2 the request to?

3 A. Based upon the nature of the request.

4 Q. So what does that mean?

5 A. For instance, if they are asking for, let's  
6 say, a traffic collision report we'd go to our Records  
7 Identification Division because they house the traffic  
8 collision reports. Likewise for arrest reports, the  
9 same thing.

10 Q. What about something that asks for a program  
11 that might have involved more than one division?

12 A. We try and find out what divisions those were.

13 Q. And how would you do that?

14 A. Staff would just have to make inquiries as to  
15 what divisions may possibly have those records.

16 Q. And how would they make those inquiries.

17 A. I believe telephonically or e-mails. I don't  
18 know.

19 Q. What information would they base their  
20 inquiries on?

21 A. Based upon what information is in the request.

22 Q. I guess what I mean is is there, for instance,  
23 an organizational chart that they would consult?

24 A. They could.

25 Q. But you don't know if they do?

1 A. I do not know.

2 Q. Is there a Department document that lists all  
3 of the different divisions and their responsibilities?

4 A. There is a Department manual, yes.

5 Q. And does the Department manual list all of the  
6 divisions and their various responsibilities?

7 A. I believe so, yes.

8 Q. Have you seen the Department manual?

9 A. Not in a while.

10 Q. Have you seen a section that lists the various  
11 divisions and their responsibilities in that manual?

12 A. Yes, I have.

13 Q. And how thoroughly does the manual describe  
14 each division's responsibilities?

15 A. I don't recall.

16 Q. When you saw it do you remember if it was more  
17 of a sentence, a paragraph, or a page?

18 A. I believe it was bullets, I believe. I'm not  
19 sure how -- how many bullets there were.

20 Q. So there might be one bullet for each division  
21 describing its responsibilities or several?

22 A. I can't recall. It just depends.

23 Q. Do you know if staff would consult that manual  
24 in deciding which divisions to contact to decide how to  
25 forward a California Public Records Act request?

1 A. I don't know.

2 Q. You wouldn't require them to?

3 A. Not necessarily, no.

4 Q. Have you ever asked somebody, an analyst to  
5 look at the manual in order to decide which divisions to  
6 send a request to?

7 A. I don't recall, no.

8 Q. Is there anything you could consult to find  
9 out?

10 A. No.

11 Q. And what about custodians, how is it  
12 determined -- let me rephrase.

13 How does -- so it sounds like to me that a  
14 division would be the one responsible for deciding which  
15 specific L.A. personnel to go to and ask, you know,  
16 about the records; is that correct?

17 A. The division where we send the 15.2s to, yes.

18 Q. And so how does the division decide which  
19 personnel to contact and ask about the request?

20 A. I don't know.

21 Q. Have you ever asked a person at a division  
22 responsible for responding to a CPRA request, you know,  
23 how did you go about identifying personnel who might  
24 know about this request?

25 A. I have not, no.

1 Q. Did anybody in the Public Records unit do that,  
2 to your knowledge?

3 A. Not to my knowledge, no.

4 Q. Did you ever ask anybody in the Public Records  
5 unit to do that?

6 A. No, I have not, or I did not.

7 Q. So you don't know if there is any method for  
8 determining which custodians might have records sought  
9 by a request?

10 A. I'm sorry. Repeat that.

11 Q. I'm sorry. I used the word "custodians" but  
12 what I really mean is you don't know if there is any  
13 method for finding out which specific LAPD personnel  
14 might have knowledge about the subject matter of a  
15 request?

16 A. Maybe if it's on the 15.2 response they send  
17 back to us.

18 Q. Have you seen that before?

19 A. Yes, I have.

20 Q. And when did you see that?

21 A. In reviewing these documents.

22 Q. And when you say "these documents" what are you  
23 referring to?

24 A. The documents in the binder, the e-mails.

25 Q. Is there a specific document that you're

1 referring to?

2 A. I'd have to look at the legend.

3 Q. Feel free.

4 A. Looks like it's in Tab 6.

5 Q. Okay. So this is the document that was  
6 previously marked as Exhibit 7. And if you could just  
7 tell me which particular page you're looking at.

8 A. It would be the eighth page.

9 Q. And just so we're on the same page, can you  
10 tell me what the heading and some identifying  
11 information for that?

12 A. Sure. The heading is "Caydene Monk Re: CPRA  
13 Request for Records," and the date is 12/18/2013.

14 Q. At what time?

15 A. 3:13 p.m.

16 Q. And where does this tell you how particular  
17 personnel were identified as having information about  
18 the subject of a request?

19 A. Maybe I misunderstood the question. I thought  
20 you were asking me how do I know who was assigned to it.  
21 That's what I was looking for.

22 Q. Okay. No. I think I wasn't clear about the  
23 question. I'm sorry about that. So what I'm asking  
24 is -- so as I understand your testimony, the Public  
25 Records unit receives a request, it puts that request in

1 the database and then it sends the request to divisions  
2 that it identifies based on the experience of the  
3 analysts and their judgment at the time; is that  
4 correct?

5 A. Yes.

6 Q. And so then the division is responsible for  
7 deciding, okay, which specific LAPD personnel are we  
8 going to ask about the subject of this request; is that  
9 right?

10 A. Yes.

11 Q. And so how does the -- I guess I'm trying to  
12 find out how does the division do that?

13 A. I don't know.

14 Q. And then so I was also wondering how do you  
15 know whether or not the division has identified any  
16 personnel?

17 A. Like I said, based upon these e-mails that are  
18 in the binder, that's why I know who was assigned to  
19 this particular request within those respective  
20 divisions.

21 Q. And does this document that you're looking at  
22 right now show you that?

23 A. Yes.

24 Q. And what does it show you?

25 A. With respect to Counter-Terrorism and Special

1 Operations Bureau it shows that Sergeant Mike Seguin,  
2 S-e-g-u-i-n, was assigned to the request.

3 Q. Do you know why he was assigned to the request?

4 A. No, I do not.

5 Q. Did you ever ask?

6 A. No, I did not.

7 Q. Have you ever asked any division why they  
8 assigned or consulted -- let me rephrase.

9 Have you ever asked any division why they  
10 consulted a particular personnel in responding to a CPRA  
11 request?

12 A. I have not, no.

13 Q. Why not?

14 A. Just never thought of it.

15 Q. Do you know what questions the division will  
16 typically ask a personnel when they are responding to a  
17 CPRA request?

18 A. No, I do not.

19 Q. Is there a list of questions that a division is  
20 supposed to ask personnel in responding to a CPRA  
21 request?

22 A. Not that I'm aware of.

23 Q. For instance, is it standard practice for a  
24 division to ask a personnel who worked on a project  
25 that's the subject of a CPRA request, "Did you create



1 Q. And so is there a distinction between a  
2 directive and a special order?

3 A. Well, a directive could be a special order or a  
4 training bulletin or something to that effect.

5 Q. What distinguishes a special order?

6 A. I'm not sure, but I believe a special order is  
7 something that's incorporated into the manual.

8 Essentially when a special order is created it's then  
9 incorporated into the Department manual.

10 Q. Have you searched for directives before?

11 A. I have not, no.

12 Q. Have you sent a request to a division that has  
13 searched for special orders -- excuse me.

14 Have you sent a request to a division that has  
15 then searched for a directive?

16 A. Yes.

17 Q. And how did that work?

18 A. I prepared a 15.2 to our Planning and Research  
19 Division and asked them for the requested records.

20 Q. And did you receive a directive in response?

21 A. I believe so.

22 Q. Did you have any way to determine whether or  
23 not you received all of the documents that were  
24 responsive to the request?

25 A. No, I did not.

1 Q. You just trusted the Planning and Research  
2 Division?

3 A. Yes, that's correct.

4 Q. Do you know the people who -- let me rephrase.  
5 In 2013 did you -- let me rephrase.

6 Do you know the people in the divisions that  
7 are responsible for searching in response to Public  
8 Records Act requests?

9 A. I may know some of them, yes.

10 Q. But not all of them?

11 A. No.

12 Q. And what do -- the ones you come to know, how  
13 do you come to know them?

14 A. Just by working for the Department, just seeing  
15 them.

16 Q. So am I right that it's -- it could be  
17 arbitrary whether or not you know some of them?

18 A. Yes.

19 Q. There isn't a sort of a meet-and-greet or some  
20 sort of program within the LAPD to familiarize the  
21 Public Records unit with the people who you'll be  
22 interacting with at the divisions?

23 A. No.

24 Q. So in terms of the records that the LAPD has,  
25 you know, you mentioned the arrest records, you

1 Q. But there could be?

2 A. There could be, yes. I don't know.

3 Q. And there could be training bulletins for  
4 administrative aspects of the Department's operations?

5 A. There could be.

6 Q. But you don't know?

7 A. No. I don't believe there are.

8 Q. Why don't you believe there are?

9 A. Because from what I've seen, as I explained  
10 before, it's just geared towards providing guidance to  
11 sworn employees how to respond to situations.

12 Q. And in what -- in what circumstances have you  
13 seen the training bulletins?

14 A. When we receive a request for records they may  
15 ask for training bulletins.

16 Q. So you've only seen the training bulletins that  
17 happen to be sent back to you in response to a CPRA  
18 request by a division?

19 A. Yes.

20 Q. So other than arrest records, Planning and  
21 Research's directives records, Internal Affairs'  
22 personnel complaint records, and the training bulletin  
23 records, what other central records does the LAPD have?

24 A. Off the top of my head that's all that I can  
25 recall as far as -- when you say central, I don't know

1 if there is a central repository. Each division may  
2 maintain their own records.

3 Q. Yeah, I guess by central I mean a set of  
4 records that would be stored as part of the LAPD's  
5 business, you know, outside of the particular person's  
6 office.

7 A. That I don't know.

8 Q. But there might be other types of records?

9 A. Other types of records?

10 Q. There might be other types of records that  
11 divisions maintain as part of their business in a  
12 central location for that division; correct?

13 A. I don't know.

14 Q. So as you sit here today you have no reason to  
15 believe that the records that you've listed to me are  
16 the only types of records that are centrally maintained  
17 by divisions as part of their business; is that correct?

18 A. I can only say that this is what we receive in  
19 response to the requests. I don't know whether records  
20 are kept elsewhere.

21 Q. So you don't know if there are other types of  
22 records that could exist in LAPD divisions?

23 A. Well, I'm sure there is other -- are you  
24 talking about the responsive records to this request or  
25 in general?

1 A. It could have been. I really don't know.

2 Q. So it sounds like -- is the Records Retention  
3 Manager responsible for, if you know, being aware of all  
4 the different types of records that the LAPD keeps?

5 A. I don't know.

6 Q. Does the Public Records unit have access to any  
7 sort of index or list of filing locations or  
8 repositories for records?

9 A. No, we do not.

10 Q. Does that -- does such a list exist in the  
11 Department?

12 A. I imagine that the Records Retention  
13 Coordinator, he maintains a list.

14 Q. And that's based on your conversations with him  
15 or her?

16 A. No, just general assumption.

17 Q. Why do you believe that?

18 A. Because that they are tasked with being the  
19 coordinator for all records retention, I would assume  
20 that they would have a list of all records that have  
21 been archived.

22 Q. So it's logical to assume that?

23 A. That's what I base my assumption on, yes.

24 Q. Does the -- when the LAPD receives a request  
25 for records under the CPRA does it ever direct a search

1 to any particular electronic devices, such as a tablet  
2 or a phone or a personal computer?

3 A. No. We send our requests out to the respective  
4 entities and they respond with whatever records they  
5 have.

6 Q. Is there any -- let me rephrase.

7 Do you know if the divisions are instructed to  
8 search any particular types of electronic devices when  
9 they receive a CPRA request?

10 A. I don't believe so. We just send the request  
11 out and attach the request to our 15.2.

12 Q. So you don't know -- do you know if divisions  
13 ever search electronic devices such as phones, tablets  
14 or personal computers for records?

15 A. I don't know.

16 Q. When a division has gotten back to you with a  
17 response either saying we don't have any records or here  
18 are the records we have, have you ever followed up and  
19 asked them, "Oh, did you search any particular  
20 electronic devices"?

21 A. I have not, no.

22 Q. So you've never followed up and said, "Oh,  
23 well, can you make sure that you searched all the  
24 phones"?

25 A. I have not, no.

1 Q. Why not?

2 A. I just have not. We just -- my staff relies --  
3 my staff and I rely on the responding entities.

4 Q. What about servers, are you aware of whether or  
5 not the Department maintains servers containing  
6 Departmental information?

7 A. I know we keep e-mails, yes.

8 Q. What about servers containing, you know, like a  
9 shared network drive that a division might use to store  
10 documents it's working on?

11 A. That I don't know.

12 Q. Have you ever seen in response to a CPRA  
13 request a division giving you information from a shared  
14 network drive?

15 A. Not that I'm aware of, no.

16 Q. Have you ever in responding to CPRA requests  
17 had any conversations about whether or not documents  
18 might be accessible from a shared network drive?

19 A. I have not, no.

20 Q. Have you ever heard of something called a  
21 divisional drive?

22 A. No.

23 Q. Have you ever searched -- have you ever  
24 heard -- let me rephrase.

25 Are you aware of whether or not the Department

1 drive, I imagine.

2 Q. What about e-mail backups, are you aware of  
3 whether the LAPD has ever searched e-mail backups in  
4 response to a CPRA request?

5 A. No.

6 Q. So it could have happened or it couldn't have  
7 happened but you don't know?

8 A. Let me rephrase that. In reviewing the  
9 documents here, I'm not sure which tab it is, but I  
10 believe one of our responses said that 2010 e-mail  
11 backups had been previously searched.

12 Q. But just in your work generally and in the  
13 LAPD's general response, you know, work responding to  
14 CPRA requests, you don't know if there is any protocol  
15 by which, you know, the LAPD is supposed to search  
16 backup tapes in certain circumstances?

17 A. No, I do not.

18 Q. Did any of your analysts ever receive training?

19 A. In what?

20 Q. In responding to CPRA requests.

21 A. They may have gone to that City Attorney  
22 training I previously mentioned.

23 Q. And is that the one that focuses on exempt  
24 versus non-exempt records?

25 A. I believe it was a general training but yes, it



1 did talk about certain records that can and cannot be  
2 provided.

3 Q. But that training didn't focus on how to -- the  
4 steps you would actually take to retrieve records from  
5 the LAPD and pass them to -- let me rephrase.

6 That training didn't focus on the specific  
7 steps an analyst would take in order to identify and  
8 retrieve records that might be responsive to a CPRA  
9 request?

10 A. No, it did not.

11 Q. Is there any documentation when searches are  
12 performed in response to a CPRA request?

13 A. Sometimes there is, yes.

14 Q. And what is that documentation?

15 A. Just the analyst's chrono or the notes they put  
16 in there as to what they did.

17 Q. And are those chrono notes contained in the  
18 tracking system in the database that you mentioned?

19 A. Could be in the database or a hard copy on the  
20 actual file.

21 Q. What's the actual file?

22 A. As I said previously, when a request comes in I  
23 sign it out to an analyst, so my clerical -- or my  
24 clerical staff at the time prepared a file, a folder  
25 that contained the request as well as a cover sheet

1 where the analyst could enter what they did on there.

2 Q. What does that clerical file contain?

3 A. The clerical file contains the request as well  
4 as I believe it's Exhibit --

5 MR. JOHANSEN: Or tab?

6 THE WITNESS: Yeah, tab.

7 MS. NGUYEN: Tab 4?

8 THE WITNESS: Or Tab 4, yes.

9 BY MR. CHARNEY:

10 Q. So this is an example of a clerical file?

11 A. Well, when I say clerical file it's the case  
12 file that's given to the analyst.

13 Q. So is this an example of the documentation of  
14 what was done in response to a request for records?

15 A. Yes.

16 Q. So is it accurate to say that each LAPD  
17 division uses its own judgment and methods to search in  
18 response to CPRA requests?

19 A. I don't know how they do their own search, but  
20 I guess that would be accurate, yes.

21 Q. And is it accurate to say that each LAPD  
22 personnel who may be contacted by a division with  
23 respect to a CPRA request is going to use his or her own  
24 judgment and methods to search in response to a CPRA  
25 request?

1 record.

2 \* \* \*

3 (LUNCHEON RECESS)

4 \* \* \*

5 BY MR. CHARNEY:

6 Q. We're back on the record at 1:35 after a lunch  
7 break.

8 Mr. Toyama, you understand that you're still  
9 under oath?

10 A. Yes, I do.

11 Q. How does the LAPD know that a search for  
12 records in response to a CPRA request has been  
13 completed?

14 A. We receive response back from that division.

15 Q. And how do you know if -- well, let me  
16 rephrase.

17 Do you have any way of knowing if that division  
18 has used reasonable efforts to search in response to the  
19 request?

20 A. I do not know.

21 Q. Have you ever -- has the LAPD ever done  
22 anything to verify that a particular division's search  
23 was reasonable?

24 A. I don't know if the LAPD has but I have not, or  
25 my staff has not.

1 Q. And I guess I used the word "LAPD" because  
2 you're here sort of standing in the shoes of the LAPD,  
3 which can be sort of a strange concept, I know, but --  
4 so as you sit here representing the LAPD, the LAPD  
5 doesn't do anything to verify that a division uses  
6 reasonable efforts to search in response to a CPRA  
7 request?

8 A. Well, I can't speak for the LAPD. I can speak  
9 for the Discovery Section. I'm trying to make a  
10 distinction, but the Discovery Section does not know,  
11 no.

12 Q. And nobody else in the LAPD, to your knowledge,  
13 does either?

14 A. I don't know.

15 Q. Is there anything you could do to find out?

16 A. Not that I can think of.

17 Q. Well, so when the Discovery Section receives  
18 something from a division, a collection of records that  
19 the division says is responsive to a request, is there  
20 any other part of the LAPD that might then say to the  
21 Discovery Section, "No, we don't think this is  
22 complete," or "This may not be complete, can you follow  
23 up"?

24 A. Not that I can recall, no.

25 Q. And how long did you work as a Senior

1 Management Analyst in the Discovery Section?

2 A. Well, from 2003 till the -- well, to January of  
3 this year.

4 Q. And not all of that time was focused on  
5 California Public Records; right?

6 A. That's correct.

7 Q. How much of that time was focused on California  
8 Public Records?

9 A. Maybe 12, approximately 12 years maybe.

10 Q. During that time are you aware of anybody in  
11 the Discovery Section ever saying to another division,  
12 "We think you should go back. We don't think that you  
13 used reasonable efforts to search"?

14 A. Not that I'm aware of.

15 Q. And are you aware of any other entity or  
16 personnel or division in the LAPD saying to the  
17 Discovery Section, "Gee, maybe you ought to send this  
18 back to the division. We think that they should go back  
19 and check again"?

20 A. I'm sorry. Could you repeat that again?

21 Q. Sure. Are you aware of any other division or  
22 personnel or entity in the LAPD saying to the Discovery  
23 Section, after the Discovery Section received records  
24 from a division, "Hey, Discovery Section, why don't you  
25 send this back to the division and ask them to search

1 again because we're concerned that not all of the  
2 records were produced"?

3 A. They wouldn't send anything -- they would send  
4 us back whatever they have, but they wouldn't say -- I'm  
5 not sure when you say send it back to another division.

6 Q. I guess what I'm -- I'm wondering if there is  
7 anybody, any, you know, somebody might call it an  
8 ombudsman or an auditor or some person or entity that  
9 might verify or double check a response, is there  
10 anybody else, you know, who would kind of check the  
11 Discovery Section's work or something like that?

12 A. No, not that I know of.

13 Q. You've never dealt with that in your 12 years  
14 working with Public Records Act requests?

15 A. As far as another division checking our  
16 response?

17 Q. Yeah.

18 A. No.

19 Q. Or a supervisor or some officer or LAPD  
20 personnel who is -- who has a supervisory role to the  
21 Discovery Section.

22 A. Yeah, sometimes our chain of command would view  
23 our responses.

24 Q. And what would they review about the responses?

25 A. To see if it's correct.

1 Q. When you say "response" do you mean the written  
2 determination that's sent to a requester?

3 A. Yes.

4 Q. Would they review the reasonableness of the  
5 search that was done to find records?

6 A. I don't know.

7 Q. So you're not aware of that ever having  
8 happened?

9 A. I don't know if it did or did not.

10 Q. Do you have any reason to believe that any  
11 supervisor -- let me rephrase.

12 Do you have any reason to believe that any  
13 supervisory personnel or entity has ever reviewed the  
14 reasonableness of a search performed by the Discovery  
15 Section?

16 A. No, I do not.

17 Q. How are redactions handled?

18 A. I'm not sure what you're asking.

19 Q. Sure. When redactions are made to records  
20 produced in connection with a CPRA request, how are  
21 those redactions made?

22 A. Either with a grease pencil or -- I forget the  
23 program. I believe it's called Foxit where you can use  
24 on your computer and it will redact it on the computer.

25 Q. And how is it determined what pieces of

1           A.    No, I'm being serious, I'm not sure what you  
2 mean.  I've seen here's a white paper, but I'm not sure  
3 when you say a "white paper" what you're referring to.

4           Q.    That's fair.

5                        So in your role as the person most qualified  
6 for the LAPD with respect to its search for records did  
7 you do anything to familiarize yourself with the types  
8 of records that are created with respect to Department  
9 programs?

10          A.    No, I did not.

11          Q.    Did you do anything to prepare yourself with  
12 respect to the types of records that are created when  
13 LAPD programs are proposed?

14          A.    No, I did not.

15          Q.    In preparing to testify as the LAPD's person  
16 most qualified did you do anything to prepare yourself  
17 to testify with respect to the LAPD's policies and  
18 procedures for creating records with respect to LAPD  
19 programs?

20          A.    No, I did not.

21          Q.    Have you ever seen -- let me rephrase.

22                        When the LAPD collaborates with an entity  
23 outside of the LAPD have you ever -- are there any  
24 guidelines for creating records of that collaboration?

25          A.    I don't know.



1 Q. If one of your analysts -- while you were a  
2 Senior Management Analyst, if one of your analysts had  
3 collaborated with an outside entity on a CPRA request  
4 without checking in with you, how would you -- what  
5 would have been your reaction to that?

6 A. It's a hypothetical. I mean I don't know.

7 Q. Would you have been surprised that they hadn't  
8 asked you first?

9 A. Not necessarily.

10 Q. So your analysts were free to collaborate with  
11 outside entities without checking with you first?

12 A. No, that's not what I said. I just said there  
13 is no written guidelines as to what the analysts can and  
14 cannot do.

15 Q. So as you sit here today you're not aware of  
16 any guidelines with respect to collaboration between an  
17 LAPD division and an outside entity?

18 A. Yes.

19 Q. In preparing to testify as the person most  
20 qualified on the LAPD's search in this case did you do  
21 anything to familiarize yourself with respect to  
22 guidelines for collaboration between LAPD divisions and  
23 outside entities?

24 A. No, I did not.

25 Q. In preparing to testify as the LAPD's person

1 most qualified in this case did you do anything to  
2 prepare yourself to testify with regard to guidelines  
3 for creating records of collaboration between the LAPD  
4 and outside entities?

5 A. No, I did not.

6 Q. In preparing to testify as the LAPD's person  
7 most qualified today did you do anything to prepare  
8 yourself to testify regarding any guidelines -- excuse  
9 me. I'm just going to start that over.

10 In preparing to testify as the LAPD's person  
11 most qualified today did you do anything to prepare  
12 yourself to testify regarding whether or not any records  
13 have been created when the LAPD collaborates with an  
14 outside entity?

15 A. No, I did not.

16 Q. Have you seen -- in your capacity as a Senior  
17 Management Analyst working in the Discovery Section have  
18 you ever seen correspondence from outside entities, or  
19 persons, to the LAPD, other than an actual CPRA request?

20 A. Could you rephrase that again?

21 Q. Sure. So putting aside -- I know that as a  
22 Senior Management Analyst you probably receive a lot of  
23 CPRA requests which are, of course, correspondence from  
24 somebody outside of the LAPD to the LAPD.

25 A. Uh-huh.

1 business, so creating programs or, you know, enforcing  
2 the law, have you ever seen any records of  
3 correspondence from outside entities to the LAPD with  
4 respect to the Department's business other than  
5 responding to CPRA requests?

6 A. No.

7 Q. In preparing to testify as the LAPD's person  
8 most qualified today did you do anything to prepare  
9 yourself regarding any guidelines for creating records  
10 of correspondence from outside entities to the LAPD?

11 A. No, I have not.

12 Q. In preparing to testify as the LAPD's person  
13 most qualified did you do anything to prepare yourself  
14 to testify regarding whether or not the LAPD keeps  
15 records of correspondence sent from outside entities to  
16 the LAPD?

17 A. No, I did not.

18 Q. As a senior management -- well, let me  
19 rephrase.

20 As an employee of the LAPD were you allowed to  
21 store LAPD records on your -- at home?

22 A. No.

23 Q. What about on your home computer?

24 A. No.

25 Q. What about on a phone or smartphone that's not

1 A. Possibly surprising to me that they would.

2 Q. So would it surprise you or wouldn't it?

3 A. Possibly surprise me, yes.

4 Q. But you don't know if one way or the other  
5 whether or not LAPD personnel store records at home?

6 A. I don't know.

7 Q. Did you ever know that?

8 A. No, I did not.

9 Q. When you were working as a Senior Management  
10 Analyst in the Discovery Section did you ever ask  
11 whether or not LAPD personnel might store records on  
12 their -- at home?

13 A. No, I did not.

14 Q. Why not?

15 A. Never thought to ask it.

16 Q. Going back to the specific request at issue  
17 here, Muslim Advocates's December 12th, 2013, request  
18 for records regarding the Community Mapping program, did  
19 you personally participate in the search for those  
20 records?

21 A. No.

22 Q. Did you directly supervise analysts who did  
23 personally work on that search?

24 A. Yes, I did.

25 Q. And who was the analyst or analysts who worked

1 on that search?

2 A. Caydene Monk.

3 Q. Was she -- it's she?

4 A. She, yes.

5 Q. Was she the only person who -- was she the only  
6 analyst who worked on that search?

7 A. Yes.

8 Q. And am I right that you directly supervised  
9 her?

10 A. Yes, correct.

11 Q. And did you do anything to become qualified --  
12 let me rephrase.

13 Do you know what Caydene Monk did to search in  
14 response to Muslim Advocates's request?

15 A. Based upon the binder in front of us that  
16 contains the e-mails and the requests, yes.

17 Q. So you became prepared to testify regarding  
18 what was done?

19 A. Yes, correct.

20 Q. So what did she do?

21 A. I reviewed the records here that showed what  
22 she requested and what we provided.

23 Q. So putting aside the binder and what you did to  
24 become prepared, what did Caydene Monk do in response to  
25 Muslim Advocates's December 12th, 2013, CPRA request?

1 A. I'm not sure what you're asking.

2 Q. So the LAPD received the Muslim Advocates  
3 request.

4 A. Yes.

5 Q. What was the first thing that the LAPD did when  
6 it received that request?

7 A. It was assigned to Ms. Monk to handle.

8 Q. And then what was the first thing that Ms. Monk  
9 did?

10 A. I'd have to look through this binder. I don't  
11 have an independent recollection.

12 Q. Okay. Well, putting aside maybe the  
13 specificity of the first thing she did, what in general  
14 did she do?

15 A. I believe she sent out a request to the various  
16 entities.

17 Q. And which entities were those?

18 A. Off the top of my head it would be Planning and  
19 Research Division, Counter-Terrorism and Special  
20 Operations Bureau. For the future I'll just say CTSOB  
21 if that's okay.

22 Q. Sure.

23 A. And I believe Training Division.

24 Q. And why were those three divisions selected?

25 A. From what I recall, it's talking about the

1 Muslim Mapping that was done by Commander Downing and  
2 he's the head of CTSOB, so we went there.

3 Q. And why Training?

4 A. I believe the request asked for any training  
5 materials.

6 Q. And Planning and Research was the third?

7 A. Yes.

8 Q. Why Planning and Research?

9 A. I believe they may have had any responsive  
10 records as far as dealing with the community.

11 Q. And why did you think that?

12 A. I misspoke. I believe that's what Ms. Monk  
13 believed.

14 Q. And why would she have believed that?

15 A. Because they keep records of all, as I said  
16 earlier, special orders or directives to Department  
17 employees.

18 Q. And why would you have thought a special order  
19 or directive would have been involved?

20 A. Well, if you're dealing with the public  
21 sometimes there are special orders.

22 Q. In what circumstances?

23 A. I think, as I said earlier, how to conduct  
24 yourself when you're effecting an arrest or dealing with  
25 the public.

1 an independent recollection.

2 Q. Do you know where CTSOB -- let me rephrase.

3 Do you know what CTSOB did when it received the  
4 15.2 from Ms. Monk?

5 A. I don't know.

6 Q. Is there anything you could -- did you ever  
7 know?

8 A. Yes.

9 Q. When did you know?

10 A. When I reviewed these documents.

11 Q. And which document gave you that knowledge?

12 A. Actually, let me -- I misspoke. Yes, I know  
13 what they did because Ms. Monk received documents from  
14 them and she had to review them with our City Attorney.

15 Q. And what did they do?

16 A. Who is they?

17 Q. I'm sorry. What did the CTSOB do in response  
18 to the 15.2?

19 A. They provided us with documents.

20 If I may?

21 Q. So before you look at any documents, and maybe  
22 just let's back up a little bit. I understand they  
23 provided you with documents, but I'm wondering what did  
24 they do to search to find those documents?

25 A. Oh, I don't know.



1 Q. Did you ever know?

2 A. No.

3 Q. Did you ever ask?

4 A. No, I did not.

5 Q. Did Ms. Monk ever ask?

6 A. I don't know.

7 Q. Did you ever ask her if she knew what CTSOB did  
8 to search?

9 A. Not that I recall.

10 Q. Do you have any reason to believe that you  
11 would have asked her?

12 A. No.

13 Q. And do you have any reason to believe that she  
14 would have asked CTSOB what they did to search?

15 A. No.

16 Q. What about the Training Division, do you know  
17 what the Training Division did to search for documents  
18 in response to the 15.2?

19 A. No, I don't.

20 Q. Did you ever know?

21 A. No.

22 Q. Did Ms. Monk ever know?

23 A. I don't know.

24 Q. Did you ever ask Ms. Monk if she knew?

25 A. No, I did not.

1 Q. Do you have any reason to believe that she  
2 asked the Training Division what they did to search?

3 A. No.

4 Q. And what about the Planning Division, do you  
5 know what they did to search in response to the 15.2?

6 A. No, I don't.

7 Q. Did Ms. Monk ever know?

8 A. I don't know.

9 Q. Did you ever ask Ms. Monk?

10 A. Not that I recall.

11 Q. Do you have any reason to believe that she  
12 knew -- or let me rephrase.

13 Do you have any reason to believe that she  
14 asked the Planning Division what they did to search?

15 A. No.

16 Q. And do you have any reason to believe that she  
17 knew what the Planning Division did to search?

18 A. Do I have reason to believe that she knew? No,  
19 I don't.

20 Q. Do you know who at the CTSOB did the search?

21 A. Based upon the e-mails, yes.

22 Q. Do you know that person?

23 A. No, I don't.

24 Q. Did Ms. Monk know that person?

25 A. I don't know.

1 Q. Did you ask Ms. Monk about that person?

2 A. No, I did not.

3 Q. And what about at Training, do you know the  
4 person at Training who did the search?

5 A. I'd have to refer to the e-mails.

6 Q. Putting aside that person's name reflected in  
7 the e-mails, did you have, you know, any sort of  
8 interaction with that person, or did you know of that  
9 person's reputation?

10 A. I don't know who it was.

11 Q. Okay. And what about at the Planning Division,  
12 did you have any personal interactions with the person  
13 who did the search at the Training Division?

14 A. At the Planning Division or Training?

15 Q. I'm sorry. You corrected me. Thank you. At  
16 the Planning Division.

17 A. No, I do not.

18 Q. Had you heard of that person's reputation?

19 A. No, I had not.

20 Q. Did you do anything to follow up with that  
21 person to ask them whether they conducted a reasonable  
22 search?

23 A. No, I did not.

24 Q. What about the person at the Training Division,  
25 did you do anything to follow up with them and ask if

1 they conducted a reasonable search?

2 A. No, I did not.

3 Q. What about the person at CTSOB who conducted  
4 that division's search, did you do anything to follow up  
5 with that person and ask if they conducted a reasonable  
6 search?

7 A. No, I did not.

8 Q. Did Ms. Monk do that?

9 A. I don't know.

10 Q. But you didn't ask her?

11 A. I did not, that I recall.

12 Q. Are you aware of whether the CTSOB identified  
13 any particular personnel as being likely to have  
14 responsive records?

15 A. No, I'm not -- no, I do not.

16 Q. Are you aware of whether the Training Division  
17 identified any individual personnel as being likely to  
18 have responsive records?

19 A. No, I do not.

20 Q. Are you aware of whether the Planning Division  
21 did anything to identify personnel who might have  
22 responsive records?

23 A. No, I do not.

24 Q. Do you know if Ms. Monk did that for any of  
25 those three divisions?

1 A. I don't know.

2 Q. Did you ask her?

3 A. I don't know. Not that I recall.

4 Q. Do you have any reason to believe that you  
5 would have asked her?

6 A. No, not really.

7 Q. It wasn't part of your normal practice?

8 A. Yes.

9 Q. Yes, it wasn't part of your normal practice?

10 A. No, it wasn't part -- yes, it was not part of  
11 my normal practice.

12 Q. That can get a little confusing, but it was not  
13 part of your normal practice; correct?

14 A. Correct, yes.

15 Q. Do you have any specific assurance that CTSOB  
16 conducted a reasonable search?

17 A. No.

18 Q. Do you have any specific assurance that the  
19 Training Division conducted a reasonable search?

20 A. No.

21 Q. Do you have any specific assurance that the  
22 Planning Division conducted a reasonable search?

23 A. No. Well, let me -- can I amend my answer on  
24 that one?

25 Q. Sure.

1           A.    Yeah, the specific assurance that I got -- that  
2 we received back 15.2s from them providing us with the  
3 records.

4           Q.    But other than the fact that they gave you some  
5 records you have no reason to believe that the search  
6 that they did to find those records was reasonable?

7           A.    Based upon their response that's my assurance.

8           Q.    So the fact that they responded is the only  
9 assurance that you have that they conducted a reasonable  
10 search?

11          A.    Yes.

12          Q.    I'm just trying to go back and figure out where  
13 we were with Ms. Monk's process.  So she, if you'll  
14 remind me, she sent the 15.2s to the three divisions.  
15 She then contacted ITD; is that correct?

16          A.    Yes.

17          Q.    And then she also asked for names of the  
18 members of the CTSOB; is that right?

19          A.    No, I don't think --

20          Q.    Or she asked for some names of personnel?

21          A.    Yeah, I'm sorry, personnel assigned to CTSOB,  
22 correct.

23          Q.    What did she do after that?

24          A.    Without checking the binder I can't recall.

25          Q.    So you don't have any independent recollection

1 of what happened after that point for the search?

2 A. I'd have to review the records.

3 Q. Is it accurate to say that the LAPD -- that  
4 Ms. Monk -- let me rephrase.

5 We were talking before about whether or not  
6 there are any guidelines in place for creating records  
7 regarding the LAPD's collaboration with an outside  
8 entity. Do you know if Ms. Monk was aware of any  
9 guidelines like that?

10 A. I don't know.

11 Q. Do you have any reason to believe she was?

12 A. I don't know.

13 Q. What about when guidelines for creating records  
14 when a program such as Community Mapping is proposed,  
15 are you aware of whether or not there are any guidelines  
16 for creating a special order or a document like that  
17 when a program like Community Mapping is proposed?

18 A. As far as the program I don't know but a  
19 special order there is a protocol in place for drafting  
20 special orders, yes.

21 Q. But are you aware of whether or not a special  
22 order would be -- is supposed to be created when someone  
23 proposes a program like Community Mapping?

24 A. That I don't know.

25 Q. Is there anything you could do to find out?

1 A. No.

2 Q. Do you know if Ms. Monk was aware of whether or  
3 not there were any guidelines for creating documentation  
4 of a program like Community Mapping?

5 A. I don't know.

6 Q. Do you have any reason to believe that she was  
7 aware of such guidelines?

8 A. No.

9 Q. And when the LAPD receives correspondence from  
10 outside entities do you have any reason to believe that  
11 Ms. Monk was aware of there being such guidelines about  
12 when records should be created regarding correspondence  
13 from outside entities to the LAPD?

14 A. No, I don't.

15 Q. So is it accurate to say that Ms. Monk was not  
16 aware of any guidelines or procedures for the sort of  
17 documents that would exist when a program involves  
18 collaboration with outside entities?

19 A. I don't know what she was aware of.

20 Q. Is it accurate to say that you, when you were  
21 supervising her search in response to this request, is  
22 it accurate to say that you weren't aware of the LAPD's  
23 guidelines or procedures for creating documents when a  
24 program involves collaboration?

25 A. Yes, that's correct.



1 Q. And is it accurate to say that when you were  
2 supervising Ms. Monk, Ms. Monk's search for records in  
3 this case, you weren't aware of the LAPD's guidelines or  
4 procedures for creating documents when a project such as  
5 Community Mapping is proposed?

6 A. Yes.

7 Q. And is it accurate to say that when you were  
8 supervising Ms. Monk, Ms. Monk's search for records in  
9 this case, you weren't aware of the LAPD's guidelines  
10 and procedures for creating records when the LAPD  
11 receives correspondence from an outside entity?

12 A. Yes.

13 Q. And putting aside what the divisions may or may  
14 not have done, but just focusing on what the Discovery  
15 Division did, is it true that the Discovery Division  
16 didn't conduct any search for documents that under LAPD  
17 guidelines or procedures should be created when a  
18 program involves collaboration with an outside entity?

19 A. I'm sorry. Could you repeat that again.

20 Q. Sure. That was a little convoluted.

21 Is it accurate to say that the Discovery  
22 Division didn't do any independent search to find  
23 documents that should be created when an LAPD program  
24 involves collaboration with an outside agency or entity?

25 A. Yes, the Discovery Section did not, that's

1 entity to the LAPD, did you search -- did the Discovery  
2 Section search for any records that should be created  
3 when an outside entity sends correspondence to the LAPD?

4 A. No, we did not.

5 Q. Did the Discovery Section ever investigate who  
6 created the Community Mapping program?

7 A. No, we did not.

8 Q. Did it ever identify the individuals who worked  
9 on the Community Mapping program?

10 A. Not that I'm aware of, no.

11 Q. Do you know if CTSOB identified who created the  
12 Community Mapping program?

13 A. I don't know.

14 Q. Do you know if CTSOB identified who worked on  
15 the Community Mapping program?

16 A. I'm not aware of it, no.

17 Q. Do you know if the Training Division identified  
18 who in the Training Division may have been involved in  
19 the Community Mapping program?

20 A. No, I do not.

21 Q. Do you know if the Planning and Research  
22 Division identified who in the Planning and Research  
23 Division may have worked on the Community Mapping  
24 program?

25 A. No, I do not.

1 Q. Do you know if a search was ever performed  
2 on -- let me rephrase.

3 Do you know if the 15.2 was ever sent to Chand  
4 Syed?

5 A. To who?

6 Q. Chand Syed?

7 A. I'm not sure who that is.

8 Q. Do you know if the 15.2 forwarding Muslim  
9 Advocates's request was ever sent to Jonathan Celentano?

10 A. Oh, those are the people that -- whose e-mail  
11 accounts were searched. And no, I do not know if it was  
12 sent to them.

13 Q. And forgive me because I'm going to list all of  
14 them.

15 A. Sure.

16 Q. Do you know if it was ever sent -- if the 15.2  
17 was ever sent to Mark G. Stainbrook?

18 A. I don't know.

19 Q. Do you know if the 15.2 was ever sent to  
20 Michel, M-i-c-h-e-l, R. Moore?

21 A. I don't know.

22 Q. Do you know if it was ever sent to Joan T.  
23 McNamara?

24 A. I don't know.

25 Q. Do you know if it was ever sent to William

1 Bratton?

2 A. I don't know.

3 Q. Do you know if it was ever sent to Michael  
4 Downing?

5 A. I don't know.

6 Q. Did you ask Caydene Monk if any of those  
7 individuals received the 15.2?

8 A. I did not.

9 Q. Do you have any reason to believe that she sent  
10 the 15.2 to any of those individuals?

11 A. No, I do not.

12 MR. CHARNEY: Why don't we take a break.

13 (Recess)

14 BY MR. CHARNEY:

15 Q. We're back on the record at 2:45.

16 Mr. Toyama, do you understand you're still  
17 under oath?

18 A. Yes, I do.

19 Q. So am I correct in understanding that when the  
20 LAPD initially received the request from Muslim  
21 Advocates one of the things that Caydene Monk did was  
22 she sent a request to ITD to search e-mail?

23 A. One of the things she did, yes.

24 Q. And when was that, approximately? I don't need  
25 an exact date.

1 A. Looks like Item No. 4.

2 Q. And so going back to the portion of Muslim  
3 Advocates's request that was asking for records relating  
4 to the Community Mapping program, how do you know that  
5 an e-mail search was performed with respect to that  
6 portion of their request?

7 A. There was no e-mail search performed as of this  
8 date of this response.

9 Q. So by 2014 -- okay. So by the time this  
10 response was given on January 17th, 2014, the LAPD had  
11 not conducted a search of any e-mail with regard to the  
12 Community Mapping program?

13 A. I don't believe so.

14 Q. And so was a search conducted at any time  
15 prior -- was a search for e-mail conducted any time  
16 prior to April 17th, 2015, for e-mail with respect to  
17 the Community Mapping program?

18 A. I don't believe so, no.

19 Q. Do you know why a search was not done until  
20 April 17th, 2015, for e-mail relating to the Community  
21 Mapping program?

22 A. No, I do not.

23 Q. Is there anything you could look at to find  
24 out?

25 A. Yes. I'm looking through the binder right now.

1 Q. But as you sit here today there is nothing in  
2 your independent recollection that would explain that?

3 A. No.

4 MR. CHARNEY: So I want to ask the court  
5 reporter to mark for identification a document that  
6 contains the header "Official Correspondence Review  
7 Form" and is dated May 21st, 2015.

8 (Exhibit 15 marked)

9 BY MR. CHARNEY:

10 Q. Please take a look at the document and let me  
11 know when you're familiar with it.

12 Have you seen this document before?

13 A. Yes.

14 Q. And when did you see this document?

15 A. When I was pulling records in regards to this  
16 case.

17 Q. And what is this document?

18 A. Well, the document is a 15.2 from Legal Affairs  
19 Division to CTSOB, and the subject is asking them to  
20 search for a public records request from the ACLU in  
21 regards to the Muslim Mapping project.

22 Q. This is a document from the LAPD's records;  
23 correct?

24 A. Yes.

25 Q. And it was created on or about the time of the

1 Q. That's not part of your normal practice; right?

2 A. Yes.

3 MR. CHARNEY: I'm going to ask the court  
4 reporter to mark for identification a collection of  
5 e-mails among Caydene Monk, Elsa Manley, and Michael  
6 Seguin from December 18th, 2013, to January 3, 2014.  
7 These bear ID stamps that have been placed on them by  
8 Muslim Advocates for identification.

9 (Exhibit 16 marked)

10 BY MR. CHARNEY:

11 Q. Tell me when you're familiar with it.

12 A. I'm sorry. Yes, I've reviewed it.

13 Q. Have you seen any of these e-mails before?

14 A. Yes.

15 Q. When did you see them?

16 A. In preparation for this deposition.

17 Q. Are these e-mails in the binder?

18 A. Yes.

19 Q. So these are -- and these are LAPD records;  
20 correct?

21 A. Yes.

22 Q. I want to direct your -- well, first I want to  
23 ask you, do you know what, if anything, Mike Seguin did  
24 to search for records responsive to the request by  
25 Muslim Advocates?

1 A. No, I do not.

2 Q. And you don't know what exactly Caydene Monk  
3 did either, do you?

4 A. She sent this e-mail to Elsa Manley.

5 Q. But you don't know if she did anything else  
6 other than send this e-mail?

7 A. Oh, I don't know.

8 Q. What about Elsa Manley, do you know what Elsa  
9 Manley did to search -- excuse me.

10 Do you know what, if anything else, Elsa Manley  
11 did to search in response to Muslim Advocates's request?

12 A. I do not.

13 Q. Did you ever know?

14 A. No.

15 Q. And for Mike Seguin, did you ever know what he  
16 did?

17 A. No.

18 Q. Did you ever ask?

19 A. No, I did not.

20 Q. For Mike Seguin or Elsa Manley? I'm sorry.

21 Did you ever ask Mike Seguin what he did?

22 A. No, I did not.

23 Q. And did you ever ask Elsa Manley what she did?

24 A. No, I did not.

25 Q. Turning to Page 3 you see the first line on the



1 Muslim Advocates's request.

2 Q. And do you know what, if anything, Detective  
3 Rollin Secrest did to search for records responsive to  
4 Muslim Advocates's request regarding Community Mapping?

5 A. No, I do not.

6 Q. Do you know what, if anything, Tabitha Coronado  
7 did to search in response to Muslim Advocates's request  
8 for records concerning Community Mapping?

9 A. No, I do not.

10 Q. So if you look for -- if you look at the first  
11 e-mail from Caydene Monk to Rollin Secrest, the second  
12 paragraph that begins "May I have the name and contact  
13 information for the individual that has been assigned  
14 this project."

15 A. Yes.

16 Q. Do you know who was assigned to the project?

17 A. On the following page, ID No. 44, it appears  
18 that Officer Tabitha Coronado was assigned to it.

19 Q. Okay. But you don't know what she did?

20 A. No, I do not.

21 Q. Did you ever -- do you know if Caydene Monk  
22 ever inquired what she did, what Tabitha Coronado did?

23 A. No, I do not.

24 Q. Did you ever ask Caydene Monk to inquire of  
25 Tabitha Coronado what was done?

1 A. No, I do not recall that I did.

2 Q. Is it part of Caydene Monk's standard practice  
3 to note the contact information of people who are  
4 responding to requests in divisions?

5 A. I believe it's my staff's practice to do that.

6 Q. Why would she then specify that "I am working  
7 with the City Attorney on this one and need to note all  
8 my contact information"?

9 A. Probably just to make sure that we know who we  
10 contact in regards to this request.

11 Q. Do you know what information, if anything, was  
12 provided in response -- excuse me.

13 Do you know what information, if any, was  
14 provided by Tabitha Coronado in response to this  
15 request?

16 A. I don't have an independent recollection.

17 Q. Did you ever know?

18 A. Yes.

19 Q. When did you know?

20 A. In reviewing the testimony.

21 Q. I'm sorry.

22 A. I'm sorry. Reviewing the documents for this  
23 testimony.

24 Q. And which documents gave you that knowledge?

25 A. If I may?

1 Q. Did you have any concerns when you looked at  
2 the documents that she said were responsive?

3 A. No, because I remember she was working with our  
4 City Attorney who was providing us with guidance.

5 Q. So you weren't concerned because you felt that  
6 the City Attorney would take care of any problems?

7 A. Not take care of any problems but provide us  
8 with the proper guidance how to respond to their  
9 request.

10 Q. Putting aside -- when you say "respond to their  
11 request" are you talking about the written response to  
12 their request?

13 A. Yes.

14 Q. But with regard to the search, did you review  
15 these documents to make sure that they were the product  
16 of a reasonable search for records?

17 A. No, I did not.

18 MR. JOHANSEN: If I could have just a moment.

19 MR. CHARNEY: Sure. Do you want to go off the  
20 record?

21 MR. JOHANSEN: Yes.

22 (Discussion off the record)

23 BY MR. CHARNEY:

24 Q. And do you know whether Ms. Monk reviewed these  
25 records to make sure that they were a product of a

1 reasonable search for records?

2 A. I can only assume she did.

3 Q. And why do you believe that?

4 A. Because this is a response we received from  
5 Planning and Research Division.

6 Q. So because -- the only basis for you to believe  
7 that Planning and Research did a reasonable search for  
8 records is that they provided some records?

9 A. Yes.

10 MR. CHARNEY: I'm going to ask the court  
11 reporter to mark for identification a collection of  
12 e-mails among Caydene Monk, Sam Gong, Alejandro Nuño,  
13 Roy Ortiz, Kathlene Matthews and Dr. Luann Pannell, from  
14 December 20th, 2013, to January 8th, 2014, and these  
15 have also been marked for identification with ID numbers  
16 by Muslim Advocates.

17 (Exhibit 18 marked)

18 BY MR. CHARNEY:

19 Q. Please take a look and let me know when you're  
20 familiar with the document.

21 A. Okay.

22 Q. Have you seen these documents before?

23 A. Yes.

24 Q. When did you see these documents?

25 A. In preparation for this testimony.

1 Q. Are these documents in the binder that you  
2 brought with you today?

3 A. Yes.

4 Q. These are LAPD records?

5 A. Yes.

6 Q. Do you know what, if anything, Sam Gong did to  
7 search for records responsive to Muslim Advocates's  
8 request for records regarding the Community Mapping  
9 program?

10 A. No, I do not.

11 Q. Did you ever inquire?

12 A. No, I did not.

13 Q. Do you know if Caydene Monk ever knew what, if  
14 anything, Sam Gong did to search for records?

15 A. I don't know.

16 Q. Did you ever ask her?

17 A. I don't recall that I did.

18 Q. Do you have any reason to believe you did?

19 A. No.

20 Q. It wasn't your normal practice?

21 A. I'm sorry.

22 Q. It wasn't your normal practice, was it?

23 A. No.

24 Q. Do you know what Alejandro Nuño, what, if  
25 anything, he did to search for records responsive to

1 Muslim Advocates's request for records regarding the  
2 Community Mapping program?

3 A. No, I do not.

4 Q. Did you ever know?

5 A. No.

6 Q. Do you know if Caydene Monk knew?

7 A. I don't know.

8 Q. Did you ever ask her?

9 A. I don't recall that I did.

10 Q. Do you have any reason to believe you did?

11 A. No.

12 Q. Do you know if the request was ever forwarded  
13 to the person who would have been responsible for  
14 Mr. Nuño's search duties in his absence?

15 A. I'd have to check the e-mails. It looks like I  
16 believe it was forwarded to Roy Ortiz.

17 Q. And where do you see that?

18 A. It's on ID No. 55.

19 Q. Who is Roy Ortiz?

20 A. According to the e-mail he works Police  
21 Training and Education.

22 Q. But you never met him?

23 A. No, I have not.

24 Q. Do you know of his reputation?

25 A. No, I do not.

1 Q. Do you know what his job duties are?

2 A. No, I do not.

3 Q. Do you know if he has any training with regard  
4 to searching -- excuse me.

5 Do you know if he has any training with regard  
6 to searching -- excuse me.

7 Do you know if he has any training with regard  
8 to conducting a reasonable search for CPRA -- I'm sorry.  
9 I'm going to have to repeat that again. This is getting  
10 embarrassing.

11 Do you know if he has any training with respect  
12 to conducting a reasonable search for records under the  
13 CPRA?

14 A. No, I do not.

15 Q. What about Sam Gong, do you know if he has any  
16 training with respect to conducting a search for records  
17 that's reasonable under the CPRA?

18 A. No, I do not.

19 Q. What about Detective Rollin Secrest, do you  
20 know if he has any training in conducting a search for  
21 records that's reasonable under the CPRA?

22 A. No, I do not.

23 Q. What about Tabitha Coronado?

24 A. No, I do not.

25 Q. Elsa Manley?

1 A. No, I do not.

2 Q. Sergeant Mike Seguin?

3 A. No, I do not.

4 Q. Do you know what, if anything -- and I'll  
5 direct your attention to ID 57. Do you know what, if  
6 anything, Kathlene Matthews did to search for records  
7 responsive to Muslim Advocates's request regarding  
8 Community Mapping?

9 A. No, I do not.

10 Q. Do you know if Kathlene Matthews has any  
11 training with respect to conducting a reasonable search  
12 under the CPRA?

13 A. No, I do not.

14 Q. Do you know where the Training Division  
15 searched for records -- excuse me.

16 Do you know where, if anywhere, the Training  
17 Division searched for records in response to Muslim  
18 Advocates's CPRA request?

19 A. No, I do not.

20 Q. Do you know what, if any, documents were  
21 provided by the Training Division?

22 A. It appears that there were some documents from  
23 Dr. Pannell.

24 Q. And who is Dr. Pannell?

25 A. She's a Director of Police Training and



1 request concerning Community Mapping?

2 A. I don't believe so, no.

3 Q. And so did the Planning and Research -- so am I  
4 correct that your previous answer stands?

5 A. Yes.

6 Q. So the Training Division did not provide any  
7 records regarding the portion of the request concerning  
8 Community Mapping?

9 A. Not that I'm aware of, yes.

10 Q. And the Planning and Research Division, did  
11 they ever provide any documents responsive to the  
12 portion of Muslim Advocates's request seeking documents  
13 concerning Community Mapping?

14 A. Not that I'm aware of, no.

15 Q. And what about the Counter-Terrorism and  
16 Special Operations Bureau, CTSOB, did they provide any  
17 records responsive to the portion of Muslim Advocates's  
18 request seeking documents regarding Community Mapping?

19 A. Not that I'm aware of, no.

20 Q. Do you know where the Training Division  
21 searched, if they searched anywhere?

22 A. I do not know.

23 Q. Did you ever do anything to find out?

24 A. No, I did not.

25 Q. Do you know if Caydene Monk did anything to

1 find out?

2 A. I do not know.

3 Q. Do you have any reason to believe that she did?

4 A. No, I don't.

5 MR. CHARNEY: I'm going to ask the court  
6 reporter to mark for identification an e-mail between  
7 Mr. Toyama and Caydene Monk dated December 19th, 2013,  
8 and this has also been ID marked -- I'm sorry. This has  
9 also been marked for identification by Muslim Advocates.

10 (Exhibit 19 marked)

11 BY MR. CHARNEY:

12 Q. Let me know when you've had a chance to  
13 familiarize yourself.

14 A. Yes.

15 Q. This one shouldn't take too long; right?

16 A. Yeah.

17 Q. Have you seen this document before?

18 A. Yes, I have.

19 Q. And when did you see it?

20 A. Probably on December 19th, but I don't recall  
21 from that date.

22 Q. Fair enough. But this is an e-mail from you --

23 A. Yes.

24 Q. -- to Caydene Monk. Was this a follow-up to  
25 another conversation?

1 Deputy Chief Downing's statement to the U.S. Senate is  
2 information derived from a non-Department related news  
3 article?

4 A. I don't know.

5 Q. Have you read Deputy Chief Downing's statement?

6 A. I don't remember that I have.

7 Q. Did anyone read that statement in the Discovery  
8 Section as part of their preparation to respond to  
9 Muslim Advocates's request for records regarding the  
10 Community Mapping program?

11 A. I don't know.

12 Q. Do you think that it would have been reasonable  
13 for the Discovery Section to consult a Senate Statement  
14 of a Deputy Chief regarding the Community Mapping  
15 program in responding to a CPRA request concerning the  
16 Community Mapping program?

17 A. No, because we make the request directly to  
18 that area that would have the responsive records.

19 Q. So do you think that the area that would have  
20 the responsive records, that it would be reasonable for  
21 them to consult the Senate Statement of a Deputy Chief  
22 regarding the program that's the subject of a request?

23 A. I can't speak for the other divisions. I don't  
24 know.

25 Q. So just sitting here not as, you know, Greg

1 Toyama, the human being, but sitting here as a person  
2 who is standing in the shoes of the Los Angeles Police  
3 Department, do you think it's reasonable for a division  
4 searching for records regarding a program to read the  
5 Senate Statement of a Deputy Chief regarding that  
6 program as part of their preparation to respond to the  
7 CPRA request?

8 A. Well, if it helps to give them some background  
9 as to what's being requested, yes.

10 Q. And as far as you know is it true that -- let  
11 me rephrase.

12 As the LAPD's person most qualified standing in  
13 the shoes of the LAPD, are you aware that anybody in  
14 responding to the CPRA request from Muslim Advocates  
15 regarding Community Mapping actually read Deputy Chief  
16 Downing's statement to the Senate regarding Community  
17 Mapping?

18 A. No, I do not.

19 MR. CHARNEY: I'm going to ask the court  
20 reporter to mark for identification a letter dated  
21 April 20th, 2015, from the Los Angeles Police Department  
22 to Thomas R. Burke. And this has also been marked for  
23 identification by Muslim Advocates.

24 (Exhibit 22 marked)

25 MR. CHARNEY: And I'm sorry, can you remind me

1 what number we're on.

2 THE REPORTER: That's 22.

3 MR. CHARNEY: Thank you.

4 Q. Feel free to familiarize yourself with the  
5 document and let me know when you're ready.

6 A. I've reviewed it.

7 Q. Are you familiar with a second supplemental  
8 request that was made by Christopher Craig of O'Melveny  
9 & Myers in connection with Muslim Advocates's request  
10 for records regarding the Community Mapping program?

11 A. I recall a second request from Christopher  
12 Craig, yes.

13 Q. And do you remember what the subject of that  
14 second supplemental request was?

15 A. Not off the top of my head, no.

16 Q. Did you ever know?

17 A. Yes, at the time it came in.

18 Q. Does reading the second paragraph on page --  
19 I'm sorry -- on the page marked ID 62 of this exhibit  
20 refresh your recollection as to what that second  
21 supplemental request was seeking?

22 A. Yes. Whatever is on there is what was  
23 requested. I don't have an independent recollection.

24 Q. Okay. Do you know if a search was ever done  
25 with respect to the second supplemental request for

1 records showing what the LAPD did to search in response  
2 to Muslim Advocates's initial request?

3 A. No, I don't.

4 Q. Did you ever know?

5 A. No.

6 Q. Do you have any reason to believe that that  
7 search was ever conducted?

8 A. A second supplemental search?

9 Q. Yes. Or a search in response to the second  
10 supplemental request.

11 A. No, I don't.

12 Q. In your experience working for the Discovery  
13 Section has the LAPD ever failed to conduct a search in  
14 response to a request for records?

15 A. Yes.

16 Q. And has that failure ever been due to  
17 oversight?

18 A. Yes.

19 Q. How often does that happen, approximately?

20 A. Maybe 40 or 50 times. I'm not sure.

21 Q. Is that 40 or 50 times a year or 40 to 50 times  
22 over some other time frame?

23 A. Probably over the last year or so, a couple  
24 years, I should say.

25 Q. How many requests does the LAPD -- how many

1 CPRA requests does the LAPD receive -- let me make it  
2 more concrete.

3 How many CPRA requests has the LAPD received  
4 over the last year or so?

5 A. I don't recall offhand.

6 Q. What do you do when -- let me rephrase.

7 How do you know that a search -- how do you  
8 know if the LAPD has failed to search in response to a  
9 request because of an oversight?

10 A. Well, let me restate that. I don't know that  
11 we have failed to search. I know that we failed to  
12 respond in a timely manner. We have a tracking system  
13 that would send e-mail notifications to the analyst  
14 saying that the response is overdue.

15 Q. So this letter is dated -- so how -- that  
16 tracking system, what's the time frame for that?

17 A. It was implemented in, I want to say, mid-2015,  
18 but I'm not sure.

19 Q. Oh, so prior to 2015 there was not a tracking  
20 system that would send reminders?

21 A. Correct.

22 Q. So prior to that tracking system there was no  
23 way -- excuse me.

24 Prior to implementation of that tracking system  
25 there was no way for the LAPD to independently ensure

1 that CPRA requests were actually fulfilled?

2 A. There was an Access database that contained  
3 that information but did not generate automatic e-mail  
4 notifications.

5 Q. So if the analyst responsible for responding to  
6 a particular request, you know, if it slipped his or her  
7 mind, then there would be no reminder, no, you know,  
8 independent check to make sure that it would come back  
9 to that person's attention?

10 A. Yes, correct.

11 Q. Do you think -- do you know why it does not  
12 appear that the LAPD responded to -- well, let me  
13 rephrase.

14 This letter says that it does not appear that  
15 it -- so if you look at the last two sentences here, the  
16 LAPD said that it would -- "it indicated that a search  
17 pursuant to the supplemental request was ongoing and a  
18 further response would be provided. However, it does  
19 not appear that that occurred."

20 Do you know why that happened, why that did not  
21 occur?

22 A. No, I do not.

23 Q. Do you have any reason to believe that there  
24 was a good reason for that not to have occurred?

25 A. I don't know why it didn't occur.



1 Q. So you have no reason to believe that there was  
2 a reasonable justification for the LAPD not fulfilling  
3 the second supplemental request by the date of this  
4 letter, which is April 20th, 2015?

5 A. Ms. Monk may have been out of the office, but I  
6 don't know. That's still not an excuse.

7 Q. So putting that sort of speculation aside, do  
8 you have any specific reason as you sit here today to  
9 believe that there was a justification for the failure  
10 to respond after April 20th, 2015?

11 A. No, I do not.

12 Q. I want to direct your attention to the third  
13 paragraph on the same page we've been looking at, ID 62,  
14 and if you want to familiarize yourself with the whole  
15 paragraph, please feel free, but I'll direct your  
16 attention to a specific sentence once you're ready.

17 A. Okay.

18 Q. So with regard to the sentence that's in the  
19 middle of the paragraph, and you can find it, it begins  
20 one line down from the underlined "this." "While it had  
21 been Chief Downing's intention," and I won't read the  
22 whole thing into the record, there is that sentence and  
23 then a sentence that follows it, which begins  
24 "Discussions concerning said proposed program had been  
25 conceptual up to that point, and involved verbal

1 with other possible non-governmental participants or  
2 potential partners?

3 A. I don't know.

4 Q. And putting your personal knowledge aside as  
5 the Los Angeles Police Department's person most  
6 qualified, did you do anything to prepare yourself to  
7 understand the source of information for this statement?

8 A. No, I did not.

9 Q. Do you have any reason to believe that there --  
10 at the time this statement was made there was a basis  
11 for it, a factual basis for it?

12 A. I assume there was.

13 Q. And what is that factual basis?

14 A. You're referring to the sentences in here?

15 Q. The sentences we've been discussing.

16 A. Probably a discussion with Chief Downing, I  
17 imagine.

18 Q. Do you have any reason to believe that Chief  
19 Downing was actually consulted for this statement?

20 A. I don't know. I imagine he was, but I don't  
21 know. I don't have knowledge of that.

22 Q. Do you know if Deputy Chief Downing was ever  
23 consulted with respect to any action that the LAPD took  
24 in responding to Muslim Advocates's request for records  
25 concerning the Community Mapping program?

1 A. Yes.

2 Q. And when was he consulted?

3 A. I believe I sent him an e-mail asking for if he  
4 had any attachments that were part of the e-mails that  
5 we previously provided to Muslim Advocates.

6 Q. And when did you send that e-mail?

7 A. I believe sometime late last year, if I recall.

8 Q. So that would be late 2016?

9 A. Yes.

10 Q. So November or December of 2016?

11 A. Yeah, thereabouts.

12 Q. Was that the first time you ever contacted  
13 Deputy Chief Downing in connection with Muslim  
14 Advocates's request for records concerning the Community  
15 Mapping program?

16 A. That I recall, yes.

17 Q. Was that the first time that anybody in the  
18 Discovery Section contacted Deputy Chief Downing  
19 regarding the Community Mapping program?

20 A. I don't know.

21 Q. Do you have any reason to believe that others  
22 in the Discovery Section contacted him prior to your  
23 reaching out to him about the e-mail attachments?

24 A. Ms. Monk may have, but I don't have any  
25 knowledge of that.

1 Q. Did you ever have knowledge of that?

2 A. No, I don't know. No, I don't have knowledge  
3 of it, I should say.

4 Q. Putting yourself back in December 12th, 2013,  
5 and imagining that you are directly overseeing the  
6 analyst who is running the search and being very  
7 hands-on, would you have told that analyst to contact  
8 Michael Downing?

9 A. Maybe.

10 Q. Why?

11 A. Because if he's the one that made the  
12 statement, he would know what records there were.

13 Q. So contacting him -- contacting Deputy Chief  
14 Downing would be a reasonable step to take in conducting  
15 a search for the Community Mapping program?

16 A. Well, let me take that back. I would advise  
17 her to go to the bureau over which he supervises to  
18 request records regarding the Community Mapping, not  
19 contact him directly.

20 Q. And if the analyst who you were supervising  
21 came back to you and said, "Okay, I contacted the  
22 division but they said that they weren't going to get in  
23 touch with Deputy Chief Downing," what would you --  
24 would you think that that was a reasonable search or  
25 would you think that they should go back and contact

1 Deputy Chief Downing?

2 A. Well, again, I don't know how they maintain  
3 their records, so there may be a central record  
4 repository where they have all these records, so it may  
5 not be necessary to contact Chief Downing.

6 Q. But it certainly is a reasonable step to take,  
7 isn't it?

8 A. It's a reasonable step, yes.

9 Could we take a quick break?

10 MR. CHARNEY: We certainly can.

11 (Recess)

12 BY MR. CHARNEY:

13 Q. We're back on the record at 4:21.

14 And Mr. Toyama, do you understand that you're  
15 still under oath?

16 A. Yes, I do.

17 Q. So we're still looking at Exhibit 22, I  
18 believe. Do you have that in front of you?

19 A. It's not marked.

20 Q. This is the letter dated April 20th, 2015.

21 A. Yes.

22 Q. Great. Did Muslim Advocates's request for  
23 records regarding the Community Mapping program identify  
24 a time period for records that were sought?

25 A. I don't recall.

1 A. Yes, it does.

2 Q. And what is that time period?

3 A. September 11, 2001, through the present, of the  
4 date of the request.

5 Q. Do you think that that information, the time  
6 period for request is a crucial piece of information for  
7 conducting a search for responsive records?

8 A. It would help narrow down the search, yes.

9 Q. And it's also -- do you think that the LAPD is  
10 capable of conducting a reasonable search for records if  
11 it doesn't understand the time period of a request?

12 A. The Department's very big so it does help to  
13 have a time frame.

14 Q. And from the requester's point of view a time  
15 period identified by the requester is an important piece  
16 of the request; correct?

17 A. I can't speak for the requester but I would  
18 imagine so, yes.

19 Q. Well, just for the request, for the content of  
20 the request. Time period is one of the main parts of  
21 that request; correct?

22 A. Yes.

23 Q. There is -- I mean what aspects are there to a  
24 request, in your opinion?

25 A. Subject matter, what's being requested, and as

1 you said, the time period.

2 Q. So it's one of the two main pieces about the  
3 request; right?

4 A. Yes.

5 Q. Could you conduct a reasonable search for  
6 records without knowing the subject matter of the  
7 request?

8 A. Without knowing the subject matter?

9 Q. Yes.

10 A. No.

11 Q. So could you conduct a reasonable search for  
12 records without knowing the time period of the request?

13 A. Not a reasonable search, I don't believe so.

14 Q. I want to direct your attention back to  
15 Exhibit 22, which is that April 20th, 2015, letter, and  
16 again to Page 3, which is marked ID 63. And I want you,  
17 once you've had a chance to refamiliarize yourself with  
18 this --

19 A. I'm sorry. What page did you say?

20 Q. It's ID 63 at the bottom. So that big third  
21 paragraph -- the second paragraph in the middle, if you  
22 look -- start from the bottom of that paragraph, seven  
23 lines up all the way to the right, the word "As." Do  
24 you see that?

25 MR. JOHANSEN: Seven lines up from the bottom

1 of the paragraph?

2 BY MR. CHARNEY:

3 Q. Seven lines up from the bottom of the  
4 paragraph.

5 A. The second paragraph?

6 Q. The second paragraph, seven lines up.

7 A. No, I don't see "As."

8 Q. So it's on the right side of the paragraph.

9 A. The first word is "As"?

10 Q. Yes. So I think it's the other side, the side  
11 that's not aligned.

12 A. I'm sorry. I'm looking at the left side.

13 Q. No problem. I almost didn't get a driver's  
14 license because I got the two mixed up on the driving  
15 test. So a lot of sympathy from me.

16 So if you see that word "As."

17 A. Yes, I see it.

18 Q. Okay. So you see "As this initial request" --  
19 can you read that sentence?

20 A. "As this initial request (and all other  
21 supplements) never identified a time period within which  
22 e-mail was sought, the Department's responses never  
23 addressed the same."

24 Q. Is it accurate that Muslim Advocates's request  
25 never identified a time period?



1 A. Yes, the request did identify a time period.

2 Q. Do you have any idea or sense of how the  
3 Department could come to believe that the request did  
4 not identify a time period?

5 A. No, I do not.

6 Q. Do you have any idea of any reasonable  
7 justification for the Department not understanding the  
8 time period requested by Muslim Advocates?

9 A. I'm sorry. No, I do not.

10 Q. So in terms of applying any exemptions, am I  
11 right that you testified that Caydene Monk would have  
12 been the person who did an initial review of potentially  
13 responsive records to determine whether any were exempt?

14 A. Yes.

15 Q. And did you rely on her to make that  
16 determination?

17 A. Yes.

18 Q. Did you make an independent verification of her  
19 decisions?

20 A. No, I did not.

21 Q. Did anybody else?

22 A. I don't know if the City Attorney -- I believe  
23 she worked in conjunction with our City Attorney to  
24 determine what documents can be provided.

25 Q. And how would that work? I mean were they

1 records can be archived.

2 Q. Do you know whether records responsive to the  
3 portion of Muslim Advocates's request seeking records  
4 regarding the Community Mapping program are stored in  
5 the LAPD's e-mail backup system?

6 A. Can you repeat the question again?

7 Q. Sure. Do you know whether the LAPD's e-mail  
8 backup system contains any records relating to Community  
9 Mapping?

10 A. I don't know.

11 Q. Did you ever try to find out that information  
12 while you were supervising the search for records?

13 A. No, I did not.

14 Q. Do you know if the LAPD's backup servers  
15 containing divisional server information contain any  
16 records concerning Community Mapping?

17 A. I don't know.

18 Q. Did you ever try to find that information while  
19 you were supervising the search for records in response  
20 to Muslim Advocates's request?

21 A. No, I did not.

22 Q. Why didn't you try to find out?

23 A. Just based on response of -- upon what ITD told  
24 us in regards to the e-mail search capabilities.

25 Q. I guess putting aside the e-mail search

1 capabilities, did you ever try to find out from any of  
2 the individuals who might have records, might have  
3 created records in the first place, such as Michael  
4 Downing, whether they had records in their e-mail during  
5 a time period that such e-mails might be contained in  
6 backups?

7 A. No, I did not.

8 Q. And why didn't you do that?

9 A. Didn't occur to me.

10 Q. And is the same true for information in the  
11 divisional servers?

12 A. I'm not sure what a divisional server is.

13 Q. Okay. So in your work as overseeing the  
14 Department searches for records pursuant to the CPRA  
15 you've never encountered a divisional server?

16 A. Again, I don't know what a divisional server  
17 is.

18 Q. So is the answer no?

19 A. Oh. Yes, the answer is no.

20 Q. Did you ever inquire as to whether or not  
21 records regarding Community Mapping might be stored in  
22 shared network drives that are accessible to any  
23 divisions of the LAPD?

24 A. No, I did not.

25 Q. Did you ever ask whether or not any records

1 concerning Community Mapping might be contained in  
2 backups of shared network drives?

3 A. No, I did not.

4 Q. Why not?

5 A. It's never occurred to me.

6 Q. How were the search terms in the April 17th  
7 15.2 identified? And to make that more concrete you can  
8 go to ID 66.

9 A. To the best of my recollection I believe in  
10 meeting the request and looking at what it was -- sounds  
11 kind of stupid -- looking at what it was requesting,  
12 those keywords are what I came upon as far as trying to  
13 capture everything regarding the mapping, Muslim  
14 Mapping, and Community Mapping program.

15 Q. So if somebody involved in the Community  
16 Mapping program had sent an e-mail saying, "We should  
17 map the community for Muslims," would that e-mail --  
18 assuming that that was the only content in that e-mail,  
19 would that e-mail have come up in response to this  
20 search?

21 A. I don't know how the search capabilities are.

22 Q. As you understood these search keywords, would  
23 "Community Mapping" have been a phrase that was put in,  
24 you know, with quotes around it?

25 A. Again, I don't know how the keywords were

1 BY MR. CHARNEY:

2 Q. We're back on the record at 4:55.

3 Mr. Toyama, given what you've learned about  
4 Ms. Monk's inadvertent omission of documents and the  
5 issue with the not knowing the time period of Muslim  
6 Advocates's requests, do you have questions about her  
7 reliability as an analyst?

8 A. Mistakes happen. I don't really have an  
9 overriding concern over her performance.

10 Q. Is it enough to lead you to question whether  
11 you would exert more oversight over her in the future if  
12 you were still employed as her supervisor?

13 A. Yes.

14 Q. All right. So let's go through the documents  
15 that you used to prepare. As I understand it we marked  
16 Tabs 1 through 13 in your binder. I'm sorry. 1  
17 through 12 in the binder, so we're going to start now  
18 with Tab 13, which is a document -- an invoice for  
19 public records by the Los Angeles Police Department  
20 dated January 17th, 2014.

21 (Exhibit 25 marked)

22 MR. CHARNEY: And actually, let's go off the  
23 record really quickly.

24 (Discussion off the record)

25 ///

DECLARATION UNDER PENALTY OF PERJURY

I, Greg Toyama, hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on February 15, 2017; that I have made such corrections as appear noted on the Deposition Errata Page, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this 16<sup>th</sup> day of MARCH, 2017, at Los Angeles, California.

  
Greg Toyama

1 STATE OF CALIFORNIA     )  
                                  ) SS  
2 COUNTY OF LOS ANGELES   )

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

I, Jean F. Holliday, a Certified Shorthand Reporter, do hereby certify:

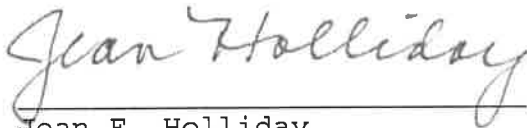
That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and place therein set forth, and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name.

Dated: February 22, 2017



Jean F. Holliday  
CSR No. 4535, RPR, CRR

**EXHIBIT FF**



Greg Toyama Volume II  
March 16, 2017

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

**CERTIFIED COPY**

MUSLIM ADVOCATES,  
Petitioner,

vs.

Case No. BS163755

THE CITY OF LOS ANGELES; THE LOS  
ANGELES POLICE DEPARTMENT; DOES  
1-10, INCLUSIVE,  
Respondents.

---

DEPOSITION OF PERSON MOST QUALIFIED

AT LOS ANGELES POLICE DEPARTMENT

GREG TOYAMA

VOLUME II

Thursday, March 16, 2017

10:07 a.m. - 12:30 p.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Jean F. Holliday

CSR No. 4535, RPR, CRR

U.S. LEGAL SUPPORT  
(800) 993-4464

1 Q. I'm going to show you a document that was  
2 marked previously at the last session of your  
3 deposition.

4 I'm sorry. I'm going to actually take that  
5 back.

6 MR. JOHANSEN: Okay.

7 MR. CHARNEY: Can we go off the record one more  
8 time? Sorry.

9 (Brief recess)

10 BY MR. CHARNEY:

11 Q. So I'm going to show you a document that has  
12 been previously marked as Exhibit 1 at the last session  
13 of your deposition. I guess since it's been marked we  
14 don't need to show it to the court reporter.

15 Mr. Toyama, have you seen this document before?

16 A. Yes, I have.

17 (Exhibit 1 attached for reference)

18 BY MR. CHARNEY:

19 Q. And are you the person most qualified to  
20 testify on Topic 1 listed on Page 2 of this document?

21 A. Yes, I am.

22 MR. CHARNEY: Can we go off the record one more  
23 time?

24 (Brief recess)

25 ///

1 BY MR. CHARNEY:

2 Q. Have you done anything to prepare for your  
3 deposition since the last time we met in this room?

4 A. No, I haven't.

5 Q. You haven't talked to any other people other  
6 than the people you spoke with before?

7 A. Yes.

8 Q. So you haven't?

9 A. Yes. I'm sorry. Yes.

10 Q. And you haven't reviewed any additional  
11 documents since the last time we met?

12 A. Copies of my transcript.

13 Q. From the previous session?

14 A. Yes. I'm sorry. Yes. Oh, as well as this  
15 production of documents.

16 Q. And for the record, is that the City's  
17 responses to Muslim Advocates's second set of requests  
18 for production?

19 A. Yes, correct.

20 Q. And did you participate in the search for  
21 documents?

22 A. Yes, I did.

23 Q. And when was that?

24 A. Prior to this deposition I had collected  
25 correspondence in regards to any 15.2s that we sent to

1 on this document.

2 A. Yes.

3 Q. Does that make sense to you?

4 A. Yes, it does.

5 Q. Did the LAPD look in all logical places within  
6 the Los Angeles Police Department for records sought by  
7 the request?

8 A. Yes, it did.

9 Q. And what places were those?

10 A. We had sent requests to various entities within  
11 the LAPD, namely, CTSOB, Training Division, Planning and  
12 Research Division as well as our Information Technology  
13 Division.

14 Q. And do you know the -- do you know the specific  
15 hard copy repositories that were checked in response to  
16 Muslim Advocates's request?

17 A. No, I do not.

18 Q. Do you know the specific electronic databases  
19 that were searched in response to Muslim Advocates's  
20 request?

21 A. With respect to e-mails there is a server that  
22 we have. I'm not sure what it's called but that was  
23 searched.

24 Q. And what does the server contain?

25 A. E-mails.

1 Q. Other than an e-mail server do you know whether  
2 any other electronic databases were searched in response  
3 to Muslim Advocates's request?

4 A. No, I do not.

5 Q. Did the LAPD consult any record indices for  
6 records sought by the request?

7 A. I'm sorry. Any record what?

8 Q. Indexes.

9 A. No, it did not.

10 Q. Did the LAPD consult any inventories of records  
11 for records sought by the request?

12 A. Not that I know of.

13 Q. As the person most qualified on the LAPD's  
14 search for records in this case are you aware of whether  
15 any record inventories exist within the Los Angeles  
16 Police Department?

17 A. We have a Records Retention Coordinator.

18 Q. And are you aware of whether or not there are  
19 any record inventories maintained by the Los Angeles  
20 Police Department?

21 A. Maybe you can rephrase the question. I'm not  
22 sure what you're asking. As far as inventory I'm not  
23 sure what you're saying.

24 Q. Sure. So by inventory I would refer to a list  
25 or a -- yeah, I guess a list or a spreadsheet of

1 information concerning documents, I guess that's what I  
2 mean by an inventory of records.

3 A. Well, it's my understanding that each division  
4 maintains their own records retention list of documents  
5 that they have sent over to archives. So to answer your  
6 question, yes.

7 Q. And were any of those lists of documents  
8 checked in response to Muslim Advocates's request?

9 A. I do not know.

10 Q. I'm going to show you --

11 MR. CHARNEY: Actually, I'm going to ask the  
12 court reporter to mark for identification a document  
13 produced by the Los Angeles Police Department headed  
14 "2016 2nd Quarter Department Manual."

15 (Exhibit 28 marked)

16 BY MR. CHARNEY:

17 Q. And Mr. Toyama, I'll ask you to focus on I  
18 guess it's the third paragraph down that begins with  
19 "Records Retention Representatives." And when you've  
20 had a chance to review that section please let me know.

21 A. I've reviewed it.

22 Q. Have you ever seen this document before?

23 A. No, I have not.

24 Q. Have you ever seen the department, the LAPD's  
25 department manual before?

1 A. Yes, I have.

2 Q. Does this appear to be a section from that  
3 manual?

4 A. Yes, it appears to be.

5 Q. Can you -- so the section that I pointed you to  
6 that reads "Commanding officers and section officers in  
7 charge shall designate a Records Retention  
8 Representative within their command who shall:  
9 Inventory and appraise all records in their entity."

10 Are you familiar -- have you ever heard of, in  
11 your work for the LAPD or in your preparation to testify  
12 today, of such an inventory?

13 A. Yes, I have.

14 Q. And did the LAPD search any such inventory in  
15 response to Muslim Advocates's request in this matter?

16 A. I do not know.

17 Q. Did you ever know?

18 A. No.

19 Q. Is there anything you could do to find out?

20 A. No.

21 Q. Is there any person who would know?

22 A. I don't know.

23 Q. Do you know if any inventory existed at the  
24 time that Muslim Advocates made its request in 2013?

25 A. Inventories exist, yes.

1 Q. But you don't know if those inventories were  
2 searched in response to Muslim Advocates's request?

3 A. No, I do not.

4 Can I rephrase what I answered? When you say  
5 inventory, I'm speaking in general terms that yes, there  
6 is an inventory of records that have been sent off to  
7 archives, but I'm not saying with respect to the request  
8 that we're talking about, because I don't know, if that  
9 kind of clears it up.

10 Q. So are you saying you don't know if any of  
11 those inventories were searched with respect to this  
12 request?

13 A. Yes, that's what I said, I don't know.

14 Q. Did the LAPD ask all people with knowledge  
15 concerning the Community -- excuse me. I'm going to  
16 start again.

17 Did the LAPD ask all people with knowledge  
18 concerning the Community Mapping program for information  
19 about any records sought by the request?

20 A. I don't know. We sent our request to the  
21 divisions that we felt would have responsive records.

22 Q. But as the person most qualified on the LAPD's  
23 search you don't know whether any specific individual  
24 personnel were asked about records responsive to the  
25 request?



1 A. No, I do not.

2 Q. And more specifically you don't know whether  
3 any individual personnel who worked on the Community  
4 Mapping program were asked about records relating to the  
5 program?

6 A. I do not know.

7 Q. And you don't know if any individual personnel  
8 who might have had knowledge of the Community Mapping  
9 program were asked about records relating to the  
10 program?

11 A. I do not know.

12 Q. Did you ever know?

13 A. No.

14 Q. Is there anything you could do to find out?

15 A. No.

16 (Whereupon, Ms. Henry entered the proceedings)

17 BY MR. CHARNEY:

18 Q. Is there anybody you could ask?

19 A. I don't know.

20 Q. Was Muslim Advocates's request sent to the  
21 Community Affairs Division?

22 A. I don't recall seeing a 15.2 for that, no.

23 Q. Do you know why it wasn't sent?

24 A. I don't know.

25 Q. Did anyone suggest sending Muslim Advocates's

1 request to the Community Affairs Division?

2 A. I don't recall.

3 Q. Is there anything that could refresh your  
4 recollection?

5 A. I don't know.

6 Q. Did you ever know why the 15.2 wasn't sent to  
7 the Community Affairs Division?

8 A. No, I don't.

9 Q. Is there anything you could look at or consult  
10 to find out?

11 A. I guess any records in the case file.

12 MR. CHARNEY: I'm going to ask the court  
13 reporter to mark for identification a document produced  
14 by the LAPD in this action bearing Bates No. LAPD RFP-2  
15 00039.

16 (Exhibit 29 marked)

17 BY MR. CHARNEY:

18 Q. Mr. Toyama, please review the document and let  
19 me know when you've had a chance to do so.

20 A. I reviewed it.

21 Q. Have you seen this document before?

22 A. Yes.

23 Q. What is this document?

24 A. It's a 15.2 that we had sent to our planning  
25 and research division for any documents in response to

1 the Muslim Advocates's request.

2 Q. And I want you to focus your attention on the  
3 second-to-last paragraph that begins "I would also  
4 recommend."

5 A. Yes, I see that.

6 Q. Can you read that for me?

7 A. "I would also recommend contacting Community  
8 Relations Section for any additional documents and  
9 information that they may have regarding this discovery  
10 request."

11 Q. And I realized I misspoke before when I said  
12 Community Affairs Division. In fact I meant Community  
13 Relations Section. Was the request sent to the  
14 Community Relations Section?

15 A. I don't believe it was.

16 Q. Did your previous answers in response to my  
17 question about the Community Affairs Division, would  
18 they also apply if I had used the correct word,  
19 Community Relations Section?

20 A. Yes, it would.

21 Q. And so does this refresh your recollection as  
22 to whether or not anybody suggested sending Muslim  
23 Advocates's request to the Community Relations Section?

24 A. Yes, it does.

25 Q. Do you know -- and in fact this document did

1 suggest doing so; correct?

2 A. Yes, it does.

3 Q. Do you know why the request was not sent to the  
4 Community Relations Section?

5 A. I do not.

6 Q. Is there any -- as you sit here today can you  
7 think of any good reason why it wasn't sent?

8 A. No, I do not. No, I cannot.

9 Q. Can you think of any justification why it  
10 wasn't sent?

11 A. Maybe somebody actually contacted them  
12 verbally, but I don't know. I have no justification.

13 Q. The normal practice when sending a -- excuse  
14 me. The normal practice when a division is responding  
15 to a CPRA request is for that division to receive a  
16 15.2; correct?

17 A. Correct.

18 Q. Not for an oral request to be made; right?

19 A. Yes.

20 Q. And so if a 15.2 wasn't sent -- let me  
21 rephrase.

22 If Community Relations Section were asked for  
23 records relating to the request, would the normal  
24 practice be to send a 15.2 to Community Relations  
25 Section?

1 A. Yes, that's correct.

2 Q. And if a 15.2 wasn't sent to Community  
3 Relations Section would that demonstrate to you that  
4 Community Relations Section was not asked for records  
5 about the request?

6 A. Well, it tells me that there is no record of us  
7 having sent a 15.2 to them.

8 Q. In your time supervising the Discovery Section  
9 were divisions ever asked -- did divisions ever conduct  
10 a search for records without -- I'm just going to back  
11 up.

12 In your time supervising the Discovery Section  
13 was a division ever asked to conduct a search for  
14 records without a 15.2 being issued to that division?

15 A. Yes.

16 Q. And in what circumstances would that happen?

17 A. When we need copies of contracts we just  
18 contact our Contracts section. We'd ask them if they  
19 need a 15.2, they said no, just send us the request, or  
20 just tell it to me verbally, or telephonically, I should  
21 say.

22 Q. And is that the only circumstance in which a  
23 15.2 would not be sent to a division that was searching  
24 in response to a CPRA request?

25 A. That I can recall, yes.

1 Q. The standard procedure would have been to send  
2 a 15.2 to the Community Relations Section if the  
3 Community Relations Section were asked to search for  
4 records; correct?

5 A. Yes, that's correct.

6 Q. As you sit here today as the PMQ on the LAPD's  
7 search do you have any reason to believe that the  
8 Community Relations Section was asked to search for  
9 records responsive to Muslim Advocates's request?

10 A. I do not believe that they searched because I  
11 have no record of a 15.2 being sent.

12 Q. Thank you.

13 Was the Office of the Chief of Police -- let me  
14 rephrase.

15 Did the LAPD ask the Office of the Chief of  
16 Police to search for records responsive to Muslim  
17 Advocates's request?

18 A. I do not believe so, no.

19 Q. And why don't you believe so?

20 A. We have no record of a 15.2.

21 Q. Do you know why a 15.2 wasn't sent to the  
22 Office of the Chief of Police?

23 A. No, I do not.

24 Q. Did you ever know?

25 A. No.

1 Q. Is there anything you could consult to find  
2 out?

3 A. No.

4 Q. Is there anybody who might know?

5 A. I don't know.

6 Q. I believe you testified that the  
7 Counter-Terrorism Bureau of the LAPD searched for  
8 records in response to Muslim Advocates's request?

9 A. Yes.

10 Q. And that's abbreviated CTSOB?

11 A. Yes.

12 Q. Did CTSOB search its filing cabinets for  
13 records sought by the request?

14 A. I don't know.

15 Q. Did you ever know?

16 A. No.

17 Q. Is there anything you could consult to find  
18 out?

19 A. No.

20 Q. Did CTSOB search any other hard copy  
21 repositories other than filing cabinets for records  
22 sought by the request?

23 A. I don't know what they searched.

24 Q. I apologize if this gets a little repetitive,  
25 but did you ever know?

1 A. No.

2 Q. Is there anything you could consult to find  
3 out?

4 A. No.

5 Q. And did CTSOB search its electronic databases  
6 for records sought by the request?

7 A. I don't know.

8 Q. Did you ever know?

9 A. No.

10 Q. Is there anything you could consult to find  
11 out?

12 A. No.

13 Q. Did CTSOB search its electronic devices for  
14 records sought by the request?

15 A. I don't know.

16 Q. Did you ever know?

17 A. No.

18 Q. Is there anything you could consult to find  
19 out?

20 A. No.

21 Q. Did CTSOB ask its commanding officer for any  
22 correspondence concerning Community Mapping?

23 A. I don't know.

24 Q. Did you ever know?

25 A. No.



1           A.    It would be the commanding officer of the  
2 division, which would be CTSOB.

3           Q.    But you don't know if the commanding officer of  
4 CTSOB was asked to search for any correspondence  
5 concerning Community Mapping?

6           A.    No, I don't.

7           Q.    And am I right that you testified you never  
8 knew that?

9           A.    Yes.

10          Q.    In preparing to testify today did you  
11 prepare -- excuse me, did you try to find any  
12 information regarding that question?

13          A.    No.

14          Q.    Why not?

15          A.    I didn't.

16          Q.    Am I right that Planning and Research also  
17 searched for records in response to the request?

18          A.    Yes.

19          Q.    And they were also referred to now as Policies  
20 and Procedures?

21          A.    Yes, correct.

22          Q.    I'll refer to them as Planning and Research for  
23 simplicity.

24          A.    Okay.

25          Q.    Did Planning and Research search its filing

1 cabinets for records sought by the request?

2 A. I don't know what they searched but they  
3 conducted a search.

4 Q. Do you know if they searched their filing  
5 cabinets?

6 A. I don't know.

7 Q. Did you ever know?

8 A. No.

9 Q. Is there anything you could do to find out?

10 A. No.

11 Q. Do you know who would know?

12 A. I don't know.

13 Q. Did Planning and Research search any --

14 A. I'm sorry. The person who conducted the  
15 search -- the person who conducted the search would  
16 know.

17 Q. And who is that person?

18 A. I believe that was Officer Coronado, Tabitha  
19 Coronado.

20 Q. Did Planning and Research search any other hard  
21 copy repositories for records sought by the request?

22 A. I don't know.

23 Q. Did you ever know?

24 A. No.

25 Q. Is there anything you could do to find out?

1 A. No.

2 Q. Do you know who would know?

3 A. Officer Tabitha Coronado.

4 Q. Did you speak to Officer Tabitha Coronado in  
5 preparing to testify today?

6 A. No, I did not.

7 Q. And what about Officer Mike Seguin, did you  
8 speak with him?

9 A. No, I did not.

10 Q. Why didn't you speak with either of them?

11 A. I had no cause to.

12 Q. Did Planning and Research search its electronic  
13 databases for records sought by the request?

14 A. I don't know.

15 Q. Did you ever know?

16 A. No.

17 Q. Do you know who would know?

18 A. Officer Coronado.

19 Q. Did Planning and Research search its electronic  
20 devices for records sought by the request?

21 A. I don't know.

22 Q. Did you ever know?

23 A. No.

24 Q. Do you know who would know?

25 A. Officer Coronado.

1 Q. We're getting into a nice rhythm here.

2 Did Planning and Research search for any  
3 Memoranda of Agreement concerning the Community Mapping  
4 program?

5 A. I don't know.

6 Q. Do you know what a Memoranda of Agreement is?

7 A. Yes.

8 Q. What is a Memoranda of Agreement?

9 A. It's an agreement between agencies who are, I  
10 guess, working together on some type of program.

11 Q. And that would also apply if the LAPD were  
12 working with a business or some other entity?

13 A. That I don't know.

14 Q. Did you ever know that?

15 A. Yes. It's usually between agencies, other  
16 governmental agencies.

17 Q. But as you sit here today you don't know  
18 whether or not a Memorandum of Agreement would be issued  
19 if the LAPD were working with another business as  
20 opposed to another agency?

21 A. I don't know.

22 MR. CHARNEY: I'm going to ask the court  
23 reporter to mark for identification a document produced  
24 by the LAPD in this matter bearing Bates  
25 Nos. LAPD RFP-2 00054.

1 paragraph, I'd like you to focus on the sentence that's  
2 smack dab in the middle of that paragraph that begins  
3 "Generally," it reads: "Generally, all contracts with  
4 outside entities will be MOAs."

5 Does that provide you information regarding  
6 whether or not an MOA or Memorandum of Agreement would  
7 be issued if the LAPD is working with another business  
8 or entity other than an agency?

9 A. No, it does not.

10 Q. Do you know where MOAs, Memorandum of  
11 Agreement, are stored in the Los Angeles Police  
12 Department?

13 A. Supposed to be stored by our PR, Planning and  
14 Research Division.

15 Q. But you don't know if the Planning and Research  
16 Division searched for any Memorandum of Agreement with  
17 respect to the Community Mapping program?

18 A. No, I do not.

19 Q. And you never knew that?

20 A. No, I never knew that.

21 Q. And you never tried to find out?

22 A. No, I did not.

23 Q. And specifically in preparing to testify as the  
24 Los Angeles person most qualified you never prepared  
25 yourself to testify regarding whether a search was

1 conducted at the Planning and Research for Memoranda of  
2 Agreement?

3 A. No, I did not.

4 Q. Do you know why that search wasn't conducted?

5 A. I don't know if it was or was not.

6 Q. Fair enough.

7 The Training Division -- well, let me back up.

8 If a search wasn't conducted for Memoranda of Agreement  
9 in Planning and Research, would there -- as you sit here  
10 today are you aware of any good justification for why  
11 that search wasn't conducted?

12 MR. JOHANSEN: Objection. It calls for  
13 speculation.

14 BY MR. CHARNEY:

15 Q. You can answer.

16 A. I don't know.

17 Q. So just to be clear, you don't know of any good  
18 justification?

19 A. No.

20 Q. Did Training Division search in response to  
21 Muslim Advocates's request?

22 A. Yes.

23 Q. And did the Training Division search its filing  
24 cabinets for records sought by the request?

25 A. I don't know.

1 Q. Did you ever know?

2 A. No.

3 Q. Is there anything you could do to find out?

4 A. No.

5 Q. Is there any person who would know?

6 A. The person whoever conducted the search.

7 Q. Do you know who that person is?

8 A. I don't recall.

9 Q. Did you ever know that?

10 A. Yes.

11 Q. And is there anything that would refresh your  
12 recollection as to that person's name?

13 A. I could look through the 15.2s that we received  
14 back from them.

15 Q. Did the Training Division search hard copy  
16 repositories other than filing cabinets for records  
17 sought by the request?

18 A. I don't know.

19 Q. Did you ever know?

20 A. No.

21 Q. Is there anything you could do to find out?

22 A. No.

23 Q. Do you know who would know?

24 A. The person who conducted the search.

25 Q. And did the Training Division search its

1 electronic databases for records sought by the request?

2 A. I don't know.

3 Q. Did you ever know?

4 A. No.

5 Q. Is there anything you could do to find out?

6 A. No.

7 Q. Did Training Division search its devices,  
8 electronic devices for records sought by the request?

9 A. I don't know.

10 Q. Did you ever know?

11 A. No.

12 Q. Is there anything you could do to find out?

13 A. No.

14 Q. Did Michael Downing search for records in  
15 response to the request?

16 A. Yes.

17 Q. And what did he do to search for records?

18 A. I had sent him a 15 -- sorry -- an e-mail, we  
19 had provided copies of some e-mails that had attachments  
20 but we couldn't get the attachments because they were so  
21 old, so I asked him if he could provide copies of those  
22 attachments that were listed on the e-mail.

23 Q. And was he able to provide copies of those  
24 attachments?

25 A. He brought some copies, correct.



1 Q. And when was that?

2 A. I don't want to guess.

3 Q. Can you estimate?

4 A. Probably October or November maybe.

5 Q. Of this year?

6 A. No. I'm sorry. Of last year, 2016.

7 Q. And do you know if those attachments were  
8 produced to Muslim Advocates?

9 A. I believe they were, yes.

10 Q. And why do you believe that they were?

11 A. I believe my counsel had transmitted it to your  
12 office.

13 Q. Do you know if Michael Downing searched for  
14 records in response to the request in around the time  
15 that the request was sent in 2013?

16 A. I do not know.

17 Q. Did you ever know?

18 A. No.

19 Q. Is there anything you could do to find out?

20 A. No.

21 Q. Is there anybody who would know?

22 A. I don't know.

23 Q. So just to drill down on that a little bit, you  
24 don't know if Michael Downing searched his home for  
25 records responsive to the request?

1 A. I do not know.

2 Q. You don't know if he searched his electronic  
3 devices?

4 A. I do not know.

5 Q. Do you know if he searched any of his hard copy  
6 files?

7 A. I do not know.

8 Q. Do you know if he searched any of his shared  
9 drives, and by that I mean network drives that are  
10 operated by the LAPD?

11 A. I don't know.

12 Q. Do you know if he searched any of his personal  
13 drives on his LAPD computer?

14 A. No, I don't know.

15 Q. Do you know if he searched any divisional  
16 servers?

17 A. I don't know.

18 Q. Did you ever know the answer to any of these  
19 questions?

20 A. No.

21 Q. Is there anything you could do to find out the  
22 answer to any of these questions?

23 A. No.

24 Q. Is there any person who would know?

25 A. I suppose Chief Downing.

1 Q. In preparing to testify as the person most  
2 qualified about the LAPD's search in this matter did you  
3 talk to Chief Downing?

4 A. No, I did not.

5 Q. Why not?

6 A. I had no reason to.

7 Q. What do you mean by that?

8 A. We received our responses back from the  
9 entities that we had sent the requests to and what we  
10 got back is what we got back.

11 Q. What about William Bratton, or Chief William  
12 Bratton, did he search for records in response to the  
13 request?

14 A. I don't know.

15 Q. Did you ever know?

16 A. No.

17 Q. Is there anything you could do to find out?

18 A. No.

19 Q. Is there any person who would know?

20 A. I don't know.

21 Q. Did you -- in preparing to testify as the  
22 LAPD's person most qualified did you talk to Chief  
23 William Bratton?

24 A. No, I did not.

25 Q. Do you know if Joan T. McNamara searched for

1 records in response to the request?

2 A. No, I do not.

3 Q. Did you ever know?

4 A. No.

5 Q. Is there anything you could do to find out?

6 A. No.

7 Q. Is there any person who would know?

8 A. I don't know.

9 Q. In preparing to testify as the PMQ on the  
10 LAPD's search for records did you speak with  
11 Ms. McNamara?

12 A. No, I did not.

13 Q. Michel R. Moore, and that's spelled  
14 M-i-c-h-e-l, I may not be pronouncing it correctly when  
15 I say "Michel," but did Michel R. Moore search for  
16 records in response to the request?

17 A. I don't know.

18 Q. Did you ever know?

19 A. No.

20 Q. Is there anything you could do to find out?

21 A. No.

22 Q. Is there any person who would know?

23 A. I don't know.

24 Q. In preparing to testify as the LAPD's PMQ did  
25 you speak with Michel R. Moore?

1 A. No, I did not.

2 Q. Did Mark G. Stainbrook search for records in  
3 response to the request?

4 A. I don't know.

5 Q. Did you ever know?

6 A. No.

7 Q. Is there anything you could do to find out?

8 A. No.

9 Q. Is there any person who would know?

10 A. I don't know.

11 Q. Did you speak with Mr. Stainbrook in preparing  
12 to testify as the LAPD's PMQ on the search?

13 A. I'm sorry. Could you repeat the question? I  
14 was coughing.

15 Q. Sure. Did you speak with Mr. Stainbrook in  
16 preparing to testify today as the LAPD's PMQ?

17 A. No.

18 Q. Did Jonathan Celentano search for records in  
19 response to the request?

20 A. I don't know.

21 Q. Did you ever know?

22 A. No.

23 Q. Is there anything you could do to find out?

24 A. No.

25 Q. Do you know who would know?

1 A. I don't know.

2 Q. In preparing to testify as the LAPD's PMQ did  
3 you speak to Johnathan Celentano?

4 A. No, I did not.

5 Q. And did Chand Syed search for records in  
6 response to the request for records?

7 A. I don't know.

8 Q. Did you ever know?

9 A. No.

10 Q. Is there anything you could do to find out?

11 A. No.

12 Q. Who would know?

13 A. I don't know.

14 Q. And in preparing to testify as the LAPD's PMQ  
15 did you speak with Mr. Syed?

16 A. No, I did not.

17 Q. I know we talked about Memoranda of Agreement  
18 in the Policies and Procedures or Planning and Research  
19 Division, but more broadly did anybody at the LAPD  
20 search in any place for Memoranda of Agreement  
21 concerning Community Mapping?

22 A. I don't know.

23 Q. Did you ever know?

24 A. No.

25 Q. Is there anything you could do to find out?

1 A. No.

2 Q. Who would know?

3 A. I don't know.

4 Q. Do you know, is Caydene Monk still in the  
5 Los Angeles Police Department?

6 A. No, she's not.

7 Q. Do you know why?

8 A. She retired.

9 Q. Do you know when she retired?

10 A. I want to say sometime in 2015. I'm not sure  
11 when though.

12 Q. And when you say retired, is there a -- what  
13 does it mean when somebody retires from the LAPD, is  
14 that distinct from leaving to take another job?

15 A. If you retire you retire from City service.

16 Q. So in order for somebody to retire do they have  
17 to reach a certain age or experience level or something  
18 like that as opposed to just quitting?

19 A. There is different age and service years. I'm  
20 not an expert but you can retire early or you can retire  
21 later.

22 Q. I guess I'm just trying to understand would you  
23 characterize somebody who just left as retiring?

24 A. No. If you retire you retire. If you left  
25 then you resigned.

1 Q. So presumably Caydene Monk is done with all  
2 City service and is no longer part of the work force; is  
3 that correct?

4 A. As far as I know she retired from the City of  
5 Los Angeles. What she's doing now I don't know.

6 Q. Okay. I'd like to show you a document that's  
7 been previously marked at the last session of your  
8 deposition as Exhibit 15. Please take a moment to  
9 familiarize yourself with this document.

10 A. I reviewed it.

11 (Exhibit 15 attached for reference)

12 BY MR. CHARNEY:

13 Q. Did you participate in a search for  
14 correspondence dated on or about November 14th, 2007,  
15 from the American Civil Liberties Union requesting  
16 records on a Muslim Mapping project?

17 A. No, I did not.

18 Q. Did you -- when the -- let me back up.

19 Did you ever, in and around November 14th,  
20 2007, were you a supervisor in the LAPD's Discovery  
21 Section?

22 A. Yes, I was.

23 Q. And did you participate or supervise a search  
24 for records responsive to a November 14th, 2007, request  
25 from the American Civil Liberties Union for records on



1 the Muslim Mapping project?

2 A. Not that I recall, no.

3 Q. So you don't know if any records were ever  
4 produced to the American Civil Liberties Union?

5 A. I do not know.

6 Q. Do you know why the 15.2 bearing ID No. 107 in  
7 this document was sent?

8 A. I believe our City Attorney had suggested that  
9 we contact our CTSOB to see if they had a record of that  
10 request.

11 Q. And did you understand the reason why that  
12 search was being conducted?

13 A. Yeah. To see if we had any previous records of  
14 the Muslim Mapping project.

15 Q. And did you find those records?

16 A. No, we did not.

17 Q. Were the Los Angeles Police Department  
18 personnel responsible for searching for records in  
19 response to Muslim Advocates's request aware of the  
20 record indices in each division?

21 A. I'm sorry. Could you rephrase that?

22 Q. Sure. Were the individuals at the LAPD who  
23 actually searched for records responsive to Muslim  
24 Advocates's request, were they aware of each  
25 division's -- each division that was searched, that

1 division's record indices?

2 A. I don't know.

3 Q. Did you ever know?

4 A. No.

5 Q. Is there anything you could do to find out?

6 A. No.

7 Q. Who would know?

8 A. I don't know.

9 Q. In preparing to testify today as the PMQ on  
10 search did you do anything to find out whether the  
11 people who searched for records were aware of the  
12 relevant divisions' record indices?

13 A. No.

14 Q. Why not?

15 A. I don't know. We just rely on whoever conducts  
16 the search.

17 Q. But you don't know what they did?

18 A. No, I do not.

19 Q. Did the LAPD personnel who searched for records  
20 responsive to Muslim Advocates's request, were they  
21 aware of record inventories in the relevant divisions  
22 that were searched?

23 A. I don't know.

24 Q. Did you ever know?

25 A. No.

1 Q. Is there anything you could do to find out?

2 A. No.

3 Q. Who would know?

4 A. I don't know.

5 Q. And in preparing to testify today as the LAPD's  
6 PMQ did you do anything to find out the answer to that  
7 question?

8 A. No, I did not.

9 Q. Why not?

10 A. As I stated before, we relied on the search  
11 that was conducted.

12 Q. And I am sorry if this gets a little repetitive  
13 but I appreciate your bearing with me.

14 Did the LAPD personnel responsible for  
15 searching for records responsive to Muslim Advocates's  
16 request, were they aware of the existence or location of  
17 Memoranda of Agreement?

18 A. I don't know.

19 Q. Did you ever know?

20 A. No.

21 Q. Is there anything you could do to find out?

22 A. No.

23 Q. Who would know?

24 A. I don't know.

25 Q. And in preparing to testify as the PMQ today

1 did you do anything to find out the answer to that  
2 question?

3 A. No, I did not.

4 Q. Why didn't you?

5 A. As I stated, again, we relied on the search  
6 that was conducted, and the information that was  
7 provided back to us.

8 Q. And did the LAPD personnel responsible for  
9 searching for records in response to Muslim Advocates's  
10 request, were they aware of electronic databases of  
11 records in the relevant divisions?

12 A. Just our ITD I can say for sure.

13 Q. And by that do you mean that the Information  
14 Technology Division was aware of their own electronic  
15 databases?

16 A. Yes. I'm referring to the e-mail searches that  
17 they did.

18 Q. Putting aside ITD's searches of e-mails --  
19 actually, am I correct that those e-mail searches would  
20 have been done on a central e-mail server maintained by  
21 ITD?

22 A. I don't know how the server is maintained but  
23 they did conduct a search.

24 Q. But ITD didn't search electronic repositories  
25 within each division, did they?

1 A. I don't know.

2 Q. Did you ever know?

3 A. No.

4 Q. Is there anything you could do to find out?

5 A. No.

6 Q. Do you know who would know?

7 A. Whoever conducted the search.

8 Q. And putting aside e-mail searches by ITD, do  
9 you know if the LAPD personnel within divisions who were  
10 responsible for searching -- excuse me.

11 Do you know if the LAPD personnel within  
12 divisions other than ITD who were responsible for  
13 searching for records responsive to Muslim Advocates's  
14 request, do you know if any of those personnel searched  
15 electronic databases within the relevant division for  
16 records?

17 A. No, I do not.

18 Q. Did you ever know?

19 A. No.

20 Q. Is there anything you could do to find out?

21 A. No.

22 Q. Who would know?

23 A. I don't know.

24 Q. And in preparing to testify as the LAPD's PMQ  
25 on the search for records today did you do anything to

1 find out whether or not personnel within divisions were  
2 aware of the electronic databases within their division?

3 A. No, I did not.

4 Q. Why not?

5 A. Because we received documents back from them,  
6 so we relied on the search that they conducted.

7 Q. And if I asked you -- let me rephrase.

8 Would your answer be the same with respect  
9 to -- I'll just take it back and just ask the question.

10 Were the LAPD personnel responsible for  
11 searching for records aware of electronic devices within  
12 divisions that might contain responsive records?

13 A. I don't know.

14 Q. Did you ever know?

15 A. No.

16 Q. What could you do to find out?

17 A. Nothing.

18 Q. Who would know?

19 A. I don't know.

20 Q. And in preparing to testify as the LAPD's PMQ  
21 today did you do anything to find out whether personnel  
22 who searched for records were aware of electronic  
23 devices within divisions that might have responsive  
24 records?

25 A. No, I did not.

1 my staff.

2 Q. Do you know why she was cc'd on this e-mail?

3 A. No, I do not.

4 Q. Did you ever know?

5 A. No.

6 Q. Is there anything you could do to find out?

7 A. No.

8 Q. Who would know?

9 A. I imagine Martin Bland.

10 MR. CHARNEY: I'm going to ask the court  
11 reporter to mark for identification a document produced  
12 by the LAPD in this action Bates numbered LAPD RFP-2  
13 0005.

14 (Exhibit 34 marked)

15 BY MR. CHARNEY:

16 Q. Please take a look at this document and let me  
17 know when you've had a chance to familiarize yourself  
18 with it.

19 A. I've reviewed it.

20 Q. Have you seen this document before?

21 A. Yes.

22 Q. What is this document?

23 A. It's a printout from our database system in  
24 regards to the request from originally Glenn Katon, or  
25 Katon.

1 Q. So just going page by page, what does the first  
2 page depict? Or let me rephrase.

3 What information does the first page tell you  
4 as a former supervisor in the Discovery Section  
5 responsible for CPRA requests?

6 A. Tells me who the requester was, what the  
7 subject was, who is assigned to it, and what was done on  
8 it.

9 Q. Does it tell you anything about the LAPD's  
10 search for records in response to the request?

11 A. No, it does not.

12 Q. What does it tell you with respect to what was  
13 done?

14 A. Nothing.

15 Q. So do I understand you correctly in saying that  
16 nothing was done -- let me rephrase.

17 Do I understand you correctly in stating that  
18 based on this document nothing was done in response to  
19 Muslim Advocates's request?

20 MR. JOHANSEN: Objection.

21 THE WITNESS: No.

22 MR. JOHANSEN: Go ahead.

23 THE WITNESS: No, that's not what I'm saying.

24 BY MR. CHARNEY:

25 Q. So you had previously, if I remember your



1 testimony correctly, said that one of the things this  
2 document tells you is what was done in response to the  
3 request.

4 A. Yes. That's if the analyst fills in the chrono  
5 as to what they did.

6 Q. Is the chrono filled in on this document?

7 A. No, it's not.

8 Q. So based on this document, putting aside any  
9 other knowledge you would have, based on this document  
10 it would state that nothing was done in response to  
11 Muslim Advocates's request?

12 MR. JOHANSEN: Objection. Misstates the  
13 witness's testimony. Improper hypothetical.

14 BY MR. CHARNEY:

15 Q. You can answer.

16 A. No. Based on this document it just shows we've  
17 received a request. Didn't say anything else.

18 Q. Is it common practice within the Discovery  
19 Section to fill out a chrono in connection with actions  
20 the department takes to search for records responsive to  
21 a CPRA request?

22 A. It's common, yes. Sometimes analysts would  
23 enter it into the system, into the database or actually  
24 handwrite it on the actual case file.

25 Q. Do you know if that was done in this case?

1           A.    There is notes in the case file but not  
2 apparently on this page that we're looking at.

3           Q.    And looking at Page 2, which has the  
4 Bates No. 0006, what does this tell you? Or actually,  
5 let me back up.

6                    What is this document?

7           A.    It's a printout from our tracking system, our  
8 database tracking system.

9           Q.    Is this a -- does this depict the same  
10 information as on the previous page but in a different  
11 view?

12          A.    Yes.

13          Q.    And turning to Page 7 or the document Bates  
14 stamped 0007, which is the next page, what is this  
15 document?

16          A.    It's a printout from our database tracking  
17 system.

18          Q.    Does this depict all of the information  
19 contained in the database tracking system?

20          A.    This appears to be the access log, meaning  
21 whoever accessed this particular, I guess, file, for  
22 lack of a better word.

23          Q.    And what is the significance of an access log  
24 with respect to a file?

25          A.    Just shows who actually looked at the -- on the

1 computer who looked at this request.

2 Q. And am I right that analysts who are  
3 responsible for searching for records in response to a  
4 CPRA request would need to access this file to do so?

5 A. They would access it to enter something into  
6 their chrono, yes.

7 Q. Would they need to access it in order to obtain  
8 information about the request necessary to search for  
9 records?

10 A. No. Because they'd have the actual hard copy  
11 in their hand of the request.

12 Q. So looking at this document, the bottom line in  
13 the access log, it says Belleville, Pauline. Am I  
14 correct?

15 A. Yes, Pauline Belleville.

16 Q. And it says that -- am I right that the date  
17 refers to access date?

18 A. I believe so, yes.

19 Q. And so is the first access date November 5th,  
20 2015?

21 A. Yes.

22 Q. Is that the first time this file was accessed?

23 A. No.

24 Q. Why does this page depict a first access time  
25 of November 5th, 2015, if it was accessed prior to that?

1 A. I don't know.

2 Q. Is this document complete?

3 A. Yes, it appears to be.

4 Q. Does the fact that this access log which you  
5 believe to be complete, does the fact that it doesn't  
6 reflect previous occasions of access suggest to you that  
7 there is a problem with the record-keeping system from  
8 which this log was obtained?

9 A. Well, it suggests that there could be a glitch  
10 in the system, yes.

11 Q. Turning to the next page, what is this  
12 document? This is -- there is an issue with the Bates  
13 numbering but it looks like this would be 0008.

14 A. Yes.

15 Q. What is this document?

16 A. That's a printout from our database tracking  
17 system.

18 Q. And what does this document show?

19 A. It shows again who the requester was and what  
20 was done in regards to the request.

21 Q. Is this the same tracking system from which the  
22 access log is maintained? Let me rephrase that.

23 Is this document drawn from the same tracking  
24 system in which the access logs are stored?

25 A. Yes.

1 Q. And more specifically, what does this document  
2 tell you was done in response to the request?

3 A. That we sent the request to ITD to search for  
4 some e-mails.

5 Q. And am I correct this document shows that the  
6 first time that search, search for e-mails was conducted  
7 was May 8th, 2015?

8 A. No.

9 Q. So why do you say that?

10 A. Because that's just a date that information was  
11 entered. I'd have to look at the attachment to show  
12 when we sent the request to ITD.

13 MR. CHARNEY: I would like to ask the court  
14 reporter to mark for identification a document produced  
15 by the LAPD in this action, it's got Bates  
16 Nos. LAPD RFP-2 00049.

17 (Exhibit 35 marked)

18 BY MR. CHARNEY:

19 Q. When you've had a chance to review this  
20 document, let me know.

21 A. I reviewed it.

22 Q. What is this document? Actually, let me back  
23 up.

24 Have you seen this document before?

25 A. Yes.

1 Q. And what is this document?

2 A. It's a chrono, chrono log from our Planning and  
3 Research Division showing what they did in response to a  
4 request we sent to them for records.

5 Q. And who is the person who -- which person or  
6 person's activity does this depict?

7 A. It depicts several different individuals.  
8 There is a code on the left-hand column, there is a  
9 legend that goes with that. So there is "R" stands for  
10 researcher, which would be Officer Coronado. "S" stands  
11 for the unit OIC, in this case it would be Sergeant  
12 Raymona M-o-u-s-s-a. "A" stands for the -- I guess that  
13 would be for adjutant, and I'm not sure who that is.  
14 And "C" stands for the commanding, officer which I  
15 believe was Captain Duane Hayakawa.

16 Q. What's an adjutant?

17 A. An adjutant is pretty much the assistant to the  
18 commanding officer, takes care of their schedules and  
19 keeps track of projects and things of that nature.

20 Q. And so does this --

21 A. I'm sorry. There is one more. There is a "T"  
22 that stands for typist. I'm not sure who that person  
23 is.

24 Q. Thank you.

25 And what request for records does this document

1 refer to?

2 A. Refers to exhibit -- I'm not sure what exhibit  
3 it was but it was a 15.2 sent to Planning and Research  
4 Division for records in response to the request from the  
5 Muslim Advocates.

6 Q. And that's their request concerning Community  
7 Mapping?

8 A. Yes.

9 Q. Does this include the other requests contained  
10 on Muslim Advocates's December 2013 CPRA request, or is  
11 this just focused on Community Mapping?

12 A. If I recall correctly, we sent the entire  
13 request to them and asked them to search for any  
14 responsive records they had in totality.

15 Q. So this log refers to all efforts to search for  
16 all aspects of the request by Muslim Advocates, not just  
17 Item No. 2 concerning Community Mapping?

18 A. Yes, correct.

19 Q. But this just refers to Planning and Research's  
20 search; correct?

21 A. Correct.

22 Q. Do similar logs exist with respect to searches  
23 conducted by CTSOB?

24 A. I don't know.

25 Q. Did you ever know?

1 A. No.

2 Q. Is there anything you could do to find out?

3 A. No.

4 Q. Do you know who would know?

5 A. Probably the person who did the search, I  
6 imagine.

7 Q. Are chronological logs created as a matter of  
8 practice whenever research is conducted?

9 A. I don't know.

10 Q. In your experience as a supervisor of the  
11 Discovery Section you never learned that fact?

12 A. No, I did not.

13 Q. And in preparing to testify today as the PMQ  
14 did you try to find out whether or not chronological  
15 logs are typically created as a matter of LAPD practice  
16 when a search for records is conducted in response to a  
17 CPRA request?

18 A. No, I did not.

19 Q. Why not?

20 A. I had no reason to.

21 Q. So you don't know if there was a chronological  
22 log for CTSOB?

23 A. No, I don't.

24 Q. And what about Training?

25 A. I don't know.



1 Q. Did you ever know the answer to either of those  
2 two questions?

3 A. No, I did not.

4 Q. Do you know who would know?

5 A. No, I don't know.

6 Q. Did you do anything to prepare yourself to  
7 testify regarding the existence of chronological logs  
8 for Training or CTSOB in preparing to testify today?

9 A. No, I did not.

10 Q. And why not?

11 A. I had no reason to.

12 Q. What do you mean by that?

13 A. Again, we sent out a request and they responded  
14 with the documents that they provided to us, saying they  
15 conducted their search.

16 Q. If a chronological log -- if -- let me  
17 rephrase.

18 If there is no chronological log of a search  
19 being conducted by a division, do you have -- does this  
20 suggest to you that a search was not conducted?

21 A. No, it does not.

22 Q. Why not?

23 A. Because if we received a 15.2 back from the  
24 division who we sent something to, that tells me they  
25 are telling us that they conducted a search.

1 Q. Do you have any way of knowing whether they  
2 searched in reasonable places if you don't have a log?

3 A. I don't know.

4 Q. What do you mean when you say you don't know?

5 A. I don't have -- I don't know.

6 Q. Do you mean that you don't have any way of  
7 knowing?

8 A. I don't know what they searched. As I said, we  
9 just rely on what they send back to us saying that they  
10 conducted a search.

11 Q. Why would a chronological activity log be  
12 created? What's the purpose of this document?

13 A. I don't know.

14 Q. Did you ever know?

15 A. I mean if you want to take it verbatim, it's to  
16 document what they did chronologically in response to a  
17 request.

18 Q. And in your experience as the -- as a  
19 supervisor in the Discovery Section did you ever  
20 understand why people who were running searches in  
21 response to CPRA requests would document what they did  
22 chronologically in response to the request?

23 A. No, I don't.

24 Q. And in preparing to testify as the PMQ on  
25 search today did you do anything to find out the answer

1 to that question?

2 A. No, I did not.

3 Q. Why not?

4 A. I had no reason to.

5 Q. So just going line by line, can you tell me  
6 where in this document it identifies any specific  
7 actions that were done to search for records in hard  
8 copy repositories or electronic databases?

9 A. I don't know. I can't -- I can't decipher it,  
10 but I don't see anything that says literally what they  
11 searched.

12 Q. Is there anything that suggests a reference to  
13 a search?

14 A. This third line down where it says "Research  
15 topic. Muslim" -- I think those initials are PR -- PRD  
16 released. I'm not sure.

17 Q. And do you know what this refers to?

18 A. No, I don't.

19 Q. Did you ever know?

20 A. No.

21 Q. Do you know who would know?

22 A. Looks like Sergeant Moussa, I guess. I'm  
23 sorry. The researcher being Officer Coronado.

24 Q. And do you say that because the code for "R" is  
25 on the left-hand side?

1 A. Yes, that's what I'm basing my answer on.

2 Q. In preparing to testify as the PMQ on search  
3 today did you do anything to find out what any of the  
4 entries in this chrono mean?

5 A. No, I did not.

6 Q. Why not?

7 A. I had no cause to.

8 Q. Other than the line that refers to researching  
9 the topic, is there anything in here that whether  
10 literally or suggestively points to specific efforts to  
11 search in response to Muslim Advocates's request?

12 A. I can only address it literally. I can't speak  
13 to the figuratively. So again, it would be the third  
14 line down where it says "Research topic."

15 Q. Have you looked at -- in your work as a  
16 supervisor in the Discovery Section have you looked at  
17 these chronological logs before?

18 A. No, I have not.

19 Q. Never?

20 A. No.

21 Q. You never checked the work of somebody who was  
22 doing a search?

23 A. No, I have not.

24 Q. Why not?

25 A. I have no reason to.

1 Q. Does anybody look at these?

2 A. I imagine the commanding officer looks at  
3 these. His name is on there, or his code is on there.

4 Q. And where are these retained? Or stored,  
5 rather.

6 A. I don't know.

7 Q. Did you participate in gathering this document  
8 in response to the RFP, request for production by Muslim  
9 Advocates?

10 A. This I did not, no.

11 Q. So just to be clear, as you sit here today the  
12 only line on this document that suggests to you that any  
13 specific steps were done to search for Muslim  
14 Advocates's CPRA request is the third line that says  
15 "Research topic Muslim PRD related"?

16 A. The only thing that says it literally, yes.

17 Q. And is there anything that you can point to  
18 that suggests to you based on your experience and  
19 knowledge of departmental practices, is there anything  
20 in here that suggests to you that a search might have  
21 been conducted?

22 A. Yes. The research topic.

23 Q. Sorry. Other than that, other than that line.

24 A. I don't know.

25 Q. And I believe you testified earlier that you

1 never knew that?

2 A. Yes. Well, I testified I don't know what they  
3 searched.

4 Q. Right.

5 I believe when we were looking at Caydene  
6 Monk's, the document marked as Exhibit 34, when we were  
7 looking at that document before you referred to the fact  
8 that the online tracking system might not contain  
9 entries if an analyst maintained a log of their activity  
10 in a hard copy log; is that correct?

11 A. They would put entries in their chrono in the  
12 case file, yes.

13 Q. And what document is this again?

14 A. 35.

15 Q. So is Exhibit 35 the sort of case file chrono  
16 in which an analyst might record their activity?

17 A. No. Our Discovery Section chrono is not  
18 detailed like this.

19 Q. So there are no records of the detailed steps  
20 that an analyst would follow to search for CPRA --  
21 search for records in response to a CPRA request?

22 A. No. It's whatever they would write or  
23 handwrite or enter into our system what they did in  
24 regards to a request and what they did to conduct the  
25 search.

1 Q. Do you have any way of knowing, based on the  
2 Exhibit 34, what Ms. Monk did to search for records?

3 A. No, I do not.

4 Q. Are there any other chronological logs or  
5 tracking notes that refer to the specific steps that  
6 Caydene Monk took to search?

7 A. Yes. There is copies of e-mails as well as I  
8 believe she had some handwritten documents or  
9 handwritten notes in the case file.

10 Q. So I believe that at your last deposition, at  
11 the last session of your deposition you came with a  
12 binder of documents that you used to prepare; correct?

13 A. Yes.

14 Q. Can you -- do you know if Caydene Monk's case  
15 file notes are in that binder?

16 A. I believe they are, yes.

17 Q. Can you find them readily?

18 A. I can try.

19 MR. CHARNEY: Why don't we go off the record.

20 (Discussion off the record)

21 BY MR. CHARNEY:

22 Q. Mr. Toyama, I'm going to show you a document  
23 that was marked previously at your deposition, at the  
24 last session of your deposition rather. This is a  
25 document marked as Exhibit 6.

1 (Exhibit 6 attached for reference)

2 BY MR. CHARNEY:

3 Q. Is this the chronological -- so during the --  
4 while we were off the record I believe that you told me  
5 that this is a chronology created by Caydene Monk; is  
6 that correct?

7 A. Yes, correct.

8 Q. And is this the document in the binder that you  
9 were referring to before we went off the record?

10 A. Yes.

11 Q. And what does this document show?

12 A. Shows the steps that she undertook on certain  
13 dates in response to the request.

14 Q. And does this document show any specific steps  
15 taken to search hard copy or electronic repositories for  
16 records responsive to the Muslim Advocates's CPRA  
17 request?

18 A. No, it does not. I'm sorry. No. 4 in the -- I  
19 guess the third row, if you want to call it that, where  
20 it says "Ask ITD to look for e-mails," which would be  
21 electronic repository.

22 Q. So am I correct that this -- that based on this  
23 chronological log of Ms. Monk's activity, the only step  
24 that she took to search any hard copy or electronic  
25 repositories for records was to ask the Information



1 Technology Division to look for e-mails?

2 A. No. She did not conduct a search herself. She  
3 calls a search to be conducted. And so for No. 4 she's  
4 asking them to look specifically for e-mails, but the  
5 15.2s that we sent to the various divisions asked them  
6 to look for any records that they may have.

7 Q. Do you know why -- so are those 15.2s indicated  
8 on this chronology?

9 A. No, they are not.

10 Q. Do you know why?

11 A. No, I don't.

12 Q. Does the lack of inclusion of those 15.2s make  
13 it -- are you able to evaluate based on this chron --  
14 let me back up.

15 Based on this chrono are you able to evaluate  
16 what Ms. Monk did to search for records responsive to  
17 Muslim Advocates's request?

18 A. On the second, December 18th it shows she sent  
19 an e-mail to Deputy Chief Downing's assistant requesting  
20 a search for the items from Mr. Katon.

21 Q. And so based on this chrono are you able to  
22 know all of the things that Ms. Monk did to search for  
23 records?

24 A. No, not all the things, no.

25 Q. But this document is the chrono of what she did

1 to search for records; correct?

2 A. It's a chrono of what she did but it's not a  
3 complete chrono of everything she did.

4 Q. Do you know why it's not complete?

5 A. No, I don't.

6 Q. Did you ever know?

7 A. No, I didn't.

8 Q. Is there any good reason for it being not  
9 complete?

10 A. No. Maybe she just printed out copies of  
11 e-mails that she had sent to the various entities, or  
12 kept copies of the 15.2s that she had sent, and put them  
13 in a case file.

14 Q. What's the purpose of creating a chrono such as  
15 this?

16 A. To document the steps that she undertook.

17 Q. So this document should indicate all the steps  
18 that she undertook?

19 A. It should, yes.

20 MR. CHARNEY: Why don't we go off the record  
21 for a minute or two.

22 (Discussion off the record)

23 BY MR. CHARNEY:

24 Q. One more follow-up question on the chrono.  
25 What is a buck slip?

1 supervising to take steps to prevent or correct errors  
2 by people who were searching for records in divisions?

3 A. Again, this is the only time that I've come  
4 across this, but yes, I would ask them to talk to  
5 whoever conducted this search and ask them what  
6 happened.

7 Q. And in that event would you also expect that  
8 the analyst would verify any other information provided  
9 by the person who made the error to make sure that there  
10 weren't additional errors?

11 A. Yes.

12 Q. I'd like you to turn to Tab 30 in your binder.

13 MR. CHARNEY: And I'll ask the court reporter  
14 to mark for identification a document contained in the  
15 witness's binder under Tab 30 bearing heading "Request  
16 for e-mail communications regarding Los Angeles Police  
17 Department personnel."

18 (Exhibit 37 marked)

19 BY MR. CHARNEY:

20 Q. Mr. Toyama, once you've had a chance to take a  
21 look at the document, let me know.

22 A. I've seen it.

23 Q. You preempted my question. Have you seen this  
24 document before?

25 A. Yes.

1 Q. And what is this document?

2 A. It's a 15.2 we sent to CTSOB asking them to  
3 search for any search -- or asking them to provide us  
4 with records of search terms and databases that they  
5 used to search for records regarding the Community  
6 Mapping, as well as a search of any department e-mail  
7 system for the term "Community Mapping."

8 Q. And what date is -- what is the date of this  
9 document?

10 A. It says September 9th of 2014.

11 Q. Is this -- does this document reflect the first  
12 instance in which the LAPD asked any of its sections to  
13 search for records of search terms and databases used to  
14 search for records on the subject of Community Mapping?

15 A. No, it is not.

16 Q. What is the first time that -- let me back up.  
17 What do you mean by "no, it does not"?

18 A. I'm sorry. Specifically for search terms and  
19 databases, yes, let me amend my answer. Yes, you're  
20 correct.

21 Q. So this is the first time, this document  
22 reflects the first time that a search for records of  
23 search terms and databases used to search for records on  
24 the subject of Community Mapping, that this was the  
25 first time that search was made?

1 A. Yes, for search terms and databases used, yes.

2 Q. And that would be September 9th, 2014?

3 A. Yes.

4 Q. I'd like you to turn to the second page. It  
5 doesn't have a page number but it's just the second  
6 page. Is this a copy of the -- well, what is this  
7 document?

8 A. Appears to be correspondence dated August 1st  
9 of 2014 from O'Melveny & Myers and it's titled "Second  
10 Supplemental Request to CPRA Reference No. C13-1200040."

11 Q. And is this the request that triggered the 15.2  
12 that's Page 1?

13 A. Yes, I believe it is.

14 Q. Do you know why a 15.2 for the second  
15 supplemental request wasn't issued until September 9th,  
16 2014?

17 A. No, I do not.

18 Q. It's about six weeks after August 1st, 2014;  
19 correct?

20 A. Thereabouts, yes.

21 Q. Is there any good reason as you sit here today  
22 for that six-week delay?

23 A. No.

24 Q. I'd like you to turn your attention to Tab 34  
25 of your binder.

1 MR. CHARNEY: And I'll ask the court reporter  
2 to mark for identification a document contained in the  
3 witness's binder, an e-mail bearing heading "Greg  
4 Toyama - Muslim Advocates CPRA request."

5 (Exhibit 38 marked)

6 BY MR. CHARNEY:

7 Q. Let me know when you've had a chance to  
8 familiarize yourself with this document.

9 A. Okay. I've reviewed it.

10 Q. Have you seen this document before?

11 A. Yes, I have.

12 Q. And when did you see this document?

13 A. When I authored it.

14 Q. And you're referring -- are you referring to  
15 both the e-mail and the letter correspondence that  
16 follows?

17 A. Yes.

18 Q. Did you review this document to prepare for  
19 your deposition today?

20 A. Yes, I did.

21 Q. And did it help you prepare?

22 A. Reminding me what the department did.

23 Q. I'd like to turn your attention to Page 2 of  
24 the letter, which is actually Page 3 of this exhibit.  
25 And in particular I'd like to direct your attention to

1 the second paragraph of the document. Once you've had a  
2 chance to review that second paragraph, the one in the  
3 middle, please let me know.

4 MR. JOHANSEN: Is that the one that starts with  
5 "A second supplemental request"?

6 MR. CHARNEY: You got it, Kjehl.

7 MR. JOHANSEN: Okay.

8 THE WITNESS: I've reviewed it.

9 BY MR. CHARNEY:

10 Q. The last -- can you read the last line of that  
11 paragraph? I'm sorry. The last two sentences in that  
12 paragraph?

13 A. "As stated in your March 16, 2015,  
14 letter the department did provide a  
15 written response on August 19th, 2014,  
16 wherein it indicated that a search  
17 pursuant to the supplemental request  
18 was ongoing and a further response  
19 would be provided. However, it does  
20 not appear that that occurred."

21 Q. Are those two sentences truthful?

22 A. Yes, it is. Yes, they are.

23 Q. Do you know why that didn't occur?

24 A. No, I do not.

25 Q. Did you ever know?

1 A. No, I don't.

2 Q. Is there anything you could do to find out?

3 A. No.

4 Q. Do you know who would know?

5 A. I don't know.

6 Q. In preparing to testify as the LAPD's person  
7 most qualified on search today did you do anything to  
8 find out?

9 A. No, I did not.

10 Q. Why not?

11 A. Because the records are what they are. We have  
12 what we have.

13 Q. What do you mean by that?

14 A. Whatever records we have and we've provided to  
15 you, that shows what we did.

16 Q. Is there any good justification for that not --  
17 for the search not having occurred?

18 A. No, there is not.

19 Q. I'd like you to turn to Tab 45 in your binder,  
20 please. Please let me know when you've had a chance to  
21 review this document.

22 A. I've reviewed it.

23 Q. Have you seen this document before?

24 A. Yes, I have.

25 Q. What is this document?



1           A.    It's a chrono -- chrono, it's notes from  
2 Caydene Monk in regards to what she did.

3           Q.    And did you review this document to help you  
4 prepare for your deposition?

5           A.    Yes, I did.

6           Q.    How did it help you -- did it help you prepare?

7           A.    Just reminded me what the department did.

8           Q.    And what is this document -- what information  
9 does this document contain?  What does it tell you?

10          A.    It contains notes from Caydene Monk saying that  
11 e-mails pertaining to Muslim Mapping were provided to  
12 our City Attorney for review, and our City Attorney  
13 assisted Caydene and indicated what redactions should be  
14 made, which documents were attorney-client and should  
15 not be released.  And it shows that she prepared a  
16 response letter and redacted documents and submitted  
17 them for signature and she sent the response out to  
18 Mr. -- to yourself.

19          Q.    How do you know that these are notes by Caydene  
20 Monk as opposed to some other person?

21          A.    I can recognize her handwriting.

22          Q.    Is it Ms. Monk's normal practice to maintain  
23 notes of the actions she takes in searching or  
24 facilitating searches in response to CPRA requests?

25          A.    Well, my whole staff was supposed to either

1 enter things in our database or keep handwritten notes  
2 or chronology of what they did.

3 Q. Are there any other notes of Ms. Monk's  
4 activities other than these notes that we're looking at  
5 right now?

6 A. No notes but there is e-mails that she had sent  
7 to various individuals.

8 Q. Why did she only keep notes regarding these two  
9 actions she took on November 17th and November 18th of  
10 2015 and not notes regarding other actions she took --  
11 or let me rephrase.

12 Why is it that the only notes that Ms. Monk  
13 took in this case refer to November 17th -- I'm just  
14 going to try that one again.

15 Why aren't there any notes of the other --  
16 predating November 17th, 2015, of the actions that  
17 Ms. Monk took or didn't take in this case?

18 A. I don't know.

19 Q. Is there any good reason for there not being  
20 any other notes or indication of what she did?

21 A. As I stated earlier, she may have just printed  
22 out copies of her e-mails from her -- of what she did,  
23 or e-mails that she sent to other entities.

24 Q. But the standard practice would be to maintain  
25 a chrono or notes that actually contain in one place a

1 list of all the actions that are taken; correct?

2 A. Generally, yes.

3 MR. CHARNEY: I'm going to ask the court  
4 reporter to mark for identification the Tab 45 of the  
5 witness's binder that we have just been looking at,  
6 which contain handwritten notes which the witness has  
7 identified as being Ms. Monk's.

8 (Exhibit 39 marked)

9 MR. JOHANSEN: And for the record, the exhibit  
10 that's just been marked and placed into evidence is  
11 identical to the one that Mr. Toyama has been referring  
12 to in his testimony.

13 MR. CHARNEY: Thank you, Kjehl.

14 MR. JOHANSEN: You bet.

15 THE WITNESS: Excuse me. Can I just get a  
16 water real quick?

17 MR. CHARNEY: Oh, sure. We can go off the  
18 record.

19 (Discussion off the record)

20 BY MR. CHARNEY:

21 Q. So as we near the end of your deposition,  
22 Mr. Toyama, is there anything that you as the Los  
23 Angeles Police Department's person most qualified on  
24 search for records in this case, is there anything that  
25 you would like to know about that you don't know now?





**EXHIBIT GG**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES,

MUSLIM ADVOCATES,

Petitioner,

vs.

**CERTIFIED COPY**

CASE NO. BS163755

THE CITY OF LOS ANGELES; THE LOS ANGELES  
POLICE DEPARTMENT; DOES 1-10, INCLUSIVE,

Respondent.

---

DEPOSITION OF

PERSON MOST QUALIFIED AT LOS ANGELES POLICE DEPARTMENT

ANTHONY HUYNH

VOLUME I

March 22, 2017

10:02 a.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Deborah L. Heskett

CSR No. 11797

1 Muslim Advocates.

2 Would counsel please introduce themselves and  
3 state their affiliations?

4 MS. NGUYEN: Linda Nguyen, deputy city attorney  
5 for the City of Los Angeles.

6 MS. HENRY: Karen Henry of Davis Wright  
7 Tremaine for Muslim Advocates.

8 MR. JOHANSEN: Kjehl Johansen, deputy city  
9 attorney on behalf of the City of Los Angeles,  
10 Los Angeles Police Department, Respondent.

11 MR. CHARNEY: And there is no one else other  
12 than the counsel, witness and court reporter.

13 I'm going to ask the court reporter to mark for  
14 identification a notice of deposition of persons most  
15 qualified at Respondent Los Angeles Police Department.

16 (Exhibit 1 marked)

17 BY MR. CHARNEY:

18 Q Mr. Huynh, please take a moment to take a look  
19 at the document, familiarize yourself with it. You can  
20 let me know when you've had a chance to do so.

21 A Yes.

22 Q Have you seen this document before?

23 A Yes, I have.

24 Q And when did you first see this document?

25 A I first saw this a week ago.



1 Q And, just to be clear, this document lists two  
2 topics concerning divisional backups, and these topics  
3 are the subject of testimony for the person most  
4 qualified of the Los Angeles Police Department.

5 Are you the person most qualified at the  
6 Los Angeles Police Department to discuss the topic  
7 listed as Topic No. 4 on this deposition notice?

8 A Yes, I am at this point. I am the officer in  
9 charge of the network support section, and my section is  
10 responsible for all of the file servers in the  
11 department.

12 Topic No. 4 mentions that there are questions  
13 regarding the backup and restorations of the file  
14 servers of the department, so I am the person to respond  
15 to those questions.

16 Q Great. And are you the person most qualified  
17 to testify as to Topic No. 5 regarding the LAPD's claim  
18 that searching its backup system for divisional server  
19 information from 2001 to 2013 would be unduly  
20 burdensome?

21 A Yes, I am.

22 Q Great. We will get into more detail on that in  
23 a bit.

24 MR. JOHANSEN: If I can have just a moment.

25 MR. CHARNEY: Sure.

1 up, it's being recognized on the network, we can access  
2 the server. Basically going through a list of test  
3 items making sure it's functioning as expected.

4 Then we turn it into a production server by  
5 taking it out to the actual location where it's going to  
6 be installed and serve the user and then we bring it  
7 online there.

8 Q What locations were the sites where servers and  
9 network equipment were installed?

10 A At that time we started with the 18 police  
11 station in the LAPD.

12 Q So each police station had its own --

13 A Local server, file server.

14 Q Is a police station the same as a division?

15 A Yes.

16 Q Is one term for these file servers a divisional  
17 file server?

18 A Yes.

19 Q And what year were these divisional file  
20 servers first installed?

21 A I'm sorry. What year?

22 Q What year?

23 A The first one was rolled out in '96 or so.

24 Q And what about the last -- last one during the  
25 first set of installations?

1           A       We rolled out 18 of them within -- took us  
2 over -- over a year, little over a year to roll out all  
3 18.

4           Q       So was the -- how was that distributed? Was it  
5 a little faster than once a month or were there certain  
6 batches over time?

7           A       About once a month, yes.

8           Q       And were all of these divisional servers pretty  
9 much the same or were there differences between them?

10          A       Pretty much the same. We tried to use a cookie  
11 cutter approach to make it simpler.

12          Q       Were there any significant differences between  
13 the divisional servers?

14          A       No.

15          Q       And what specific work did you do? I mean, in  
16 terms of sort of day to day, did you write code? Did  
17 you connect pieces of equipment? What actual specific  
18 work did you do in your role on the systems development  
19 task force?

20          A       Besides building new server, installing them,  
21 once they are installed, my job is -- was to monitor  
22 them, making sure they are up and running, respond to  
23 any issues that the user have with them, any access  
24 issues, if any user were not able to log in to the  
25 network, were not able to save files, were not able to

1 everything together. A network device is something  
2 that's -- basically what it means is it's a device  
3 that's connected to -- it's a connected device.

4           What is it connected to? It could be connected  
5 to the internet; it could be connected to another  
6 device. So -- so when we build a network, the goal of  
7 it is to connect all our user station together so they  
8 can communicate to each other. And in between that,  
9 when our user do their work, they need to save them  
10 someplace. So the file servers, the divisional file  
11 server, is the resource, the media, that allow our user  
12 to do so, to provide a central location to save their  
13 work.

14           And so configuring the network includes a lots  
15 of thing: configuring the server, configuring the  
16 workstations, configuring the user account that each  
17 user needs to log in to. So I don't know how -- how --  
18 how much detail you would like me to go into, but --  
19 yeah.

20           Q     That's fair. Well, I'll break it down a little  
21 bit.

22           So am I right, the divisional servers are the  
23 place where a LAPD division's documents will be stored  
24 in the normal course?

25           A     Yes.

1 Q And that was true starting in what year?

2 A '96 or so, yeah.

3 Q And is that true today?

4 A Yes, still.

5 Q And for all of the time between those --

6 between when it first -- when the divisional servers

7 were first created and today?

8 A Yes.

9 Q And what did you do to configure the divisional  
10 servers?

11 A In Novell, in the network operating systems,  
12 there is a directory. It's a NetWare directory at the  
13 time, but for now, for simplicity, just call it a  
14 directory. That's -- that's a catalog of all of the  
15 devices, of all of the servers, and all of the users  
16 that belong to that network and what -- what kind of  
17 rights each of these servers or user object have in that  
18 network.

19 So for me to configure the servers, we usually  
20 partition that directory into somewhat organized  
21 structures and we base it on physical location or  
22 division. So we create -- we break down the directory  
23 and create container. We call them an OU organization  
24 for each division, and each container in the directory,  
25 we assign a server. We assign -- however number of user

1 manage the file servers which is the source of the  
2 backup. The backup unit manages the backup servers, the  
3 backup drives, and the backup tapes. And so depends on  
4 which way you are looking at.

5 If you backing up the source server into the  
6 tape and that's your -- and so that would -- the tapes  
7 will now be your retained -- retaining device or media  
8 and the -- for us, the primary purpose for us to back  
9 up -- to have -- to ask -- keep a copy of the server is  
10 to be able to restore it just in case something happened  
11 to the servers. One of our drive goes bad and we lose  
12 the servers, we can restore it. So -- so as far as our  
13 objective for the backup, that's all we need.

14 Q So you keep backups in case one of your pieces  
15 of equipment fails; is that right?

16 A Yes. Specifically hard drive.

17 Q And is that -- is equipment failure a  
18 foreseeable problem in managing a network system?

19 A Most of the times, yes.

20 Q So it's something that might typically happen  
21 with some regularity?

22 A In the past, yes, but depends on how regular we  
23 talking about. Once a year a piece of equipment might  
24 fail, might goes bad, power supply or a drive that might  
25 go bad, yeah, that happens. And we often have enough

1 to back up anything with an 8.0, but --

2 THE WITNESS: You know.

3 MR. JOHANSEN: Sorry to interrupt.

4 MR. CHARNEY: Knock on wood.

5 BY MR. CHARNEY:

6 Q But you've restored information from backup  
7 tapes even in the absence of an 8.0 earthquake, though;  
8 correct?

9 A Oh, yeah, of course.

10 Q Including when your equipment fails?

11 A Which equipment are we --

12 Q Like a hard drive.

13 A Yes.

14 Q So I'm going to ask you to look, again, at the  
15 document marked as Exhibit 1, the deposition notice that  
16 you've got in front of you. And I know we talked about  
17 this a little bit before, but I just want to go through  
18 this again.

19 You understand that you've been designated by  
20 the Los Angeles Police Department as the person most  
21 qualified to answer questions listed in this notice?

22 I'm sorry. I'm going to take that back.

23 Do you understand that you've been designated  
24 by the Los Angeles Police Department as the person most  
25 qualified to testify regarding the topics listed on

1 page 2 of this notice?

2 A Yes.

3 Q In terms of Topic No. 4, did you do anything to  
4 prepare to testify concerning divisional server  
5 information from 2001 to 2013, and, in particular, the  
6 information technology, personnel, manuals and other  
7 documentation, policies and procedures, vendors,  
8 facilities relating to the divisional server backup  
9 system, as well as any efforts from 2013 to the present  
10 to retrieve divisional server information from the  
11 backup system?

12 A I did talk to my backup operators that are  
13 currently working under my section.

14 Q Who are those operators?

15 A Paul and James.

16 Q Do they have last names?

17 A Yes. Paul, P-h-a-n, Phan. And James Beleza,  
18 B-e-l-e-z-a.

19 Q And when did you talk to these operators?

20 A Within last week.

21 Q Do you remember where you talked to them?

22 A In the office. Yeah.

23 Q Did you have a meeting with them or stop by  
24 their desks?

25 A Stop by the desk and just making sure that I



1 servers were running -- were running well?

2 A (No audible response.)

3 Q I'm sorry. I should actually rephrase that  
4 differently.

5 Am I right that between 2004 and 2008, the  
6 backup system for divisional servers was working  
7 correctly?

8 A Yes.

9 Q And what does the last line read?

10 A 2016 Paul. That's Paul Phan. He was the one  
11 that took over the backup responsibility from Alan and  
12 he is currently respond -- assigned to my section  
13 reporting to me.

14 Q Is there anything else that you did to prepare  
15 for this deposition that we haven't talked about?

16 A During -- during our conversation yesterday  
17 with Rachel, she also mentioned that she wanted to  
18 verify some of the hardware that we -- that she thought  
19 that might have been used for backup during the period  
20 of 2010, 2009, 2010, to see if they were still around.  
21 And to do that, she would have to go into our data  
22 center to check to see if the hardware are still there  
23 and what the status, what the stage they are in. And  
24 this morning she went over to the data center, check,  
25 and that's -- on the way here, I receive a call from her

1 and she informed me that the hardware were repurposed,  
2 no longer -- they are not available anymore.

3 Q Did she tell you what she meant by repurpose?

4 A That means the server, the backup servers and  
5 the older disks that were used for backup during this  
6 period, were recon- -- were reformatted and were used  
7 for something else, for test servers.

8 Q So am I correct that the department still has  
9 that equipment?

10 A Some, yeah.

11 Q And they are being used as test servers; is  
12 that right?

13 A Tests, some of them that still work, yeah, we  
14 can use them for test server, unfortunately, yeah.

15 Q What is a test server?

16 A Oh, just if you -- let's say most of the times  
17 when we have a new piece of software that we want to  
18 load and execute or attach it to the network and check  
19 to see how well it works in our network environment, we  
20 build a test server, load the software on there and try  
21 to run it just to see how it runs. So that's what it's  
22 for. And usually once it done -- when we are done with  
23 that, we either, you know, wipe the server out or -- or  
24 if we were going to put that software on a production,  
25 then we go forward with that and move it into production

1 server.

2 Q So am I correct that a test server is not in  
3 continuous use as part of the LAPD's network system?

4 A That's correct.

5 Q It's something that you have ready in case you  
6 need to test something and you use it for that test  
7 purpose and then you put it back?

8 A Yes, that's very much. If we -- usually when  
9 we have a piece of software and we want to see how it  
10 works, how it runs, we want to check it out, we find an  
11 available piece of hardware, load it, load on it, and  
12 test it until we -- we get the answer we -- we looking  
13 for, then that's it. We turn it off.

14 Q Is there anything else you did to prepare for  
15 this deposition that we haven't talked about?

16 A That's it.

17 Q Did you bring any other documents to the  
18 deposition today?

19 A No.

20 Q The notes were the only documents that you  
21 brought to the deposition today?

22 A Yeah.

23 Q Is there anything else you would like to know  
24 in order to testify as the LAPD's person most qualified  
25 on divisional server backups and the LAPD's undue burden

1 Q And those details relate to the process for  
2 backing up or retrieving information from divisional  
3 server backups?

4 A For divisional server it is actually fairly  
5 straightforward and easier, much easier compared to  
6 e-mail backup, so --

7 Q The retrieval process is easier?

8 A Retrieval, yes.

9 Q And --

10 A Simpler. Let me clarify it. Simpler. Depends  
11 on if everything is the same, if -- even if the tape  
12 source is -- is working, if the tape drive is working  
13 and we have the backup server, restoring the data from  
14 the divisional server is much simpler.

15 Q And am I right that your -- the basis for that  
16 knowledge is your work as the officer in charge of the  
17 network section?

18 A Yes.

19 Q Are there any documents that you would have  
20 liked to review in order to testify as the LAPD's person  
21 most qualified on divisional server backups?

22 A No.

23 Q And what about documents you would have liked  
24 to see in order to testify regarding the LAPD's undue  
25 burden claim with respect to divisional server backups?

1 say right now, we have enough disk space for -- for our  
2 servers to keep three full backups, so -- and the  
3 differential between them. So we can go back for three  
4 months.

5 Q And that's 2012 to 2017?

6 A Yes.

7 Q And so for 2004 to 2008, full backups contained  
8 30 days' worth of information; is that right?

9 A Yes. Yes.

10 Q And each full backup was stored on a tape; is  
11 that correct?

12 A Yes.

13 Q And was each tape retained by the department  
14 for more than a month?

15 A Yes.

16 Q How long were they retained -- or does the  
17 department still have those tapes?

18 A Apparently so, yes.

19 MR. CHARNEY: Let's go off the record.

20 \* \* \*

21 (LUNCHEON RECESS)

22 \* \* \*

23 BY MR. CHARNEY:

24 Q Mr. Huynh, do you understand that you're still  
25 under oath?

1 server will just have the file system on it; is that  
2 right?

3 A That's correct.

4 Q And in terms of just the file systems, is there  
5 a meaningful difference between the contents of a file  
6 system between 2001 and 2003 and the contents of a file  
7 system between 2004 and 2013?

8 A Structural-wise, no.

9 Q Or in terms of --

10 A Content might change, depends on who come and  
11 who leaves that division.

12 Q So the content of a file system is going to  
13 depend on what the division puts on it?

14 A By who -- who -- who write to them, basically  
15 who write -- who saved their documents onto that file  
16 system or that server.

17 Q So what does a file system contain?

18 A Mainly for -- for the user, the portion that's  
19 important to the users are the user one volumes and the  
20 data one volumes.

21 Q What is a user one volume?

22 A The user one volumes is -- let's think of it as  
23 big hard drive that has folders assigned to each user.  
24 So if you are a user assigned to Server No. 1 and you  
25 have a folder with your name or your user ID on that

1 user one volumes and only you can see the content of  
2 that folder. Somebody else -- if I work out of that  
3 server, on that drive, there's also a folder with my  
4 name, but you won't see it. Only I see. So it's  
5 segregated by the server accessible -- access control  
6 right.

7 Q And what was the other type of --

8 A Data.

9 Q -- volume?

10 A Data one.

11 Q And what is data one volume?

12 A Data one volumes is where we create the shared  
13 drives for you and your team. So if you have a group of  
14 personnel who are working together in one unit or  
15 section or one project and you want to share your work,  
16 then I will create a folder and assign it to your group,  
17 so that's where you would be saving your files.

18 Q Are there default or template ways in which a  
19 shared drive is set up for a division?

20 A Yes. The default -- what we call is -- just to  
21 make it easy for the user, we assign a drive mapping  
22 just like when you log in to your workstation, you see a  
23 C drive --

24 Q Uh-huh.

25 A -- or if you have another drive, a D drive, we

1 have a drive mapping called a G drive that maps to your  
2 user, your personal folder on user one volumes, and you  
3 have a P drive that maps to your shared drive -- shared  
4 folder I mean.

5 Q So if I understand correctly, if a divisional  
6 server were created for a particular division, the  
7 default way it would be set up is that everybody in that  
8 division would have access to a P drive which would be  
9 shared; is that correct?

10 A Within that unit.

11 Q Sure.

12 A A division might have a dozen section or units.  
13 Each one has its own P drive mapping to a different  
14 folder in that volumes.

15 Q So would the default way of setting up the  
16 divisional drive involve creating separate P drives for  
17 each section within that division?

18 A Can you repeat that?

19 Q Sure. Without being instructed specifically by  
20 the division as to how to set up the division --  
21 divisional server, but just based on your kind of  
22 default way of doing it, am I right that the divisional  
23 server would be set up so that there would be a separate  
24 P drive for each section within the division?

25 A Yes and no. We have a template that we go by



1 to generate the structures of the shared folder;  
2 however, we don't just create a number of shared drive.  
3 We don't just create a shared drive until we request --  
4 we receive a request for a particular unit.

5 So that's how it works. If you are a new --  
6 that's when we -- that's part of the server rollout  
7 process. When we create, we build a new server for a  
8 division, we get input from the captain or the watch  
9 commander of that division to tell us how many section,  
10 how many units are currently working out of that  
11 division. And based on that information, we know ahead  
12 of time how many P drive we need to create for these  
13 units. And using our template, we create them for that  
14 location.

15 Q So am I right that -- well, let me back up.

16 Is there ever an instance in which a divisional  
17 server is customized for a particular division?

18 A Yes. Of course.

19 Q And does that customization process -- let me  
20 back up.

21 That customization process involves making sure  
22 there are enough separate P drives to cover all the  
23 units in that division; correct?

24 A That's correct.

25 Q And you'll get information from the commanding

1 officer of that division about how many units there are  
2 in order to create enough P drives for all those units;  
3 right?

4 A Yes.

5 Q Are there any other ways in which a divisional  
6 server would be customized for a particular division?

7 A Other way? That usually is the way we do it.  
8 We can receive different type of request. We can  
9 receive it some -- some location -- let's say narcotic  
10 division want their own servers and they want a separate  
11 folder besides -- a separate drive letter besides P  
12 drive or something else, then, yes, we accommodate their  
13 need. But in the background, the way they behave,  
14 pretty much the same.

15 Q And for personal drives, the G drives --

16 A Uh-huh.

17 Q -- for the G drives, are those -- is the setup  
18 of G drives customized for a particular divisions?

19 A No.

20 Q So --

21 A They are very standard.

22 Q So every user gets their own G drive, period?

23 A That's correct.

24 Q Are there any other types of -- well, I know  
25 you said that a particular division might request a

1 you have a folder that contains, you know, 20 documents,  
2 and you can, you know, either sort them by file name or  
3 you can sort them by date created or sort them by, you  
4 know, last modified?

5 A Yes.

6 Q And what about searching across the entire  
7 divisional server, can you search documents that have  
8 certain content in the file name?

9 A Yes.

10 Q Can you search for documents that have a  
11 certain created date?

12 A Certain created date? Not across the -- not  
13 across the whole folder structures, not across the whole  
14 volume.

15 Q And what about last modified?

16 A It is doable, but we will have to write script,  
17 we have to -- it's not a straight -- it's not something  
18 that I can just walk up to my workstation and initiate a  
19 search. I need to do some work-around to make that  
20 happen.

21 Q What sort of script would you need to write?

22 A If we were to do -- because the fact that our  
23 servers is in Linux today, I can run some Linux command  
24 to pull out file -- name of files that meet some of the  
25 attributes and create a report for those files and then

1 later on using that result and sort it and pick out the  
2 one that meet the criteria. So that's a couple of steps  
3 of working around.

4 Q And by "attributes," you meant things like  
5 created date or modified date?

6 A Yes.

7 Q And how long would it take you, approximately,  
8 to write that script and execute it?

9 A 15 minutes.

10 Q That was 15, one five?

11 A Yes.

12 Q And would that -- could you write scripts to  
13 search -- you mentioned that you could do that with  
14 respect to Linux, to backup tapes that are using -- I'm  
15 sorry.

16 A No.

17 Q With respect to --

18 A To the live server, to the content of the  
19 volumes on the live server today.

20 Q And what about information from 2004 to 2008  
21 that is stored on backup tapes?

22 A No, I can't. I cannot.

23 Q Well, let me ask that another way.

24 Assuming that we have -- that you can retrieve  
25 information from the backup tape and that you are

1 actually looking at a hard drive that contains the  
2 content from that divisional server that was backed up,  
3 can you then search that content by file name?

4 A If I were to do that and if I were to  
5 restore -- successfully restore the content from the  
6 tape onto a target drive somewhere, then yes.

7 Q And could you also search by date created?

8 A Yes. If -- yes. To answer your question, yes.

9 Q Would you need to use a script or could you  
10 just search using the operating system's own --

11 A I would have to --

12 Q -- functions?

13 A If I were to restore that to our Windows  
14 servers, I would have to use the script.

15 Q And that's the script that would take you 15  
16 minutes to write and execute?

17 A Yes.

18 Q And what about -- so I think I just asked you  
19 about date created; right?

20 A Date created.

21 Q And what about date modified?

22 A Yes, I can.

23 Q And that's with a script or with the operating  
24 systems own search function?

25 A With the search function.

1 divisions use in organizing the content on their  
2 divisional servers?

3 A From time to time I see -- we come across some  
4 P drive that have files that organized by year,  
5 sometimes we see them organized by projects, and -- but  
6 no. To answer your question, no, there is no -- it  
7 could be anything.

8 Q But organization by year is a somewhat common  
9 way of organizing it?

10 A We have seen them more often, people do that.

11 Q And organizing by project is another common way  
12 of organizing a divisional server?

13 A Yes.

14 Q Any other common methods of organizing the  
15 server that you've seen?

16 A Those are what stand out to me at this time.

17 Q Is there anything that you can consult to  
18 augment your recollection of common methods you've seen?

19 A The only way is to go back and actually look  
20 at -- pull up numbers of server and look at them --

21 Q Fair enough.

22 A -- and see if anything stand out, you know.

23 Q Which divisional servers have you looked at?

24 A The -- mostly the one I'm working on, I am  
25 using, and -- yeah.

1 Q And is that ITD's server?

2 A That's the ITD server and also the Parker  
3 Cent- -- the police administration server.

4 Q Have you ever seen the divisional server for  
5 the counterterrorism bureau -- excuse me.

6 Have you ever seen the divisional server for  
7 the counterterrorism bureau?

8 A Yes.

9 Q When did you see it?

10 A It is within the last month or so. It is on  
11 the same -- it is -- they are using the same server as  
12 the police administration. They are on the same server.

13 Q And so that's a server you consult regularly?

14 A Not regularly, but I've seen it. I looked at  
15 it.

16 Q And how is the -- I'm going to call the  
17 counterterrorism bureau the CTSOB for simplicity, if  
18 that's all right.

19 A Uh-huh. Yes.

20 Q Is that how you are used to hearing it called  
21 within the department?

22 A Yes, CTSOB. Yes.

23 Q So how is the CTSOB server organized?

24 A Actually, it's -- it's -- CTSOB is given a  
25 folder, a P drive, for their team just like everybody

1 else, and that folder resides on the data one volumes of  
2 the PAB server. That stands for police administration  
3 building.

4 Q And how is the CTSOB's P drive organized?

5 A I didn't really look at it careful, in detail,  
6 but I would assume -- actually, I'm not going to assume.  
7 I don't -- I am not going to guess.

8 Q We don't want you to guess.

9 A No.

10 Q So you don't know how the -- how the CTSOB's  
11 P drive is organized in terms of content?

12 A That's correct, I don't.

13 Q What would you do to find out, if anything?

14 A I could log in to the server, pull it up and  
15 look at the content, look at how many folders are in  
16 there, look at how many files are in there.

17 Q So the only way for you to know what contents  
18 in there and how it's organized is to actually look at  
19 the server?

20 A Yes.

21 Q Have you -- did you look at the PAB divisional  
22 server between 2004 and 2008?

23 A I have logged in to it. I have -- yes.

24 Q And do you know if during -- during the time  
25 period of 2004 to 2008 whether the PAB divisional server



1 contained a P drive for CTSOB?

2 A That, I don't know.

3 Q What would you do to find out?

4 A I would have to go back and find out where the  
5 CTSOB unit reporting to, where they were working out of  
6 between that period between 2004 and 2008, and based on  
7 that physical location, then I can tell whether or not  
8 their P drive is on the PAB server or not.

9 Q So am I correct that in order to find out where  
10 CTSOB's P drive is located, you would have to check  
11 where CTSOB's physical location was in the time that  
12 that divisional server would have been maintained?

13 A Because -- that's correct. Because based on  
14 where you are working out of, that's where you are  
15 accessing. And since we get designated server for each  
16 of the location throughout the city -- so if,  
17 hypothetically speaking, CTSOB were working out of the  
18 Valley in 2004, then their P drive would be assigned to  
19 the server in the Valley. And if in 2006 they moved to  
20 central area, their P drive will be moved to central  
21 area. And 2008, if they moved to PAB, they will be  
22 moved to PAB.

23 Q Is it possible for you to find out that  
24 information about where CTSOB or any other division was  
25 physically located in a point in time from 2001 to 2013?

1           A     I have never done that, but I believe it is  
2 most possible.

3           Q     Do you know how you would do that?

4           A     I would request my commanding officer to -- to  
5 make request to the CO of CTSOB to provide a timeline  
6 report of where they were working out of during this  
7 time period.

8           Q     And presumably the commanding officer would  
9 either know that information, him or herself, or there  
10 would be some record of where CTSOB had been over the  
11 last 15 years?

12          A     That's correct.

13          Q     And am I right that once you got that  
14 information, you would be able to go to that -- to the  
15 correct divisional server for that location -- well, let  
16 me back up.

17                 Am I right that if you got that information,  
18 you could go to the correct tape backup for that  
19 divisional server at the time and that that divisional  
20 server would contain the P drive for CTSOB?

21          A     Assuming, yes. Assuming that the tape -- yes.

22          Q     Okay.

23          A     Everything else working as expected, yes.

24          Q     So assuming that you can actually retrieve --

25          A     Yes.

1 Q -- the information from the tape?

2 A (No audible response.)

3 MR. JOHANSEN: You need to answer out loud.

4 THE WITNESS: Yes. Yes.

5 MR. CHARNEY: Thank you. Thank you, Kjehl.

6 MR. JOHANSEN: Sure.

7 BY MR. CHARNEY:

8 Q So let's -- let's talk about the process for  
9 backing up divisional server information.

10 A Uh-huh.

11 Q What hardware is used -- let me make this more  
12 concrete.

13 Between 2001 and 2013, what hardware was used  
14 to backup divisional server information to backup tapes?

15 A Hardware. The hardware requirements for that  
16 will be the DL3 tape library and DL3 -- blank DL3 tapes.

17 Q Anything else?

18 A That's -- that will be it.

19 Q And I assume the divisional server itself?

20 A And -- well, that's a source, yes. Yes, of  
21 course, the source servers.

22 Q And what is the specific equipment that the  
23 divisional server -- that constitutes the divisional  
24 server?

25 A It's the server itself, the chassis, and the

1 Backup Exec could read backup tape created in Arcserve  
2 given the backup job was not -- there was no encryption  
3 on it.

4 Q And is that because Backup Exec is sort of a  
5 newer version of Arcserve?

6 A That's correct. And it provided somewhat of a  
7 backward compatibility to a previous version.

8 Q Does the LAPD have the version of Backup Exec  
9 it would need to read backup tapes of divisional server  
10 information from 2001 to 2003?

11 A I'm not sure.

12 Q Did you ever know?

13 A Again, I have not looked into that for so long.  
14 I would have to check with my staff or members in the  
15 department to see if we have any.

16 Q And who particularly would you check with?

17 A Rachel.

18 Q For 2004 to 2008 backups of divisional server  
19 information, what equipment was used to back up that  
20 information?

21 A Again, we would start with the server that were  
22 being backed up, we would need a tape library that  
23 would -- that is capable of reading and writing the DLT4  
24 tapes and the Backup Exec software itself.

25 Q You anticipated my next question. I was going

1 to ask about software.

2 Is Backup Exec the only piece of software --

3 A Oh, I'm sorry.

4 Q That's okay.

5 Is Backup Exec the only piece of software that  
6 was used to back up tapes from 2004 -- excuse me, back  
7 up divisional server information from 2004 to 2008?

8 A Yes.

9 Q So in order to retrieve information on those  
10 tapes, what equipment would you need?

11 A To retrieve them, I will need also the tape  
12 library that's -- that is capable of reading DLT4 tapes,  
13 the Backup Exec software itself, and a blank media that  
14 I can restore the contents of the tapes onto.

15 Q And by "blank media," you mean a hard drive?

16 A Hard drive, yes.

17 Q And I assume you would also need the backup  
18 tapes?

19 A Yes.

20 Q Is Backup Exec the only piece of software you  
21 would need to retrieve information stored on the backup  
22 tapes from 2004 to 2008?

23 A That is what I am aware of.

24 Q So, as you sit here today, you're not aware  
25 that you would need any other pieces of software to

1 retrieve the 2004 to 2008 backup tapes?

2 A That's correct.

3 Q Do you have a tape library capable of reading  
4 DLT4 tapes?

5 A I was told that we do.

6 Q And who told you that?

7 A Rachel.

8 Q Do you have -- is Backup Exec the same piece of  
9 software that would be required to retrieve 2001 to 2003  
10 tapes assuming Arcserve is available?

11 A That would be the potential solution.

12 Q And am I right that you aren't sure if you have  
13 Backup Exec?

14 A That's correct. The Backup Exec servers or the  
15 software.

16 Q You would have to check; right?

17 A That's correct.

18 Q And am I right that you do have a hard drive  
19 that you could use as a target drive for restoring the  
20 backup tapes from 2004 to 2008?

21 A That's correct.

22 Q Do you have the actual backup tapes containing  
23 the 2004 to 2008 divisional server information?

24 A I was told that we do.

25 Q And did Rachel McClain tell you that?

1 A Yes.

2 Q What about from 2009 until 2012, am I correct  
3 that that's a period in which a certain type of  
4 equipment and software was used to back up tapes?

5 A That's correct.

6 Q So what equipment was used to back up tapes  
7 from that period, 2009 to 2012?

8 A During that time we were trying to use Backup  
9 Exec to back up our files of division servers onto disk  
10 drives, and we were having failures. We were -- we were  
11 unsuccessful to do so, and we tried a temporary  
12 solutions, but that did not work out.

13 So around 2012, we bought better disk media to  
14 back up onto. And at the time, NetBackup came up with a  
15 version that works with our new Linux servers, so we  
16 started creating backup using that new combination and  
17 we retire the old temporary solution.

18 Q Do you have -- or, rather, does the LAPD have  
19 tapes containing backed up divisional server information  
20 from 2009?

21 A No. I was told that we don't. I don't see it.

22 Q And who told you that?

23 A Rachel.

24 Q And when you said "I don't see it," what do you  
25 mean?

1 Q And so does that mean that -- does that mean  
2 that if a backup was made on, say, December 31st of  
3 2005, that backup would have all of the information for  
4 December of 2005?

5 A No. I wouldn't say so.

6 Q Let me ask that question a different way  
7 because I think I -- I think I -- I think I know how to  
8 rephrase it.

9 If a full backup was made -- let me rephrase.

10 For a backup -- for a full backup made in  
11 December of 2005, am I right that that backup would  
12 contain all of the information that resided on that  
13 server at the time the backup was made in December 2005?

14 A Yes.

15 Q And am I right that that would include not only  
16 the information that resided on the server at that time  
17 for December but it would go back farther than December?

18 A For that full backup just on that day, I would  
19 not say. If a file was deleted on the 29th or the --  
20 then it will not -- it would not be on that backup tape.

21 Q Gotcha. Maybe I can make this more concrete  
22 because I don't think I correctly stated my question.

23 So say that we are looking at a divisional  
24 server in December of 2005 and it contains a bunch of  
25 files that were created in December of 2005 --



1 A Yes.

2 Q -- but it also contains a bunch of files that  
3 were created in April of 2004. And at the time that the  
4 backup is made in December 2005, none of those files had  
5 been deleted. Am I right that the backup in December of  
6 2005 would also include the files that were created in  
7 April of 2004?

8 A Yes, absolutely.

9 Q So put another way, a full backup of divisional  
10 server information will contain all information on that  
11 server that hasn't been deleted regardless of how long  
12 ago that a particular piece of information had been  
13 created on the server?

14 A Yes.

15 Q And is that true for 2001 to 2003 hard drives?  
16 I'm sorry. Excuse me.

17 Is that true for 2001 to 2003 backup tapes of  
18 divisional server information?

19 A Yes.

20 Q And is that also true for backup tapes of 2004  
21 to 2008 divisional server information?

22 A Yes.

23 Q Is there any training offered to members of the  
24 department in backing up or retrieving information on  
25 divisional servers?

1           A     Not that I can recall.  Since I was not  
2 intimately involved with it in the beginning, I can't  
3 say whether or not the initial members -- that member  
4 received any formal training on all that.

5           Q     Do you know how you would find out?

6           A     I can ask those members.

7           Q     And who -- what members would those be?

8           A     Thomas, Rachel, Earl, Alan.

9           Q     And --

10          A     Paul.

11          Q     And am I right that you're --

12          A     Yeah.

13          Q     I'm sorry.  I didn't mean to cut you off.

14          A     I'm sorry.

15          Q     Am I right that you're referring to the names  
16 that are on the handwritten notes marked as Exhibit 2?

17          A     Yes.

18          Q     How many LAPD -- how many members of the LAPD  
19 have the technical expertise to access the divisional  
20 server backup tapes from 2001 to 2008 to retrieve  
21 information stored on those tapes?

22          A     In my opinion, Rachel is the one.  Yes, that --  
23 that's about -- that's about all I can think of.

24          Q     She is the only one?

25          A     At this time.  I might -- if I were to do that,

1 I might ask Alan or -- or Earl or Thomas to help out,  
2 but I'm not certain that they can do that on their own.

3 Q And why is that?

4 A Because they were not involved with -- they  
5 were not involved with the backup as extensive as Rachel  
6 was.

7 Q Do they have -- so let me just back up.

8 You said Alan, Earl, and Thomas?

9 A Yes.

10 Q I'm sorry. Can you remind me of Alan's last  
11 name?

12 A Maestro.

13 Q Does Alan Maestro have experience with backups?

14 A Yes.

15 Q Is he a competent IT professional?

16 A Yes, he is.

17 Q Does Earl Manahan have experience with backups?

18 A Yes.

19 Q Is he a competent IT professional?

20 A Yes, he is.

21 Q Does Thomas Wu have experience with backups?

22 A Yes, he did.

23 Q Is he a competent IT professional?

24 A Yes, he is.

25 Q If you needed their help restoring -- let me --

1 did you ask Alan Maestro if he has the technical ability  
2 to restore information on the backup system for  
3 divisional servers from 2001 to 2008?

4 A No, I did not.

5 Q Why not?

6 A Because he was not involved with backing up  
7 those servers during that period of time using that type  
8 of hardware.

9 Q Did you ask Earl Manahan?

10 A No.

11 Q Did you ask Thomas Wu?

12 A No.

13 Q Why not?

14 A Because the same question -- same answer: they  
15 were not -- except for Thomas Wu, he did involve with  
16 the backup during 2001 and 2003, but that was a long  
17 time ago for him. He had not looked -- he has not been  
18 involved since, so that's why I didn't think it was  
19 relevant.

20 Q So you don't know for certain, as you sit here  
21 today, that Alan Maestro, Earl Manahan, or Thomas Wu  
22 might have the technical capability to restore backup  
23 tapes for divisional server information from 2001 to  
24 2008?

25 A That's correct. I don't -- I do not know for

1 sure.

2 Q Has the LAPD ever received assistance from any  
3 other city agencies, City of Los Angeles agencies, with  
4 respect to its backup system for divisional server  
5 information?

6 A No.

7 Q Has it ever received assistance from outside  
8 vendors or contractors with respect to its backup system  
9 for divisional server information?

10 A No.

11 Q What about Symantec?

12 A We purchased their software, we renewed the  
13 support so that we received updates from time to times,  
14 and occasionally they assist us with the software  
15 upgrade, a version upgrade of the backup software, but  
16 that usually is -- actually, thinking -- thinking back  
17 about the period when we were doing the tape-to-disk  
18 backup transitions and we were experiencing trouble with  
19 making it to work with Linux servers, I'm pretty sure we  
20 did call in to Symantec to for assistance.

21 Q And what sort of assistance did they provide?

22 A That would be reviewing our backup server's  
23 configuration to make sure everything is configured  
24 correctly, making sure we are up to the latest patches  
25 or fix for that particular version of the software and

1 there are any areas that you are not prepared to testify  
2 on or where you need further knowledge, I'll expect you  
3 to make those clear to me.

4 A I will.

5 Q Okay.

6 A Yes.

7 Q So can you explain the steps, starting with the  
8 first step, that the LAPD would take to retrieve  
9 information from the 2001 to 2003 backups of divisional  
10 server information?

11 A Should I make an assumption that we are going  
12 to use Arcserve to restore?

13 Q Well, does the LAPD have Arcserve?

14 A I am not sure. I need to check with Rachel.

15 Q So let's not assume anything. So if you are  
16 not sure -- well, actually, am I right that you can use  
17 NetBackup if you don't have Arcserve?

18 A Yes.

19 Q All right. So just -- just tell me the steps,  
20 the first step you would take --

21 A Backup Exec, yes.

22 Q Oh, thank you. Backup Exec.

23 So tell me the first step. And when we get to  
24 Arcserve or Backup Exec, we will deal with it then.

25 A Okay.

1 Q So what's the first step?

2 A The first step is to identify which servers  
3 needed to be restored.

4 Q And what do you mean by that?

5 A We have 48 divisional servers. We have grown  
6 from 18 to now 48 over the years. So which one of those  
7 servers would you like us to restore for you? That's  
8 the first question.

9 Q So using the example of CTSOB, am I right that  
10 what you would need to do is figure out where the CTSOB  
11 was located -- so let me back up.

12 A Uh-huh.

13 Q So suing the example of retrieval of the server  
14 containing CTSOB's P drive from a certain year --

15 A Yes.

16 Q -- am I right that what you would need to do is  
17 figure out what division CTSOB was located in during  
18 that year?

19 A Yes.

20 Q And you're able to do that; correct?

21 A I assume so.

22 Q Well, we don't want you to assume.

23 A Not assume. I mean -- I would -- I believe so.

24 Q And the way you would do that is by contacting  
25 the CO for CTSOB who would have that information?

1 A Yes.

2 Q Okay. And so -- and am I right you could use a  
3 similar process if you wanted to find, say, you know,  
4 planning and research's P drive, where that P drive was  
5 located on a divisional server in a particular year?

6 A Yes.

7 Q You would go to the CO of planning and  
8 research?

9 A Yes.

10 Q And that person would look in their files or  
11 consult his or her memory?

12 A Or predecessor, whoever necessary, yeah.

13 Q But that information should be in the LAPD's  
14 records; correct?

15 A Yes.

16 Q Okay. So once we've identified the server,  
17 what's the next step?

18 A So once we identify the server, we -- we will  
19 need to go through -- we will have to identify which are  
20 the tapes that were used for backing up during these  
21 periods, during these years.

22 Q How would you do that?

23 A We are lucky right now because they are DL3  
24 tape, so we look through the amount of tape on the  
25 libraries that we still have on hand and separate these



1 DL3 tape on the side.

2 Q So you are aware of a location where those  
3 tapes are physically kept by the LAPD?

4 A I was told where they were.

5 Q And how are these tapes -- first, where are  
6 they?

7 A They are in our storage room in our data  
8 center.

9 Q And where is that data center?

10 A That's down in P4 level of City Hall East.

11 Q Okay. And how are these tapes organized, if  
12 they are organized?

13 A They are in boxes, cardboard boxes.

14 Q Do they have -- does each tape have an  
15 identifier on them, a label of some sort?

16 A There are label on them. How well were they  
17 labeled, that being questioned.

18 Q Do you know what the labels refer to?

19 A It should refer to the date and time and the  
20 server that the tape was backing up.

21 Q And so by "the server," do you mean the  
22 specific division?

23 A Right.

24 Q So if you -- so, just to make this a little bit  
25 more concrete, if you went to CTSOB and CTSOB said, In

1 2006 we were in division X, you could go to City Hall  
2 East, to that room, and look for a tape that has the  
3 correct date and says disk X; is that right?

4 A Yes.

5 Q Okay. And so if you did that, you would find  
6 the tape that should have the correct information;  
7 right?

8 A That's correct.

9 Q And so what would be the next step after you  
10 identified a tape?

11 A Once I identified the tape, I would locate tape  
12 library or a reader, a tape reader, that can read this  
13 type of tape.

14 Q And am I correct that you testified that you're  
15 not sure if the LAPD has a tape library or reader?

16 A That's correct.

17 Q Do you know if a tape library or reader is  
18 obtainable on the market today?

19 A For something that is 13 years old, very  
20 doubtful, but I -- I -- I have not tried that, so I  
21 can't say.

22 Q So you didn't ever look and see if it's on  
23 eBay, for instance?

24 A No.

25 Q Do you know if there are stores, physical brick

1 Q Do you have a sense from which you could  
2 estimate it?

3 A If I were to estimate, I will say 800 to 1,000.

4 Q And that's for a tape library that can hold  
5 multiple tapes?

6 A Yes.

7 Q What about a tape reader that can hold one  
8 tape?

9 A 3-, \$400 would be reasonable.

10 Q And that was at the time when it was purchased,  
11 when it was a new piece of equipment?

12 A Yes.

13 Q In your experience in -- as an IT professional,  
14 when computer equipment becomes outdated, is it usually  
15 offered for sale at a lower price than when it was new?

16 A Absolutely.

17 Q So what's the next step after you -- so  
18 assuming that we are able to obtain a tape library  
19 reader or are able to find one in the LAPD's possession,  
20 what's the next step you would do?

21 A The next step would be getting a server that we  
22 can load the backup software onto.

23 Q And just to back up, am I right that when you  
24 get the tape library reader, you would actually insert  
25 the tape into it?

1           A     We would get the server, load the backup  
2 software onto it, attach the tape reader or tape library  
3 to that server, then from there we can execute the  
4 backup software, insert the tape onto the reader and  
5 read the content of the tape.

6           Q     And just breaking that down, inserting the tape  
7 into the tape reader is as simple as inserting a  
8 cassette into a cassette player; correct?

9           A     Yes.

10          Q     In terms of getting a server to load -- I'm  
11 sorry. What was the software?

12          A     Arcserve or in this case we would use Backup  
13 Exec.

14          Q     Okay. So let's break that down a little bit.

15                   What do you do with the server to load Backup  
16 Exec or Arcserve onto it?

17          A     We find an available blank server, test  
18 servers, and any available server hardware, install the  
19 OS on that, possibly Windows servers, and then load the  
20 Backup Exec software onto that server.

21          Q     Do you have a server you can use?

22          A     Yes.

23          Q     That's not a problem?

24          A     No. That wouldn't be a problem.

25          Q     And how long would setting up the server take?

1 A Four to six hours.

2 Q And how much of that time is time spent by a  
3 human actually, you know, inputting commands or moving  
4 things around with their hands?

5 A I will say three hours.

6 Q And the rest of that would be automated machine  
7 time?

8 A Load to OS and wait for it to complete loading,  
9 rebooting.

10 Q And am I right during that machine time, the  
11 human responsible for this job could be doing other  
12 things?

13 A Yes, technically.

14 Q So after -- so do you have any reason to  
15 believe that there would be any difficulties in getting  
16 the server to load Backup Exec or Arcserve?

17 A No.

18 Q So what's the next step?

19 A Once we get the backup server ready again and  
20 we have the identified tapes that we need, it just a  
21 matter of loading the tapes, reading the contents, and  
22 restored -- oh, and restore that onto the blank disk  
23 media.

24 Q So let's break that down a little bit.

25 The first step is reading the tapes?

1           A     Oh, first step would be also getting a blank  
2 disk media ready to be written on.

3           Q     And --

4           A     Then we can start the restore.

5           Q     So the blank disk media is a hard drive;  
6 correct?

7           A     Yes.

8           Q     Does the LAPD have the hard drive -- or a hard  
9 drive that would work in this circumstance?

10          A     It -- there could be many options, but in  
11 our -- in my opinion, the easiest option would be having  
12 a dedicated servers with some blank storage, hard drive  
13 storage, standing by to -- in order for the backup  
14 server to access and write onto.

15          Q     And does the LAPD have that equipment?

16          A     Yes.

17          Q     And can it use it for this purpose?

18          A     Yes.

19          Q     Okay. So after setting up the drive, what's  
20 the next specific step breaking it down?

21          A     So once -- once we have the drive, we can start  
22 reading each -- however many tapes needed each tape  
23 and -- to see to -- to cross-check, make sure this is --  
24 the content is correct for that server that we want to  
25 restore, and then we can start restoring the whole tape

1 or particular folders or particular file onto the blank  
2 drive.

3 Q So am I right that at this stage, you are  
4 actually able to see what's in the tape?

5 A You can see not the content but you can see  
6 overall the -- the file names and the numbers of files  
7 that are on that tape.

8 Q And the file names -- can you also see the  
9 folder structure?

10 A Yes.

11 Q And so the folder structure should give you a  
12 sense of what unit's information is on that tape?

13 A Uh-huh, yes.

14 Q Because a -- if, say, that tape contains  
15 CTSOB's P drive, there would be a folder titled "CTSOB P  
16 drive"; correct?

17 A Yes.

18 Q You mentioned that there might be more than one  
19 tape to be read; is that right?

20 A Yes.

21 Q In what circumstance would you need to read  
22 more than one tape in order to restore a P drive for a  
23 particular unit that was backed up on a particular  
24 month?

25 A Perhaps not -- the only times that happens is

1 if that folders grows -- let's say a tape drive can hold  
2 up to 3 terabyte worth of data. If that P drive  
3 happened to grow bigger than 3 terabyte, then it will  
4 need more than one tape to store the whole folder.

5 But in my experience, especially referring to  
6 data that was in these servers during this periods of  
7 time, those folder would never be that large. So most  
8 likely they will fit in just one tape.

9 The only times where it needs to go to the  
10 second tape is just for pure luck that you are backing  
11 up the folder and your tape is 99 percent full and you  
12 start backing up that folder and halfway through it gets  
13 full and you need to insert another tape to continue  
14 backing up that folder, but that just really rare --

15 Q 3 terabytes --

16 A -- occasion.

17 Q 3 terabytes is a lot of information; right?

18 A That's correct.

19 Q Even today, most personal computers don't have  
20 3 terabytes of storage space; correct?

21 A Actually, I'm sorry, 3 gig, I think. I think  
22 these are 3 gigs or 4 gigs. These are the tape -- not  
23 terabyte. I get my term crossed. Yeah. That's about  
24 the -- about the expected size for these tapes, yeah.

25 Q Okay. But a gigabyte in 2001 to 2003 --



1 A Still very large for something like this, yes.

2 Q And in 2001 to 2008, very few personal  
3 computers had even 1 gigabyte of storage; correct?

4 A That's correct.

5 Q It would be more likely to be a couple hundred  
6 megs, if that?

7 A That's right. Yes.

8 Q So, as you sit here today, do you think that it  
9 is likely that a particular P drive -- let me rephrase.

10 As you sit here today, do you think that it is  
11 likely that a backed up P drive for a particular month  
12 could be stored on more than one tape?

13 A Not likely.

14 Q And so -- so after you restore the contents of  
15 the tape onto the disk drive, what's the next step?  
16 And, actually, let me back up.

17 How long would that process take, restoring the  
18 contents of the tape onto the disk drive?

19 A I was told that it takes about four hours.

20 Q And is that machine time?

21 A Yes.

22 Q So during those four hours, the human person  
23 responsible for this process could be doing other  
24 things?

25 A Yes.

1 Q And so after that step, what's the next --  
2 what's the next step you would take?

3 A Then the written contents is ready to be  
4 investigated, is ready to be searched and organized,  
5 copied, printed, however. It's ready for review and  
6 investigated.

7 Q So you are pretty much done at that point?

8 A Yes.

9 Q And am I right that it was Rachel McClain who  
10 told you it was four hours?

11 A Yes.

12 Q And at the point when you are done and you are  
13 ready to read everything on there, if you wanted to --  
14 if you say that you found a particular file that you  
15 wanted to retrieve, what would you do to retrieve it?

16 A Just a matter of copy it from that restore  
17 media onto whatever that being asked for.

18 Q So am I right that that could be as simple as  
19 just dragging it through a general user interface onto  
20 some other drive?

21 A Yes.

22 Q It's a pretty simple process --

23 A Yes.

24 Q -- that most computer users would be familiar  
25 with?

1 A Yes.

2 Q And that sounds like it would take a few  
3 seconds, if that?

4 A Yes. Depends if it's just one file or -- yes.

5 Q And in terms of searching, am I right that you  
6 previously testified that you would be able to search by  
7 file name?

8 A That's correct.

9 Q Would you be able to search the contents of the  
10 file?

11 A I have -- I have tried it with Windows servers  
12 and Microsoft workstation. We were able to search the  
13 content for words or strings, but it's only -- the  
14 search only works on Microsoft Office type of documents,  
15 text files or PDF files.

16 Q So you can't search an image?

17 A That's correct.

18 Q You can't search an audio file or a video;  
19 right?

20 A That's correct. Or any form files or any other  
21 proprietary type.

22 Q But any document is searchable -- any document  
23 that contains text would be searchable; right?

24 A Yes.

25 Q And am I right that the department maintains

1 most -- let me back up.

2 Am I right that in the normal course of its  
3 business, the department maintains its documents in  
4 either Microsoft Word or PDF format?

5 A That's the bulk of it, yes.

6 Q So is the process pretty much the same for 2004  
7 to 2008 backups?

8 A Yes.

9 Q Are there any significant differences between  
10 what you just described for 2001 to 2003 backups in  
11 terms of retrieving them and what you need to do to  
12 retrieve 2004 to 2008 backups?

13 A No.

14 Q So for 2001 to 2003, am I right that those  
15 servers contain both backed up e-mail and divisional  
16 server -- let me rephrase.

17 Am I right that those divisional servers  
18 contained both backed up e-mail and what you've referred  
19 to as a file server?

20 A Yes.

21 Q And the file server is what --

22 A File system.

23 Q File system.

24 And the file system is what we have been  
25 talking about in terms of having a P drive, G drive and

1 have the expertise to really clarify for you.  
2 Unfortunately, yes, it's not as simple as a common file  
3 system for regular file servers.

4 BY MR. CHARNEY:

5 Q So just restoring the file system is a lot  
6 simpler than restoring the e-mail?

7 A That's correct.

8 Q So let's use a concrete example here.

9 If I -- if you were asked -- let me rephrase.

10 If the LAPD wanted to restore CTSOB's P drive  
11 as it was backed up on December of 2008, how long would  
12 it take you to do that?

13 A Given if I know which server that is and which  
14 tape for that servers, the whole process that I  
15 described for you earlier will take I say a business day  
16 max.

17 Q And does that include machine time?

18 A Yes.

19 Q So during some of that business day, you could  
20 be doing other work?

21 A Yes.

22 Q And am I right that you can figure out the  
23 location of the -- you can figure out which divisional  
24 server that P drive would be located in by talking to  
25 the CO of CTSOB as you described?

1 A Yes.

2 Q And you can figure out -- and -- and the tapes  
3 should have labels on it that correspond to the correct  
4 divisional server and date?

5 A That part there is no guarantee. I have not  
6 seen those tapes myself, so I cannot say how well they  
7 are labeled.

8 Q But, as you sit here today, you don't have any  
9 reason to believe that they are not labeled?

10 A Without seeing them, I cannot say and I don't  
11 want to guess.

12 Q Fair enough.

13 We don't want you to guess. But am I right  
14 that the -- that they were supposed to be labeled with  
15 date and the identity of the divisional server that's  
16 backed up; correct?

17 A That's correct.

18 Q And you don't, as you sit here today, have any  
19 reason to believe that that wasn't done in a particular  
20 case?

21 A I remember hearing Rachel mention that some of  
22 the tapes she came across or she saw were not labeled  
23 correctly. How many of them were not adequately  
24 labeled -- they have label in there but there was not  
25 concrete identifications on those tapes as to what they

1 were backing up. And whether or not how many of them  
2 that she came across in that condition, I don't have  
3 that information.

4 Q Do you know if she was referring to tapes  
5 containing divisional server information or tapes  
6 containing e-mail backups?

7 A That, I don't know.

8 Q So she --

9 A When she said tapes, she referred to all the  
10 tape that she saw down in our storage room.

11 Q So, as you sit here today, you don't know if  
12 she was talking about divisional server tapes or e-mail  
13 backup tapes?

14 A That's correct.

15 Q And you haven't seen any of those issues for --  
16 you haven't seen the tapes for yourself?

17 A That's correct.

18 Q And nobody came to you -- let me back up.

19 How do you know that the tapes are supposed to  
20 contain labeling information?

21 A I'm sorry?

22 Q Let me --

23 A Contain?

24 Q As the -- actually, let me -- I'll strike that.

25 Why do you believe that the tapes should

1 contain labeling information?

2 A Because that usually is the standard that the  
3 tape comes -- it has a place for you to put a label, and  
4 when you buy new pack of tapes, they come with blank  
5 labels and it's designed for you to put the blank labels  
6 onto the slot and label them. That just the industry  
7 standard.

8 Q And it was the LAPD's standard practice to  
9 label them?

10 A That was supposed to be, yes.

11 Q Okay. Has the LAPD ever restored a backup tape  
12 from -- containing divisional server information from  
13 2001 to 2008?

14 A Restored. Not in my experience, not while --  
15 no, not in my experience.

16 Q And speaking as the person most qualified to  
17 testify regarding divisional server backups, do you know  
18 one way or the other whether or not that's ever  
19 happened, whether or not the LAPD has ever restored a  
20 tape containing 2001 to 2008 divisional server  
21 information?

22 A I believe hearing that in the past some other  
23 staff member did restore files from tapes in the -- in  
24 the past.

25 Q Do you know who those staff members are?



1 Q When you say "no," do you mean you don't know?

2 A We are not required to track our activities.

3 Q So if a personnel in the ITD section is given a  
4 request from some other section to restore information  
5 on a backup tape, would that ITD person record their  
6 activity in any log or tracking system or anything like  
7 that?

8 A That request usually come across and get  
9 entered into our project tracking system, yes.

10 Q And in preparing to testify today as the PMQ on  
11 the divisional server backups, did you review this  
12 project tracking system?

13 A Yes, I did.

14 Q And, in particular, did you review it to see if  
15 there had been any restorals of 2001 to 2008 divisional  
16 server tapes after 2010?

17 A Yes, I did.

18 Q And when did you do that?

19 A I did that yesterday.

20 Q And how did you do that?

21 A I logged in to the project tracking system and  
22 tried to pull up any past projects with the request for  
23 any kind of restorations and file recovery in the past  
24 and those were dated. There were, I would say, just a  
25 handful, three or four, requests within the last couple

1 years, three years or so, and they were not dated back  
2 to this period.

3 Q Does the tracking -- does the project tracking  
4 system go back -- that you looked at go back -- how --  
5 what period of time does it cover?

6 A Yeah. I think it's only going back to -- I  
7 would have to get a definite answer.

8 Q So you don't know if --

9 A I don't know exactly how far back, not exactly.

10 Q Do you know for sure that it goes back to 2010  
11 as you sit here today?

12 A Not likely. It couldn't have been written or  
13 available that far back.

14 Q How far back could it have been written and  
15 available?

16 A Would have been perhaps five years at most.

17 Q So at most it could go back to 2012?

18 A Yes.

19 Q So if attempts had been made to retrieve 2001  
20 to 2008 tapes of divisional server information in, say,  
21 2010 or 2011, those attempts wouldn't be shown on the  
22 project tracking log, would they?

23 A That's correct, it wouldn't.

24 Q So, as you sit here today, you can't know for  
25 sure if any restorals were done of 2001 to 2008

1 divisional server information in 2010 and 2011, can you?

2 A That's correct. I cannot be sure.

3 Q And it's also possible that the project  
4 tracking system didn't go back to 2012; right?

5 A Possibly.

6 Q So there could have been attempts in 2012 as  
7 well; right?

8 A That's correct.

9 Q And is it also possible that the project  
10 tracking system didn't go back to 2013?

11 A Possible.

12 Q So there could have been attempts to retrieve  
13 2001 to 2008 tapes in 2013 as well; right?

14 A Possibly.

15 Q The logs you reviewed, did they help you  
16 prepare for your deposition today?

17 A Which log?

18 Q The logs of -- the project tracking -- I'm  
19 sorry.

20 I believe you testified you reviewed the  
21 project tracking system --

22 A Yes.

23 Q -- logs.

24 A Yes, that's -- yeah.

25 Q And did reviewing those logs help you prepare

1 out of us not being able to -- to restore or respond to  
2 a specific request.

3 Q And am I right that you don't know if after  
4 2009 any restorals were performed of backup tapes  
5 containing divisional server information from 2001 to  
6 2008; is that correct?

7 A That's correct.

8 Q It's possible, but you don't know?

9 A That's correct.

10 Q Would it be unduly burdensome for the LAPD to  
11 retrieve the CTSOB -- excuse me.

12 Would it be unduly burdensome for the LAPD to  
13 retrieve the CTSOB's P drives stored on divisional  
14 backup tapes from 2001 to 2008?

15 MR. JOHANSEN: I'm going to object, and let me  
16 make my record if you would.

17 I think, Brendan, the nature of my objection is  
18 that you are asking him an ultimate legal question in  
19 this particular case, and I would suggest that the  
20 proper question to this witness on this subject,  
21 especially since he is the PMK, would be the steps  
22 involved and the time involved, but you are asking him  
23 to come to an ultimate legal conclusion that is  
24 ultimately to be decided by the judge in this case  
25 whether it would be unduly burdensome or not. So you're

1 putting him in the position of making a legal -- coming  
2 to a legal conclusion.

3 So, again, I would state that my objection is  
4 that the witness -- the question is improper and,  
5 instead, should be focused on steps involved and time  
6 involved and that the Court can make that legal  
7 determination.

8 MR. CHARNEY: Thank you, Kjehl.

9 MR. JOHANSEN: Yep.

10 MR. CHARNEY: Our position is that the deponent  
11 is designated on Topic 5, that is, the LAPD's undue  
12 burden defense, and on that basis it's a proper  
13 question. I assume you are not instructing the witness  
14 not to answer.

15 MR. JOHANSEN: No. It's neither privileged nor  
16 privacy based, so there wouldn't be a basis for  
17 instructing him not to answer.

18 BY MR. CHARNEY:

19 Q So you can answer.

20 A I -- I cannot -- I cannot respond to that  
21 question because without specific detail on what is  
22 going to be needed in order for me to restore that  
23 P drive, it will be impossible for me to give you a  
24 definite timeline or whether or not it takes -- it will  
25 be take me two days or two months or --

1 Q What information would you need?

2 A Again, we went through I would need to know  
3 where the CTSOB P drive reside, which servers it was on,  
4 which tape would contain the backup server -- backup  
5 information for that server, and that would be the  
6 most -- the biggest question.

7 Without knowing the condition of the tape that  
8 we have in our hands today, without knowing how well we  
9 can pinpoint the particular tapes that we need, that  
10 will be impossible for me to find out.

11 Q Is that the only information that you would  
12 need to know?

13 A Yes. Yeah. Knowing which servers am I looking  
14 for and which -- which period of times I'm looking for  
15 and which tapes that information could be on.

16 Q So, as you sit here today, am I correct that  
17 you can't say that it is an undue burden to search --  
18 excuse me.

19 Am I right that, as you sit here today, you  
20 can't say that it would be unduly burdensome to search  
21 the CTSOB's P drives for 2001 to 2008, as they are  
22 stored on backup tapes?

23 MR. JOHANSEN: Objection. I think that  
24 misstates the witness's testimony.

25 You may answer the question.

1 THE WITNESS: It -- if I -- let me tell you  
2 what I know.

3 BY MR. CHARNEY:

4 Q Well, it was a yes-or-no question.

5 MR. JOHANSEN: Objection. Argumentative.

6 I will ask the witness to provide the answer he  
7 was going to respond to.

8 BY MR. CHARNEY:

9 Q Go ahead.

10 MR. JOHANSEN: You may answer.

11 THE WITNESS: I do know from Rachel McClain  
12 that we have roughly 200 to 300 tapes in possession  
13 today. Best-case scenario, each one of those tapes is  
14 clearly labeled that we can go through and pick out the  
15 exact one that we want and restore it for you, best-case  
16 scenario. That will be -- that will not be an unduly  
17 burden for us.

18 Worst-case scenario, if they are not labeled  
19 correctly and we have to go through each tape, combing  
20 through the content of that to find out if this is the  
21 tape that we need, and if it takes four hours to go  
22 through each tape multiplied by 2- to 300, and that will  
23 be undue burden for us.

24 BY MR. CHARNEY:

25 Q Am I right that the only way you can know for

1 certain is to try?

2 A Yes, you are right.

3 Q So am I right that, as you sit here today, you  
4 don't have enough information to say one way or the  
5 other whether or not it would be an undue burden to  
6 search the CTSOB's P drive for 2001 to 2008, as they are  
7 stored on backup tapes?

8 A That's correct.

9 Q And would your answer be the same for planning  
10 and research's P drives for 2001 to 2008, as they are  
11 stored on backup tapes?

12 A Yes.

13 Q And the same for training's P drives for 2001  
14 to 2008, as they are stored on backup tapes?

15 A Yes.

16 Q Has the LAPD searched its divisional server  
17 backups for records concerning community mapping?

18 A I don't know the answer to that question.

19 Q Let me backup a little bit.

20 Have you heard about -- have you ever heard of  
21 a community mapping program by the LAPD?

22 A No.

23 Q And am I right that you don't know whether or  
24 not the LAPD has searched its divisional file server  
25 backups for any documents relating to the community



1 mapping program?

2 A That's correct. I don't know.

3 Q If a search -- and am I right that if a search  
4 was performed of divisional server file backups --  
5 actually, let me withdraw that.

6 Are you familiar with a request by Muslim  
7 Advocates for information -- let me back up.

8 Are you familiar with a California Public  
9 Records Act request by Muslim Advocates for information  
10 concerning the LAPD's community mapping program?

11 A No, I'm not.

12 Q Were you ever asked to provide any information  
13 to anyone in the department concerning whether it would  
14 be an undue burden to search e-mail backups in response  
15 to that request?

16 A Me or my section personally, no.

17 MR. CHARNEY: I am going to ask the court  
18 reporter to mark for identification a November 12th,  
19 2015, letter from the Los Angeles -- from Martin Bland  
20 to myself and it's ID marked ID 78 to ID 80.

21 (Exhibit 3 marked)

22 BY MR. CHARNEY:

23 Q Mr. Huynh, I'll ask you to briefly review the  
24 document and familiarize yourself with it. You don't  
25 need to read it in depth because I will direct your

1 attention to certain portions of it. So when you've had  
2 a chance to take a look at it, let me know.

3 A I have briefly looked at it, yes.

4 Q So I want to direct your attention to page --  
5 have you ever seen this document before?

6 A No.

7 Q I want to direct your attention to page 2, and,  
8 in particular, at the middle paragraph. I want you to  
9 take an opportunity to read that and let me know when  
10 you are done reading that paragraph.

11 A Yes.

12 Q Have you ever seen or been given the  
13 information contained in that paragraph?

14 A I have not seen, but I heard of it.

15 Q Did you -- how did you hear of it?

16 A Through -- in my weekly OIC meeting.

17 Q What's OIC?

18 A That is officer in charge. That's when my CO  
19 gather all of the manager from each section and we meet  
20 once a week to go through our -- to do a -- provide a  
21 briefing to our CO.

22 Q And how did you hear of this information in the  
23 OIC meeting?

24 A I heard about this through -- from LeShon  
25 Frierson who was the OIC of the mobile and messaging

1 technology unit.

2 Q Did you help Mr. Frierson -- or let me back up.

3 Did you help provide any information to support  
4 any information or representations contained in this  
5 paragraph?

6 A No.

7 Q The claims in this paragraph don't relate to  
8 the file server backups, do they?

9 A No.

10 Q Okay. As the person most qualified to testify  
11 regarding divisional server backups, has the LAPD  
12 searched its divisional server backups for records  
13 concerning community mapping?

14 A Searching the file server's backup. Any server  
15 backup?

16 Q Has --

17 A Or only on tape or --

18 Q That's a -- thank you. That's a good point.

19 So -- well, actually, any. Do you know? I  
20 mean, has the LAPD searched any backups of divisional  
21 server information?

22 A I have not done any search, nor I am aware of  
23 any search was being done.

24 Q And am I right that you would be the one to  
25 either do the search or supervise such a search?

1           A       Even the time period of this request, that  
2 would be done under my section, yes.

3           Q       And, just to be specific, has the LAPD searched  
4 its backup tapes of divisional servers from 2001 to 2008  
5 for records concerning community mapping in response to  
6 the request by Muslim Advocates?

7           A       I don't know.

8           Q       Am I right that you would be the one who would  
9 have performed such a search or supervised such a  
10 search?

11           MR. JOHANSEN:  Objection.  I think that  
12 misstates the witness's testimony with regard to his  
13 time as supervisor of the section.

14           THE WITNESS:  I don't know if anyone in the  
15 department tried to go back to the tape to search  
16 because, first of all, we were not in the -- when my  
17 section took over the responsibility to provide backup  
18 for the divisional area, we only look at the disk unit  
19 and going back to tape was never an option.  It was  
20 never an option.  So whether or not anybody else attempt  
21 to go back -- know of the tapes or go back to the tapes,  
22 that's -- I don't have any knowledge of that.

23           BY MR. CHARNEY:

24           Q       As the person most qualified to testify  
25 regarding divisional server information -- I'm sorry,

1 regarding backups of divisional server information, did  
2 you do anything to prepare yourself as to whether or not  
3 any such backups were searched in response to Muslim  
4 Advocates' request?

5 A No.

6 Q Why not?

7 A Because I wasn't aware of this request for  
8 mapping from the Muslim Advocates prior to now.

9 Q Do you know if backup tapes of divisional  
10 server information from 2001 to 2008 contain any records  
11 concerning the LAPD's community mapping program?

12 A I don't know.

13 Q Is there anything you can do to find out?

14 A I can ask around. I don't even know what  
15 community mapping program is, what it -- what they are  
16 on the -- so --

17 Q Fair enough.

18 Do you know if any divisional server backups  
19 from 2001 to 2008 contain the terms "community mapping"?  
20 Let me rephrase.

21 Do you know if any divisional server backups  
22 from 2001 to 2008 contain documents that contain the  
23 terms "community mapping"?

24 MR. JOHANSEN: I'm going to object. That's  
25 beyond the scope of the PMQ notice for this witness.

1           You may answer the question.

2           THE WITNESS: I don't know.

3 BY MR. CHARNEY:

4           Q     Am I right that the only way you could find out  
5 is to actually look at those divisional server backups?

6           MR. JOHANSEN: Same objection. Beyond the  
7 scope of the PMQ notice in this case.

8           You may answer the question.

9           THE WITNESS: Yes.

10 BY MR. CHARNEY:

11          Q     How many people have worked on the system for  
12 divisional server backups from 2001 to 2008?

13          A     There will be five people.

14          Q     And I'm sorry if this is a little duplicative,  
15 but can you confirm their names for me?

16          A     That will be Thomas, Leticia, Eileen, Rachel,  
17 and Earl.

18          Q     And have you spoken with all of them to prepare  
19 to testify today?

20          A     I did speak to Rachel and Earl yesterday.

21          Q     But not Eileen or Leticia?

22          A     No. Because Eileen retired a long time ago and  
23 Leticia, from what I know, she had worked --  
24 supported -- she supported the backup system for short  
25 period of time, so her involvement was very minimal.

1 Q Do you know everybody within the Los Angeles  
2 Police Department that has expertise with respect to the  
3 backup -- let me rephrase.

4 Do you know the identity of everybody in the  
5 Los Angeles Police Department who has expertise relevant  
6 to restoring backed up divisional server information  
7 from 2001 to 2008?

8 A Yes.

9 Q And are there any people other than the five  
10 people you just mentioned who fit into that category?

11 A Other than those two -- those five, the  
12 additional person would be Alan. I believe we -- I  
13 thought I answered this question before. If I were to  
14 find somebody who capable of assisting with the restore  
15 for divisional server from this period of time, I would  
16 go to Thomas, Rachel and Alan.

17 Q Is it possible that there may be personnel with  
18 skills or training relevant to retrieving e-mail  
19 backups -- I'm sorry. That's wrong.

20 Is it fair to say that there may be personnel  
21 with skills or training relevant to retrieving  
22 divisional server backups from 2001 to 2008 within the  
23 City of Los Angeles of which you are not aware?

24 MR. JOHANSEN: Objection. That's outside the  
25 scope of the PMQ deposition notice.

1           You may answer if you know.

2           THE WITNESS: Is it possible?

3 BY MR. CHARNEY:

4           Q     Yes.

5           MR. JOHANSEN: Objection. Calls for  
6 speculation.

7           THE WITNESS: I would have to speculate. And,  
8 of course, anything is possible. The city has many  
9 departments and they all have their own system, so there  
10 is possibility some other department also has NetBackup  
11 or backup software similar to us. Of course, that is a  
12 possibility, but I do not know that. I cannot confirm  
13 that.

14 BY MR. CHARNEY:

15          Q     Okay. Is there anything that you as the  
16 Los Angeles Police Department's person most qualified on  
17 the topics you are testifying about today would like to  
18 know about the process for retrieving divisional server  
19 backups from 2001 to 2008 that you don't know today?

20          A     Can you rephrase that?

21          Q     Sure.

22          A     I kind of lost --

23          Q     As the person most qualified -- as the person  
24 designated as the person most qualified to testify  
25 regarding divisional server backups, is there anything



1 Q Is there anything else you plan to do?

2 A I'd like to see which backup software we have  
3 today that we can put in the -- to -- which backup  
4 software we have today that allow us to recreate the  
5 backup and run as -- that we once used.

6 Q Is there anything else?

7 A I'd also like to see which tape drives, if any,  
8 we have on hands that are still working that we can use  
9 to read these tapes.

10 Q Is there anything else?

11 A I would like to test a few of them just to see  
12 how long it takes to go through and -- and pull the  
13 content or perhaps restore a tape.

14 Q Anything else?

15 A That's all I can think of right now. Yeah.  
16 I'm sure if I start doing it, there will probably be  
17 something else. But, yeah, off the top of my head, I  
18 think that would be a good place to start.

19 Q So am I right that the way that you would find  
20 out the answers to the questions you have about the  
21 process for restoring 2001 to 2008 divisional servers is  
22 to actually use the equipment and start the relevant  
23 parts of those processes?

24 A Yes. To start it and see how it works, what  
25 comes up.

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

DECLARATION UNDER PENALTY OF PERJURY

I, ANTHONY HUYNH, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on March 22, 2017; that I have made such corrections as appear noted on the Deposition Errata Page, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this 11 day of April, 2017, at  
Los Angeles, California.

  
ANTHONY HUYNH

DEPOSITION ERRATA SHEET

Page No. 54 Line No. 17, 18

Change: change Beleza to Belleza

Reason for change: misspelling

Page No. 56 Line No. 8, 11, 14, 22

Change: change Beleza to Belleza

Reason for change: misspelling

Page No. 133 Line No. 18

Change: "Yes" to, "No, I will need to use Backup Exec, not NetBackup."

Reason for change: It was Backup Exec that can be used in place of Arcserve, not NetBackup.

Page No. 136 Line No. 7

Change: "They are in our storage room in our data center" to, "Divisional backup tapes generated using

Arcserve between 2001 and 2003 are stored off site with Storetrieve (record retention company)

Reason: We were switching our backup software from Arcserve to Backup Exec starting in 2002 into 2003,

and during the transitioning period, we also generated a few backup tapes with Backup Exec. Tapes that

were generated with Arcserve ended up off site, those that were created with Backup Exec are in our

storage room in our data center.

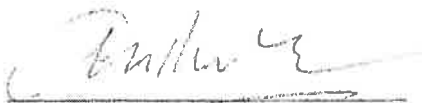
Page No. 136 Line No. 19, 20

Change: "It should refer to the date and time and the server that the tape was backing up" to, "It should

refer to the Tape's bar code number, the server that the tape was backing up, the period, month and year

of the data being backed up.

Reason for change: clarification



Anthony Huynh

4/11/2017  
Dated

1 STATE OF CALIFORNIA )

2 ) ss

3 COUNTY OF LOS ANGELES )

4

5 I, Deborah L. Heskett, a Certified Shorthand

6 Reporter, do hereby certify:

7 That prior to being examined, the witness in the  
8 foregoing proceedings was by me duly sworn to testify to  
9 the truth, the whole truth, and nothing but the truth;

10 That said proceedings were taken before me at  
11 the time and place therein set forth and were taken down  
12 by me in shorthand and thereafter transcribed into  
13 typewriting under my direction and supervision;

14 I further certify that I am neither counsel for,  
15 nor related to, any party to said proceedings, nor in  
16 any way interested in the outcome thereof.

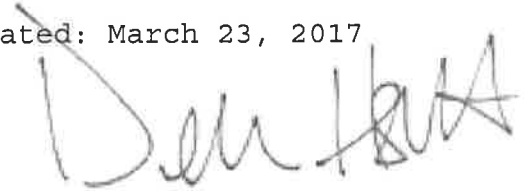
17 In witness whereof, I have hereunto subscribed my  
18 name.

19

20 Dated: March 23, 2017

21

22

23   
24 DEBORAH L. HESKETT  
25 CSR No. 11797

24

25

**EXHIBIT HH**

Michael Seguin  
April 27, 2017

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

MUSLIM ADVOCATES,

Petitioner,

vs.

Case No. BS163755

THE CITY OF LOS ANGELES; THE LOS  
ANGELES POLICE DEPARTMENT; DOES  
1-10, INCLUSIVE,

Respondents.

---

DEPOSITION OF MICHAEL SEGUIN

Thursday, April 27, 2017

10:00 a.m. - 12:59 p.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Jean F. Holliday

CSR No. 4535, RPR, CRR

1           A.    That's the day we -- we have deployment periods  
2           and that -- when one period ends the other period begins  
3           on days and it just -- it varies, you know, throughout  
4           the calendar years.  So yes, it just happened to fall on  
5           that day.

6           Q.    That's incredible.

7           A.    Yeah.

8           Q.    So after you became a sergeant within the  
9           CTSOB -- is that the right term --

10          A.    Yes.

11          Q.    -- for the Counter-Terrorism and Special  
12          Operations Bureau?

13          A.    Sorry.

14          Q.    Did you ever come to have responsibilities for  
15          the CPRA?

16          A.    Yes.

17          Q.    And when did that happen?

18          A.    That would be in 2013.

19          Q.    And how did that happen that you came to have  
20          responsibilities for the CPRA?

21          A.    I received a project.

22          Q.    And what project was that?

23          A.    The retrieval of this information.

24          Q.    And by "this information" do you mean Muslim  
25          Advocates's request for records dated

1 December 12th, 2013?

2 A. Correct.

3 Q. So prior to receiving that request -- actually,  
4 let me back up.

5 Did you receive that request on or about  
6 December 12th, 2013?

7 A. I'm sure, yes.

8 Q. So prior to receiving the request in  
9 December 2013 had you ever done anything with respect to  
10 searching for records in response to a CPRA request?

11 A. No.

12 Q. Before the time you received the request in  
13 December 2013 had you ever -- did you know what the CPRA  
14 was?

15 A. Not really.

16 Q. So you had never received any training on the  
17 CPRA prior to receiving this request?

18 A. I'm sure it was discussed while in the academy,  
19 but no, no direct training.

20 Q. And how was it discussed in the academy?

21 A. Well, we have law and procedure classes so they  
22 teach us the law and they cover civil and criminal, so  
23 it may have come up.

24 Q. Do you remember what was said?

25 A. No.



1 Q. And in December of 2013, when you received the  
2 CPRA request, at that time did you remember what you had  
3 learned in your training in the academy with respect to  
4 California Public Records Act?

5 A. No.

6 Q. At any time after December 12th, 2013, did you  
7 ever receive any training with respect to the Public  
8 Records Act?

9 A. No.

10 Q. Other than responding to the request by Muslim  
11 Advocates, have you done anything else in your job as a  
12 police sergeant to -- or as a personnel within the  
13 department, to search for public records in response to  
14 a public records request?

15 A. No.

16 Q. So this request is your -- basically the one  
17 time that you've worked on a public records request?

18 A. Yes.

19 Q. Who supervises you generally?

20 A. Generally? Well, I answer to Chief Downing,  
21 Chief Michael Downing.

22 Q. And do you have another supervisor who has --  
23 let me rephrase that.

24 Who was your supervisor with respect to your  
25 duties in responding to Public Records Act requests?

1 A. It would have been Chief Downing.

2 Q. Does he actively supervise you in responding to  
3 Public Records Act requests?

4 A. That's vague.

5 Q. If you don't understand I can rephrase it.

6 A. Sure. Rephrase it.

7 Q. When you say "supervisor" what do you mean?  
8 What does he do to supervise you with respect to your  
9 duties in responding to California Public Records Act  
10 requests?

11 A. I wouldn't say he supervises me. I was given  
12 an assignment and it's my job to carry out the  
13 assignment, and if I have any questions I would go to  
14 him and ask him and he would answer them.

15 Q. Have you ever gone to him with a question?

16 A. Sure.

17 Q. And on what occasions have you gone to him with  
18 a question about the Public Records Act?

19 A. It was related to a specific request of  
20 something that he had done.

21 Q. What was that?

22 A. I believe it was -- may have been the mapping  
23 and also speaking before Congress related to -- I think  
24 related to mapping.

25 Q. So am I right in understanding that you went to

1 Chief Downing to ask him questions about what he had  
2 done with respect to the Community Mapping program?

3 A. I believe the request was a specific document,  
4 do you have the testimony or anything that -- anything  
5 that he had prepared while having this vision of  
6 mapping, if he had any of those documents. So I would  
7 have asked him for that.

8 Q. Did you ever ask him any questions about the  
9 level of effort that you should use in searching in  
10 response to a Public Records Act request?

11 A. No.

12 Q. What about the sorts of places that should be  
13 checked in responding to a Public Records Act request?

14 A. Yes.

15 Q. And what questions did you ask him on that  
16 point?

17 A. Where would the best place be to find this, if  
18 in fact it exists.

19 Q. And did he give you an answer to that question?

20 A. Yes.

21 Q. And just to back up, what specifically were you  
22 looking for when he told you where to look?

23 A. I was looking for the document that was  
24 requested.

25 Q. And are you referring to the document requested

1 in Exhibit 2?

2 A. Let's see. Yes.

3 Q. And so what -- so Exhibit 2 contains a Public  
4 Records Act request from Muslim Advocates that has  
5 several categories of records.

6 A. Yes.

7 Q. Do you see that?

8 A. Yes.

9 Q. So what particular document were you looking  
10 for when you asked Deputy Chief Downing where to look?

11 A. Well, the statement before the U.S. Senate on  
12 October 30th, 2007, so the Senate Statement. Anything  
13 related to Community Mapping described in the Senate  
14 Statement, and all records reflecting or relating to  
15 LAPD's policies and practices based upon individuals or  
16 communities that are Muslim, or are of Arab, South Asian  
17 or Middle Eastern descent.

18 And it says such records included but not  
19 limited to Community Mapping -- I mean do you want me to  
20 read them all?

21 Q. That's okay.

22 So you were looking for a collection of  
23 documents; is that right?

24 A. Correct.

25 Q. And you asked Michael Downing where should I

1 look for these?

2 A. Yes.

3 Q. And you did that because he was the one who  
4 worked on the program to which the documents relate?

5 A. Yes.

6 Q. In terms of receiving instructions more  
7 generally, did any supervisor give you instructions  
8 about what should generally be done in searching for a  
9 CPRA request, like a protocol or a set of guidelines or  
10 anything like that?

11 A. No.

12 Q. Did any person, rather than a supervisor, but  
13 maybe somebody at your level, give you any guidance  
14 about what should typically be done in searching for a  
15 CPRA -- searching in response to a CPRA request?

16 A. No.

17 Q. Did anybody in the department at any level give  
18 you any guidance about what should typically be done in  
19 searching in response to a CPRA request?

20 A. No.

21 Q. Are there any protocols or written guidance  
22 available from the LAPD that inform a personnel such as  
23 yourself what to do in searching for a -- searching for  
24 documents in response to a CPRA request?

25 A. Not that I'm aware of.

1 Q. Did you do anything to check?

2 A. No.

3 Q. And just to be more specific, at or around the  
4 time you received Muslim Advocates's request in  
5 December of 2013 did you do anything to check whether or  
6 not there were written policies or guidance about what  
7 to do in responding to a CPRA request?

8 A. No.

9 Q. Does the Counter-Terrorism and Special  
10 Operations Bureau -- and I'm just going to call it CTSOB  
11 for now -- does CTSOB have a method for assigning a  
12 given personnel to a CPRA request?

13 A. Not that I'm aware of.

14 Q. Do you know why you were assigned to respond to  
15 Muslim Advocates's request?

16 A. Probably because I work with the Muslim  
17 community.

18 Q. And why do you believe that?

19 A. Why do I believe what?

20 Q. Why do you believe that you were assigned  
21 because you work with the Muslim community?

22 A. I don't know. I'm sure some of it had to do  
23 with that and I'm sure some of it had to do with the  
24 other supervisors are busy doing other things and this  
25 is what I got.

1 Q. Who are the other supervisors who might have  
2 been assigned?

3 A. Well, there are adjutants up there. I think at  
4 the time there was a Lieutenant John McMahon. I think  
5 Sergeant Gloria Fanning was there. I can't remember who  
6 else would have been there.

7 Q. Did any of those people have job duties with  
8 respect to the Community Mapping program at any time?

9 A. No.

10 Q. Did you ever have any role with respect to the  
11 Community Mapping program?

12 A. No.

13 Q. So you weren't aware of it at the time that it  
14 was being proposed or organized or whatever happened  
15 with it?

16 A. No.

17 Q. Did anyone at the department ever give you any  
18 guidance as to how to know when a search for records in  
19 response to a CPRA request is complete?

20 A. No.

21 Q. How do you know when you're -- when a search  
22 for records is complete?

23 A. When I've exhausted all efforts in -- in ways  
24 that I believe that I could have obtained it.

25 Q. And so just to be more specific, what are those

1 ways that you would exhaust?

2 A. Well, I would go directly to the source first,  
3 and then -- and then I personally would check maybe  
4 e-mails or computer files. That's it.

5 Q. Which computer files would you check?

6 A. I would check the hard drive of the computer  
7 that CTSOB uses.

8 Q. Is that hard drive or computer known by any  
9 names within the department?

10 A. It would be the P drive.

11 Q. And is that sometimes called a divisional  
12 server?

13 A. Maybe.

14 Q. Is this the -- but this is the P drive that's  
15 assigned to CTSOB?

16 A. Correct.

17 Q. Do you know the time period of documents that  
18 are stored on the P drive?

19 A. No.

20 Q. And to be more specific, in December of 2013  
21 did you know the time period of documents that were on  
22 the P drive at that time?

23 A. No.

24 Q. Did you search any backed up information in the  
25 department's possession?



1 A. E-mails.

2 Q. So you searched backed up e-mails in response  
3 to this request?

4 A. Yes.

5 Q. When did you do that?

6 A. I couldn't tell you the exact date. Sometime  
7 in that time frame.

8 Q. Sometime around December of 2013?

9 A. Sure.

10 Q. And how did you do that?

11 A. I went down to our Information Technology  
12 Division and asked them how far back they could go and  
13 requested the e-mails and then I reviewed them.

14 Q. When did you get those e-mails?

15 A. Sometime around then.

16 Q. Do you know the volume of e-mails you received  
17 at around December 2013?

18 A. There was over a thousand.

19 Q. Did you find any that were responsive to the  
20 request by Muslim Advocates?

21 A. In what respect?

22 Q. Were any of the e-mails you received within the  
23 categories of documents sought by the request that's  
24 attached as -- attached to the document marked as  
25 Exhibit 2?

1           A.    When I reviewed those documents I looked for  
2 anything that had the word "Muslim" or "mapping" in it.

3           Q.    Did you find anything that had those terms in  
4 it?

5           A.    I believe so, yes.

6           Q.    Do you remember what documents those were?

7           A.    No.

8           Q.    Do you remember approximately how many of them  
9 had those terms in it?

10          A.    No. I will say that some of them were, like,  
11 news articles, headline news articles from various  
12 newspapers because within that e-mail chain people would  
13 send out e-mails with headline news, so that's where I  
14 saw most of -- most of the words that specifically say  
15 "Muslim," whether they were a victim of a crime or there  
16 was an event going on or what have you.

17          Q.    And the e-mail backups that you -- that these  
18 e-mails were drawn from, do you know the time period of  
19 those backups?

20          A.    I think they said they could go back five  
21 years, but I don't know for sure.

22          Q.    So in 2013 that would have been to 2008?

23          A.    Correct.

24          Q.    Do you know who provided you with those  
25 e-mails?

1 A. I do but I can't remember their name.

2 Q. Do you remember her sort of title or general  
3 job duties?

4 A. I know she was a supervisor down there, but...

5 Q. So a supervisor in the ITD --

6 A. Correct.

7 Q. -- section?

8 A. Oh, sorry. Correct.

9 Q. What did you do with those e-mails?

10 A. I read them.

11 Q. And after you read them did you provide them to  
12 anybody else within the department?

13 A. Yes.

14 Q. And who did you provide them to?

15 A. The Discovery Section.

16 Q. Did anybody -- so when you were -- let me take  
17 that back.

18 So am I correct that you said that in searching  
19 for a CPRA request you'll go to the source, you'll look  
20 in e-mails and you'll check computer files. Is there  
21 anything else that you would generally do in response to  
22 a CPRA request?

23 A. No.

24 Q. And so am I right that in responding to the  
25 Public Records Act request from Muslim Advocates in

1 December 2013 you went to Michael Downing and you pulled  
2 some e-mails from backups with the assistance of ITD and  
3 you checked the P drive?

4 A. Yes.

5 Q. Did you check any hard copy files?

6 A. No.

7 Q. Did you check any devices, such as an iPhone or  
8 a BlackBerry or anything like that?

9 A. No.

10 Q. So in Exhibit 2 there is a reference to the  
11 Senate Statement which I believe you mentioned. In  
12 responding to the CPRA request did you read the Senate  
13 Statement?

14 A. Briefly.

15 Q. And did reading the Senate Statement inform you  
16 as to where to look or how to do the search in any way?

17 A. Not that I'm aware of.

18 Q. What did you do, if anything, to identify where  
19 to search?

20 A. Asked questions.

21 Q. And who did you ask questions of?

22 A. Chief Downing.

23 Q. What questions did you ask him in particular?

24 A. I couldn't say in particular but they were  
25 probably along the lines of: Do you know where I could

1 find anything related to this information.

2 Q. And, you know, I'm going to drill down a little  
3 bit because we've been talking about this request in  
4 general, but focusing on Item No. 2 of the request, and  
5 it's Exhibit 2, did you ask him anything in particular  
6 about the Community Mapping program?

7 A. Yes.

8 Q. And by "him" I mean Deputy Chief Downing.

9 A. Yes.

10 Q. And what did you ask him about the Community  
11 Mapping program?

12 A. If he had any paperwork related to that.

13 Q. And what did he tell you?

14 A. No.

15 Q. Did you ask him if he had ever had any  
16 paperwork related to the Community Mapping program?

17 A. No.

18 Q. So he might have had some but you don't know?

19 A. He may have. It was more of a discussion about  
20 the Mapping Program and he said it was scrapped because  
21 it was inappropriate, so he has no records for it  
22 because there was no reason to retain the records.

23 Q. And did you ask him -- rephrase that.

24 Did you ask him where in the department, other  
25 than his own personal files, there might be records

1 about the program?

2 A. Yes.

3 Q. And what did he tell you?

4 A. I believe he told me there aren't any.

5 Q. Do you know if he himself looked for those  
6 records?

7 A. I don't.

8 Q. Do you know the basis for his statement that  
9 there aren't any?

10 A. No.

11 Q. What else did Deputy Chief Downing tell you  
12 about the Mapping Program when you asked him about it in  
13 searching for records?

14 A. He just told me the premise of it, it was a  
15 military -- something used in the military, so he  
16 thought perhaps it would be good to try to utilize it  
17 here.

18 Q. Did you ask him about other people who might  
19 have worked on the Mapping Program?

20 A. No.

21 Q. Did you ask him about other personnel who might  
22 have received records with respect to the Mapping  
23 Program?

24 A. No.

25 Q. Why not?

1 A. Because he said there weren't any.

2 Q. Did you ask him about people outside of the  
3 department or entities outside of the department that  
4 may have worked with the department on the Community  
5 Mapping program?

6 A. No.

7 Q. Why not?

8 A. Because he said there weren't any.

9 Q. At the time you were searching for the request  
10 in December 2013, did you find out whether or not any  
11 entities outside of the department had worked on the  
12 Community Mapping program?

13 A. No.

14 Q. And at the time you were searching for records  
15 did you find out if any people, other than Deputy Chief  
16 Downing, might have had knowledge about the Community  
17 Mapping program?

18 A. No.

19 Q. Did you find out if any people, personnel  
20 within the department, other than Michael Downing, had  
21 received records with respect to the Community Mapping  
22 program?

23 A. No.

24 Q. Did you -- when you were searching for records  
25 did you try to find out what sort of records would

1 normally be created when a program such as Community  
2 Mapping is proposed?

3 A. Repeat that.

4 Q. Sure. When you were searching for records in  
5 or around December 2013 did you do anything to find out  
6 what kind of records would normally be created when  
7 there is a proposal for something like Community  
8 Mapping?

9 A. No.

10 Q. Why not?

11 A. Because I was told there weren't any.

12 Q. Have you ever in your role as a -- in the  
13 Los Angeles Police Department have you ever seen a white  
14 paper?

15 A. I've heard the term.

16 Q. And did you do anything to find out if white  
17 papers are typically created when a program such as  
18 Community Mapping is proposed?

19 A. No.

20 Q. Why not?

21 A. Because I was told there weren't any.

22 Q. Did you do anything to find out if there are  
23 memoranda or reports or anything like that created when  
24 a program such as Community Mapping is proposed?

25 A. No.



1 Q. And if I asked you why not, would your answer  
2 be the same?

3 A. Yes.

4 Q. Did you do anything at the time you were  
5 searching in December 2013 to find out what documents  
6 are normally created when a project involves a  
7 collaboration between the LAPD and some outside entity?

8 A. No.

9 Q. And why not?

10 A. Same.

11 Q. Because Michael Downing -- Deputy Chief Downing  
12 told you --

13 A. There weren't any.

14 Q. So just to be clear, you didn't try to find out  
15 if there would be a log of communications with an  
16 outside entity, for instance?

17 A. No.

18 Q. You didn't try to find out if there would be a  
19 Memoranda of Understanding -- excuse me -- whether or  
20 not there would be a Memoranda of Agreement with an  
21 outside entity?

22 A. No.

23 Q. You didn't do anything to confirm whether or  
24 not there would be correspondence retained by the -- by  
25 the CTSOB in connection with any interactions between

1 the CTSOB and an outside entity regarding Community  
2 Mapping?

3 A. No.

4 Q. Did you do anything to find out what documents  
5 would normally be created when the LAPD receives  
6 correspondence from citizens or non-governmental  
7 organizations regarding an LAPD program?

8 A. No.

9 Q. And why not?

10 A. See, these questions are vague to a point and  
11 by me saying "no" to a lot of them makes it appear that  
12 I'm incompetent and I didn't search for anything, but  
13 that's not the case. So I searched computer files,  
14 searched e-mails, and I asked questions, and that's what  
15 I did, and when I came up dry, then I was done.

16 Q. If you don't understand my questions, I'm happy  
17 to rephrase them, so please let me know if you find them  
18 vague or difficult to understand. I -- I don't want you  
19 to, you know, feel like the question is vague.

20 So did you have trouble understanding the  
21 question I just asked?

22 A. No.

23 Q. Did you do anything to find out what  
24 documents -- did you do anything to find out what  
25 documents are normally created when there is

1 correspondence to or from -- excuse me, I'm going to  
2 start that over.

3 Did you do anything to find out what documents  
4 are normally created when there is correspondence  
5 between the LAPD and outside entities working with the  
6 LAPD on a program?

7 A. No.

8 Q. Why not?

9 A. I don't know.

10 Q. So is it accurate to say that at the time you  
11 were searching in December 12th, 2013, for records  
12 responsive to Muslim Advocates's requests, you were not  
13 aware as to whether or not the LAPD had normal  
14 procedures for creating documents when a program  
15 involves a collaboration between the LAPD and an outside  
16 organization?

17 A. No.

18 Q. And is it accurate to say that you weren't  
19 aware of whether or not the LAPD has normal procedures  
20 for creating documents when a project such as Community  
21 Mapping is proposed?

22 A. Say that again.

23 Q. Is it accurate to say that at the time you were  
24 searching in December 12th -- in or around  
25 December 12th, 2013, you were not aware of the LAPD's

1 normal procedures for creating documents when a project  
2 such as Community Mapping is proposed?

3 A. Yes.

4 Q. And I know the negatives can get a little  
5 confusing. When you say "yes" do you mean you were not  
6 aware?

7 A. Yes.

8 Q. And is it accurate to say that in  
9 December of 2013, when you were searching, you were not  
10 aware of the LAPD's normal procedures for creating  
11 documents when the LAPD receives or sends correspondence  
12 about a program such as Community Mapping?

13 A. I was not aware of -- say it again.

14 Q. Sure. Is it accurate to say that at the time  
15 you were searching you were not aware of the LAPD's  
16 normal procedures for creating documents when it sends  
17 or receives correspondence about a program such as  
18 Community Mapping?

19 A. I mean I am aware that we send correspondence,  
20 and you have receipts related to those correspondence  
21 when you do things in general, but related to this  
22 particular program I'm not aware of any correspondence  
23 that occurred.

24 Q. And in searching for records did you check to  
25 see if there were any receipts of correspondence about

1 Community Mapping?

2 A. No.

3 Q. So I want to turn back to Exhibit 2. When  
4 you've got it in front of you, let me know.

5 Just going back to the moment that you received  
6 this request, and this is a 15.2; correct, this cover  
7 page?

8 A. Yes.

9 Q. So when you received this 15.2 what did you do  
10 in terms of understanding what you were supposed to be  
11 looking for?

12 A. Well, as I had said before, I read it, I read  
13 what was requested. I approached the person that I  
14 believed could best tell me where to find these items,  
15 and then I checked.

16 Q. So putting aside what you actually did to  
17 search, I'm just focused more on how you understood the  
18 request, and so, for instance, when you say you read it,  
19 what did you read?

20 A. I read the 15.2.

21 Q. And did you turn the page and read the actual  
22 request that was sent by Muslim Advocates?

23 A. Yes.

24 Q. And at the time you were searching what did you  
25 understand the -- let me rephrase.

1           Were you looking for all of the records that  
2 are listed in Items 1 through 5 on the request that's  
3 attached to the 15.2, or were you focused on a  
4 particular subset of those items?

5           A.    I would say all.

6           Q.    Did you understand these items as being  
7 distinct or sort of all together?

8           A.    Both.

9           Q.    And what do you mean by both?

10          A.    Well, they all were related to the Muslim  
11 community but they were different or distinct in the  
12 information requested.

13          Q.    So did you do a separate search for -- let me  
14 rephrase that.

15                Did you -- in searching did you focus  
16 separately on the items requested by each -- let me  
17 rephrase that.

18                In searching in response to this request did  
19 you focus separately on the categories of records  
20 contained in each one of these items?

21          A.    Yes.

22          Q.    And so did you do something different to search  
23 in respect to Item 1 than in respect to Item 2, for  
24 instance?

25          A.    No.

1 Q. So your actual search was for -- let me  
2 rephrase that.

3 When you say "no," what do you mean?

4 A. Well, I used a similar method to search for  
5 each item, but I did have to address each item  
6 specifically in that request.

7 Q. And how did you address each item specifically?

8 A. I searched for the name of the item.

9 Q. And how did you search for the name of the  
10 item?

11 A. I typed it into the computer.

12 Q. And that's the P drive?

13 A. Correct.

14 Q. And for any of these items did you do a search  
15 in hard copy records?

16 A. No.

17 Q. Is there a records retention representative  
18 charged with inventorying the CTSOB's records?

19 A. I don't know.

20 Q. When you were searching did you do anything to  
21 find out?

22 A. If there was a specific person in charge of  
23 retaining the records?

24 Q. Well, I guess if there was a person whose title  
25 is -- or job duty is to be a records retention

1 representative.

2 A. I know we retain the records and I'm sure  
3 somebody in the office is in charge with boxing them and  
4 retaining them and sending them on. I could probably  
5 guess as to who it might have been, just with the  
6 secretaries that were there.

7 Q. We don't want you to guess.

8 A. Right. But no, I didn't specifically ask  
9 somebody if that was their job.

10 Q. And putting aside the title, did you find out  
11 whether there was anybody within the CTSOB whose job  
12 duty it is to maintain inventories of records within the  
13 CTSOB's ambit?

14 A. No.

15 Q. Why not?

16 A. I don't think I tried specifically to find out,  
17 but I was aware that we did retain records. Didn't  
18 think it was important to find out who actually retained  
19 them.

20 Q. And in searching for the request did you check  
21 any inventories or indices of the CTSOB's records?

22 A. Just the P drive.

23 Q. So you didn't check any inventories of hard  
24 copy records, for instance?

25 A. No.



1 Q. Does CTSOB maintain hard copy repositories of  
2 records?

3 A. I'm sure they do.

4 Q. But you didn't check them in response to this  
5 request?

6 A. No.

7 Q. And just to be more clear, by hard copy  
8 repositories, there are filing cabinets and things like  
9 that?

10 A. Correct.

11 Q. Do you know -- have you seen those filing  
12 cabinets before?

13 A. Yes.

14 Q. And are they -- I mean where are they in the  
15 CTSOB's offices?

16 A. Well, we have filing cabinets in a closet but  
17 that doesn't mean that all records that are retained are  
18 in those specific file cabinets.

19 Q. How large is the closet, approximately?

20 A. Maybe four feet wide, 15 feet deep.

21 Q. And I assume -- is the closet full of filing  
22 cabinets, is that the purpose for which the closet's  
23 used?

24 A. Not only, but yes.

25 Q. And so what's the approximate dimensions of the

1 file cabinets that are within the closet?

2 A. I think most of the cabinets are four feet tall  
3 and there may be ten rows.

4 Q. And a few feet deep, I assume?

5 A. Yes.

6 Q. Other than the P drive and the filing cabinets,  
7 are there any other places where the CTSOB stores  
8 records?

9 A. I'm sure there is another location that they  
10 are sent to.

11 Q. And in searching for the request did you search  
12 that location?

13 A. No.

14 Q. Why not?

15 A. Specifically related to what, everything?

16 Q. Specifically related to Item No. 2, seeking  
17 Community Mapping records.

18 A. No, because I was told there wasn't any.

19 Q. Did you do anything to find out if there are --  
20 if the CTSOB -- let me rephrase that.

21 Did you do anything to find out if there might  
22 be Community Mapping records stored outside of LAPD  
23 facilities, such as, you know, on a home computer or a  
24 personal device or something like that?

25 A. No.

1 Q. Why not?

2 A. Because I was told there wasn't any.

3 Q. Do you know if any CTSOB personnel store  
4 records or create records or work with records on  
5 personal devices or at home?

6 A. No.

7 Q. You don't know one way or the other?

8 A. No, I don't.

9 Q. So it's possible?

10 A. Anything's possible.

11 Q. Are there any policies that govern whether or  
12 not a personnel in CTSOB can store records on a personal  
13 device?

14 A. I'm not aware of it if there is.

15 Q. So as somebody working within the CTSOB you're  
16 not aware that you're prohibited, say, from working with  
17 LAPD records on your personal device?

18 A. Rephrase that.

19 Q. As somebody who works in the CTSOB you don't  
20 know if you are prohibited from working with an LAPD  
21 record, say, on your personal iPad or iPhone or  
22 something?

23 A. Working with or retaining?

24 Q. Well, either.

25 A. I would think it would be okay to work with, if

1 perhaps that's the only method you had at the time, but  
2 as far as retaining, I would assume no.

3 Q. But you don't know for certain?

4 A. No, I don't.

5 Q. And do you know whether or not some personnel  
6 within the CTSOB retain LAPD records on their personal  
7 devices?

8 A. No.

9 Q. You don't know one way or the other?

10 A. No.

11 Q. And what about at home?

12 A. No.

13 Q. You don't know one way or the other?

14 A. No.

15 Q. And you don't know if there is a policy one way  
16 or the other either?

17 A. No.

18 Q. Do you know if the LAPD -- let me rephrase.

19 Do you know if the CTSOB has ever retrieved  
20 records from a CTSOB personnel's personal device?

21 A. No.

22 Q. You don't know one way or the other?

23 A. No.

24 Q. And what about retrieving records from a CTSOB  
25 personnel's home, you know, space?

1 A. No.

2 Q. You don't know one way or the other?

3 A. No.

4 Q. And did you do anything to find out the answers  
5 to these questions in or around December of 2013, when  
6 you received the request?

7 A. No.

8 Q. Do you know if the CTSOB has ever caused  
9 e-mails from CTSOB's personal e-mail account to be  
10 forwarded to the CTSOB?

11 A. No.

12 Q. You don't know one way or the other?

13 A. No.

14 Q. And you didn't do anything to find that  
15 question out in December of 2013, when you were  
16 searching in response to this request?

17 A. If we attempted to retrieve personal e-mails?

18 Q. Well, any e-mails.

19 A. I did retrieve e-mails though.

20 Q. So I guess what I'm focused on is whether the  
21 CTSOB at any time has said to a personnel, "Hey, we  
22 understand that you've got records on your personal  
23 e-mail account that we think we should have, can you  
24 forward them to us," do you know if that has ever  
25 happened?

1 A. No.

2 Q. And at the time you were searching for records  
3 in response to this request did you find out if that's  
4 something that the LAPD has ever done?

5 A. No.

6 Q. Did you find out if anybody within the LAPD --  
7 excuse me.

8 Did you find out if anybody within the CTSOB  
9 had a practice of using their personal e-mail to  
10 correspond with respect to CTSOB business?

11 A. No.

12 Q. You didn't know one way or the other?

13 A. No.

14 Q. And you didn't attempt to find that out at the  
15 time you were searching for this request?

16 A. No.

17 Q. In responding to Muslim Advocates's request  
18 what personnel did the LAPD identify as most likely to  
19 possess responsive records?

20 A. I don't believe they identified any.

21 Q. And I guess I should say, since you were the  
22 one -- am I right that you would be the person to  
23 identify on the LAPD's behalf, or at least for CTSOB's  
24 behalf, who would have responsive records?

25 A. Yes.

1 Q. And so did you identify anyone as likely to  
2 have responsive records?

3 A. Yes.

4 Q. And is that person -- who is that person?

5 A. Chief Downing.

6 Q. Was there anybody else who you identified?

7 A. No.

8 Q. Did you do anything to attempt to identify  
9 anybody else?

10 A. That would have the records?

11 Q. Yes.

12 A. No.

13 Q. And why not?

14 A. Again, that's kind of vague. I don't know if  
15 searching over a thousand e-mails of different -- or  
16 listed personnel would be an actual attempt for me to  
17 find out. If so, then yes, I searched and attempted to  
18 identify -- or identified all these personnel, and I  
19 checked e-mails that they were specifically -- that were  
20 specifically asked for me to check if they had that. So  
21 the answer to that question would be yes if it's  
22 speaking specifically about the e-mails for these  
23 personnel.

24 Q. And so just for the record, you were  
25 pointing -- am I right that you were pointing at Page 2

1 of the CPRA request --

2 A. Yes.

3 Q. -- that's contained in Exhibit 2?

4 A. Yes.

5 Q. And so are these -- and these are the  
6 individuals starting with Raymond Kelly and going down  
7 to Bryan Michael Jenkins?

8 A. Correct.

9 Q. And so just break down for me what did you do  
10 to search with respect to these -- actually, let me  
11 first ask:

12 Did you search for the -- let me rephrase that.  
13 When you searched with respect to these people,  
14 was that in response to Item No. 2 of this request?

15 A. I would have to say that this document was  
16 given to the personnel in ITB and we requested e-mails  
17 for these specific persons, and then I did search  
18 related to all documents requested.

19 Q. And so just drilling down on Item No. 2,  
20 seeking records concerning Community Mapping, did you  
21 search -- did you identify any other people, other than  
22 Michael Downing, who might have records in response to  
23 Item No. 2?

24 A. No.

25 Q. Did you ask -- did you do anything to find out



1 if there might be individuals who had records, other  
2 than Michael Downing, concerning Community Mapping?

3 A. I just asked Michael Downing.

4 Q. And did you ask him if there were anybody -- if  
5 there was anybody else who worked on the Community  
6 Mapping program?

7 A. I wouldn't say I said that specifically. I  
8 think I just asked him about the program and if he had  
9 any documentation, because that's what was requested.

10 Q. So to be clear, you didn't ask him if there  
11 were any other personnel within the department who might  
12 have records about the program?

13 A. No.

14 Q. And you didn't ask him if there were any other  
15 personnel who might have worked on the program?

16 A. No.

17 Q. Did you ask him if there were any other persons  
18 who might have knowledge about the program?

19 A. No.

20 Q. Why not?

21 A. Because I asked him about it and he told me  
22 there weren't any.

23 Q. I'm sorry if the questions get a little  
24 repetitive.

25 A. That's fine.

1 Q. So just to be clear, you never -- in searching  
2 for records responsive to the request you never spoke  
3 with or connected with -- let me rephrase that.

4 In searching for records responsive to the  
5 request you never reached out to William Bratton, did  
6 you?

7 A. No.

8 Q. Or Joan T. McNamara?

9 A. No.

10 Q. Michel R. Moore? And that's spelled  
11 M-i-c-h-e-l, R. Moore.

12 A. No.

13 Q. Mark G. Stainbrook?

14 A. No.

15 Q. Johnathan Celentano?

16 A. No.

17 Q. Or Chand Syed?

18 A. No.

19 Q. You never reached out to them at any time?

20 A. Well, Chand worked for me. I mean he was in my  
21 office.

22 Q. And did you talk to him about your search for  
23 records in response to the request for Community Mapping  
24 records?

25 A. No.

1 Q. Do you know if he worked on the Community  
2 Mapping program?

3 A. No.

4 Q. When you say "no," do you mean you don't know  
5 or he didn't work on it?

6 A. No, I don't know.

7 Q. And did you do anything to find that out in and  
8 around December of 2013?

9 A. No.

10 Q. How long was your conversation -- let me  
11 rephrase that.

12 When you spoke with Michael Downing in  
13 searching for records, was that one conversation?

14 A. Yes.

15 Q. Approximately how long did that conversation  
16 last?

17 A. Couple minutes.

18 Q. So less than five?

19 A. Yes.

20 Q. And where did that conversation take place?

21 A. His office.

22 Q. When you searched the P drive -- and I'm  
23 speaking just now about the request that's Item No. 2  
24 for Community Mapping records -- how long did you spend  
25 searching the P drive for Community Mapping records?

1           A.    I just typed in "Community Mapping" into the  
2 search and if something came up, it came up.  If not,  
3 then not, that was the extent of it.

4           Q.    So it sounds like that might be a minute or so?

5           A.    However long it took for that to respond.

6           Q.    So the sort of standard time that I -- I assume  
7 it's a Windows computer you were working with?

8           A.    Yes.

9           Q.    So the standard time that a Windows computer  
10 would take for you to put in a search term in an  
11 Explorer window and for it to give you the results?

12          A.    Correct.

13          Q.    Do you remember -- and am I right you didn't  
14 get any results when you searched "Community Mapping"?

15          A.    I don't believe so.

16          Q.    Was that the only term you searched?

17          A.    Maybe "Senate Statement."  I think that would  
18 have been it.

19          Q.    Did you search "Community Mapping" sort of  
20 together as a phrase?

21          A.    Yes.

22          Q.    Did you put in "mapping" as its own term?

23          A.    No.

24          Q.    What about "Muslim"?

25          A.    I don't know.

1 Q. Did you search any other terms that might be  
2 related to Community Mapping in your judgment?

3 A. No.

4 Q. So you didn't search, for instance, CVE?

5 A. No.

6 Q. Actually, let me back up. Do you know what CVE  
7 is?

8 A. Yes.

9 Q. What is CVE?

10 A. It stands for Countering Violent Extremism.

11 Q. Is Community Mapping a program that falls under  
12 the category of CVE?

13 A. No.

14 Q. Why not?

15 A. I believe they were two things done separately.

16 Q. And why do you believe that?

17 A. Well, because when I got there in 2011 that's  
18 when we started working on a CVE project, and I believe  
19 the mapping occurred way before that.

20 Q. What sort of a project is Community Mapping?  
21 Like, what sort of -- what category of project does it  
22 fall into under the CTSOB's work?

23 A. I don't understand that.

24 Q. Well, let me back up.

25 What in general does the CTSOB do?

1 somebody might say, "I'm working on an X project right  
2 now"?

3 A. I would say, like, an educational project,  
4 youth project, things like that, sure.

5 Q. And am I right that in searching for the  
6 request -- in searching in response to the request  
7 you've familiarized yourself with what Community Mapping  
8 was?

9 A. I was -- yes. I was given a description of  
10 what it was.

11 Q. And so based on that description did Community  
12 Mapping fall into any category of the CTSOB's work?

13 A. No, because it was never materialized.

14 Q. And how do you know that?

15 A. Because I was told that.

16 Q. And who told you that?

17 A. Chief Downing.

18 Q. What did you understand him to mean by  
19 "materialize"?

20 A. It was never -- it was never put out there. It  
21 was never given to anybody to -- it was never tested.

22 Q. So I want to make sure I understand what you  
23 mean. What do you mean by "tested"?

24 A. I mean it was an idea and then what I believe  
25 is that it was a bad idea, so it was just disregarded.

1 Q. When you spoke with Michael Downing in  
2 searching for records did he tell you about the process  
3 between it being proposed and it being not materialized?

4 A. No. He just said it was a thought.

5 Q. Did you ask him -- in searching for records  
6 regarding the Community Mapping program did you ever  
7 read the Senate Statement that was attached to Muslim  
8 Advocates's request?

9 A. I said I briefly looked at it.

10 Q. So you're right, you did. Thanks for reminding  
11 me.

12 And did you ask Michael Downing about any of  
13 the statements in the Senate Statement about Community  
14 Mapping?

15 A. No.

16 Q. And just to be specific, did you ever ask him  
17 what he meant when he said that the program had been  
18 launched?

19 A. No.

20 Q. Did you ever ask him if the program had been --  
21 let me rephrase.

22 Did you ever ask him if an academic institution  
23 had worked with the LAPD on the Community Mapping  
24 program?

25 A. No.

1 Q. Why not?

2 A. Because I asked him if he had anything and he  
3 told me no.

4 Q. So you don't -- did you ever find out one way  
5 or the other whether or not an academic institution had  
6 worked with the LAPD on the Community Mapping program?

7 A. No.

8 Q. Did you ever find out if -- let me rephrase.  
9 Did you ever ask Deputy Chief Downing if in  
10 working on the Community Mapping program the department  
11 had solicited the input of Muslim groups?

12 A. No.

13 Q. Did you ever find out one way or the other  
14 whether or not the LAPD, in connection with the  
15 Community Mapping program, had solicited the input of  
16 Muslim groups?

17 A. Am I aware if they did?

18 Q. Yes.

19 A. No, I'm not.

20 Q. And so you never found that out in searching  
21 for this request, did you?

22 A. No.

23 Q. Why not?

24 A. Because I was told there was no Mapping  
25 Program.



1 MR. CHARNEY: It's 11:30. Now might a good  
2 time for a break if you guys want to take a break.

3 MR. JOHANSEN: Sure.

4 THE WITNESS: Sure.

5 MR. CHARNEY: All right. Let's go off the  
6 record.

7 (Recess)

8 BY MR. CHARNEY:

9 Q. Sergeant Seguin, do you understand that you're  
10 still under oath?

11 A. Yes, sir.

12 Q. In responding to the request for records  
13 concerning Community Mapping did you understand what  
14 time period of records were requested?

15 A. If it was written in here, yes. If not, no.

16 Q. And so with Exhibit 2 in front of you do you --  
17 does that refresh your recollection as to whether or not  
18 you understood the time period?

19 A. Yes.

20 Q. And what was that time period?

21 A. September 11th, 2001, through the present.

22 Q. Which was at that time December 12th, 2013?

23 A. Correct.

24 Q. And when you spoke with -- did you do anything  
25 to find out what time period records would likely have

1       been created for the Community Mapping program?

2           A.    No.

3           Q.    Why not?

4           A.    It wasn't a specific question I asked.  It  
5       was -- about what time period.  It was just a question  
6       about do we have anything on that.

7           Q.    So you never asked Deputy Chief Downing, for  
8       instance, if records existed, what time period would  
9       they have been created?

10          A.    No.

11          Q.    Did you ask Deputy Chief Downing, when you  
12       spoke with him in searching for this request, where  
13       should I look?

14          A.    No.

15          Q.    Did you ask him if there was any places that  
16       records might possibly be found, even if he wasn't aware  
17       of them?

18          A.    No, but that's why I checked the computer just  
19       to double check.

20          Q.    Did you ask Deputy Chief Downing if there are  
21       any search terms that might be pertinent to searching  
22       for records about Community Mapping?

23          A.    No.

24          Q.    Why not?

25          A.    I didn't believe I needed to.

1 Q. Did you ask him if there was -- if the  
2 Community Mapping program was within a category of the  
3 type of program that the CTSOB would work on?

4 A. No.

5 Q. So you never found out if there was a  
6 particular -- let me take that back and rephrase.

7 You never found out if the Community Mapping  
8 program falls under the ambit of a particular category  
9 of the CTSOB's work?

10 A. No.

11 Q. Do you know how the CTSOB's P drive is  
12 organized?

13 A. I know there is various folders within it.

14 Q. And do you know how those folders are  
15 organized?

16 A. By category.

17 Q. And what categories are there?

18 A. Could be a person, their particular folder. It  
19 could be a project. Could be vague as to, like, 15.2s  
20 being, you know, a number that we use on the department.  
21 So various document numbers that we use, and so on.

22 Q. What do you mean by "document numbers"?

23 A. The actual number, like 15.2 is a number.

24 Q. Okay. And so there are other types of  
25 documents that are designated with certain numbers?

1 A. Some, yes.

2 Q. What are --

3 A. A 1.40 is a transfer. A 15.88 is a -- it's  
4 almost like a resumé that you submit if you're applying  
5 for a job, things like that.

6 Q. Are there any types of documents that are  
7 created with respect to CTSOB programs as opposed to  
8 personnel actions?

9 A. I would say there could be, sure.

10 Q. Are you aware -- let me rephrase.

11 At the time you were searching in December 2013  
12 did you do anything to inform yourself about what those  
13 categories of documents are?

14 A. No.

15 Q. So going back to how the folders are organized  
16 in the P drive, you mentioned document numbers and  
17 individual folders. Are there certain folders for  
18 programs within the CTSOB?

19 A. I'm sure there are.

20 Q. Do you know specifically what those folders  
21 are, or any of them?

22 A. No.

23 Q. But for instance, there might be a folder that  
24 says something like CVE?

25 A. Sure.

1 Q. There might be a folder for outreach?

2 A. Sure.

3 Q. Did you do anything to find out whether  
4 Community Mapping would fit into a folder such as CVE or  
5 outreach or some other general category of program?

6 A. No, because I searched the whole P drive, so I  
7 wasn't folder specific or category specific. Well, word  
8 specific but not a specific folder. I searched the  
9 whole thing, everything that was in there got searched.

10 Q. Did you do anything to find out if every  
11 document within the P drive is searchable?

12 A. No.

13 Q. So it's possible that there are documents  
14 within the P drive that contain text that's not  
15 searchable?

16 A. It's possible.

17 Q. In your work in the CTSOB have you ever looked  
18 at a document that has text that's not searchable?

19 A. No.

20 Q. You don't know one way or the other whether  
21 you've looked at a document that's not searchable?

22 A. I believe if a document wasn't searchable it  
23 wouldn't be put into a drive that's a P drive, meaning  
24 public drive, so that everybody could view it.

25 Q. I think maybe we're not quite on the same page

1 about what searchable -- and I should clarify. When I  
2 say searchable I don't mean that the document isn't  
3 accessible to somebody who is on the P drive. Is that  
4 what you understood me to mean?

5 A. Yes.

6 Q. So -- I'm sorry.

7 A. Okay.

8 Q. So when you search in the P drive what did you  
9 understand that you were searching?

10 A. The entire P drive.

11 Q. And more specifically, what in the P drive were  
12 you searching? Like, were you searching the file name  
13 of documents that are in the P drive, for instance, or  
14 were you searching the contents of the documents within  
15 the P drive?

16 A. I was searching -- I typed in "Community  
17 Mapping" and hit "search," so I believed that I searched  
18 everything in the P drive that would have had that  
19 phrase, one or both, within it.

20 Q. And when you say "within it," do you mean  
21 within the file name that comes up when you're looking  
22 in a folder and there is a list of documents?

23 A. Yes.

24 Q. Did you know if that search in the P drive was  
25 also capable of searching the contents of the documents,

1 so what is actually within that document when you click  
2 on it and open it?

3 A. That I don't know.

4 Q. And so is it possible that some of the -- so as  
5 far as you know when you searched the P drive you might  
6 not have actually been searching the contents of the  
7 documents?

8 A. No.

9 Q. And even if you were searching the contents of  
10 the -- let me take that back.

11 Am I right that you don't know if every  
12 document in the P drive is capable of being -- let me  
13 back that up again.

14 Am I right that you don't know if the search  
15 software you used is able to search the contents of  
16 every single document in the P drive?

17 A. Yes, I do not know if it's capable of doing  
18 that.

19 Q. So there might have been some documents, like a  
20 scanned PDF, for instance, that you can read the  
21 contents yourself with your eyes but the computer  
22 couldn't search those contents through the search  
23 software?

24 A. Correct.

25 Q. Did you seek assistance from anybody else other

1 than Deputy Chief Downing in searching for documents  
2 responsive to the Community Mapping request?

3 A. I would say yes, ITD.

4 Q. Anyone else within CTSOB?

5 A. No.

6 Q. Did you ask Deputy Chief Downing if there was  
7 anybody else who you might consult with or seek  
8 assistance from?

9 A. No.

10 Q. Did you ask Michael Downing to search his own  
11 records for records responsive to Community Mapping?

12 A. No.

13 Q. Do you know if he did so?

14 A. No.

15 Q. And am I right that you didn't know that in  
16 December of 2013, or thereabouts, when you were  
17 searching for the request?

18 A. Correct.

19 Q. Did anybody do anything to vet your -- take  
20 that back.

21 Did anybody look at the results of your search  
22 and give you any feedback as to whether or not it was a  
23 complete search?

24 A. No.

25 Q. Did you ask anybody to do that?



1 A. No.

2 Q. So what did you do when you -- let me back up.

3 So if I'm correct, you got some e-mails, you  
4 looked in the P drive and you spoke to Michael Downing,  
5 and at that point you felt a search was complete; is  
6 that right?

7 A. Correct.

8 Q. And what did you do after you felt that the  
9 search was complete?

10 A. I submitted the documents that I recovered to  
11 the Discovery Unit.

12 Q. And those were the e-mails that you got from  
13 ITD?

14 A. Yes.

15 Q. There weren't any other documents?

16 A. Sorry, I have -- because there were two  
17 different requests and I know I turned over different  
18 documents at different times.

19 Q. When you say "two different requests," what's  
20 the second request you're referring to?

21 A. The request from September 9, 2014.

22 Q. Putting that aside and just focusing on the  
23 request that's in Exhibit 2 and specifically the  
24 Community Mapping request.

25 A. I also believe I provided hard copies of events

1 that we attended as a Community Liaison Unit.

2 Q. And did those documents relate to Community  
3 Mapping?

4 A. No.

5 Q. So with respect to Community Mapping the only  
6 documents you provided to the Discovery Section were the  
7 e-mails?

8 A. If in fact there were any that were related to  
9 mapping, yes.

10 Q. So the e-mails that you reviewed, you're not  
11 sure if those actually related to Community Mapping as  
12 opposed to some other part of -- some other item in this  
13 request?

14 A. Correct.

15 Q. So they could have been responsive to, you  
16 know, Items 1 or Item 3 or 4, 5 or 6?

17 A. Yes.

18 Q. Did anybody in the Discovery Section ever  
19 follow up with you and say, you know, nice job, this is  
20 a complete search, or we think that you may need to do a  
21 little bit more searching, anything like that?

22 A. No. Can I change that to I'm not sure?

23 Q. Of course.

24 A. Okay.

25 Q. And is there anything that you could do to find

1 out?

2 A. I would have to talk to specific people.

3 Q. Who would those people be?

4 A. Perhaps Caydene Monk or supervisors or anybody  
5 that works in the office.

6 Q. And that's the Discovery Section you're --

7 A. Correct.

8 Q. So just following up on your comment regarding  
9 a second request, were you referring to the document  
10 marked as Exhibit 5?

11 A. Yes.

12 Q. Other than the search you performed in  
13 December 2013 in response to the document marked as  
14 Exhibit 2, and any search you performed in connection  
15 with the document marked as Exhibit 5, did you do any  
16 other searches for anything having to do with CPRA  
17 requests by Muslim Advocates?

18 A. No.

19 Q. So December of 2013 or January of 2014 and then  
20 the time around September 9th, 2014, those are the only  
21 two times you conducted searches in response to a  
22 request by Muslim Advocates?

23 A. Yes.

24 Q. I'd like to turn your attention to the document  
25 marked as Exhibit 3. So just kind of breaking down what

1 Q. But as you sit here today you don't remember  
2 specifically what you might have changed?

3 A. No.

4 Q. When you spoke with Michael Downing in response  
5 to the document marked as Exhibit 5, did you ask him  
6 anything other than are you sure that you don't have  
7 anything?

8 A. No.

9 Q. And what was his response to you?

10 A. The same response, there was nothing.

11 Q. Did you do anything -- so putting aside kind of  
12 going back to Michael Downing and doing another search  
13 of the P drive for documents responsive to the original  
14 December 2013 request, did you do anything to provide  
15 records of search terms that you inputted to provide to  
16 Muslim Advocates?

17 A. I don't believe so.

18 Q. Did you do anything to provide records of the  
19 databases that you searched for, or that you searched  
20 within?

21 A. No, I don't believe so.

22 Q. Did you do anything to provide information  
23 regarding the hard copy repositories that you -- that  
24 were available for you to search?

25 A. No.

1 Q. Did you take any screenshots of any databases  
2 searched in response to Muslim Advocates's request?

3 A. No.

4 Q. Why not?

5 A. I guess just to say I'm an honest person and I  
6 searched and I didn't find anything, so I told him I  
7 came up empty. I didn't believe that I needed to prove  
8 it to anybody. Maybe I was wrong.

9 Q. When you received the document marked as  
10 Exhibit 5, did you look only at the first page or did  
11 you look at the document behind it?

12 A. The whole document.

13 Q. And in particular did you look at the item  
14 marked as -- excuse me, did you look at Item No. 1 on  
15 the attached letter from O'Melveny & Myers?

16 A. Yes.

17 Q. Did you do anything to provide any of the  
18 records requested in Item No. 1?

19 A. I don't remember.

20 Q. Is there anything you could do to refresh your  
21 memory?

22 A. Probably review the documents.

23 Q. Which documents are those?

24 A. The ones that they are asking for.

25 Q. But you don't know if you provided them?

1 A. No, I can't remember.

2 Q. And would your answer be the same with respect  
3 to Item No. 2 in the letter?

4 You know, let me rephrase that because that's  
5 not a great question.

6 With respect to Item No. 2, did you do anything  
7 to provide any of the records requested in Item No. 2?

8 A. Yes. Oh, I don't believe I did that.

9 Q. Why not?

10 A. Honestly, I don't know how I would take a  
11 screenshot on a computer, or perhaps I printed something  
12 out. I can't remember. I would have to see the  
13 documents.

14 Q. And which documents are you referring to?

15 A. The documents that said, you know, something  
16 related to the fact that your search was -- nothing was  
17 found.

18 Q. And am I right you don't -- you don't believe  
19 that you took the -- that you took any screenshots;  
20 right?

21 A. I know I didn't take a screenshot, but  
22 something may have been printed out.

23 Q. But you're not sure; is that right?

24 A. No, I'm not.

25 Q. So the only documents you could consult to

1 figure out if this was provided are the documents you're  
2 not sure if you generated?

3 A. Correct.

4 Q. So other than what you've testified, is there  
5 anything else that you did in response to this second  
6 supplemental request marked as Exhibit 5?

7 A. Not that I'm aware of.

8 Q. Is there anything that would refresh your  
9 memory and make you aware of other things?

10 A. If I had some documents to look at, yes, sir.

11 MR. CHARNEY: I'd like the court reporter to  
12 mark for identification a document, e-mail from the  
13 LAPD, provided by the LAPD in this matter and ID marked  
14 by Muslim Advocates for identification, with the heading  
15 "Forward: A request from a Counter/HVE specialist from  
16 NCTC."

17 (Exhibit 6 marked)

18 BY MR. CHARNEY:

19 Q. Sergeant Seguin, please take a look at the  
20 document and let me know when you've had a chance to  
21 familiarize yourself with it.

22 A. Okay.

23 Q. Sergeant Seguin, have you seen this document  
24 before?

25 A. Just now.

1 search for the -- for any other items after the  
2 December 20th search and the September 2014 search?

3 A. Based upon this, yes.

4 Q. And what does it tell you?

5 A. It says that someone is saying that I told them  
6 that I searched and I didn't find anything.

7 Q. I guess I'm asking does this in your mind  
8 refresh your recollection as to whether or not you  
9 conducted a search?

10 A. No, because I conducted many searches, so it  
11 could have been one of them, maybe not.

12 MR. CHARNEY: I'm going to ask the court  
13 reporter to mark for identification a document produced  
14 by the LAPD in this action Bates No. LAPD RFP-2 00083.

15 (Exhibit 9 marked)

16 BY MR. CHARNEY:

17 Q. Sergeant Seguin, let me know when you've had a  
18 chance to familiarize yourself.

19 A. Okay.

20 Q. Have you seen this document before?

21 A. I don't believe so.

22 Q. I'd like to direct your attention to -- there  
23 is sort of a table on the bottom and the -- depending on  
24 how you count, the fourth row down.

25 A. Uh-huh.



1 Q. It begins "Audit completed."

2 A. Yes.

3 Q. Do you know -- so where it says, "results sent  
4 to investigator Sergeant Seguin," do you know what those  
5 results are?

6 A. E-mails.

7 Q. So are these the e-mails that you're referring  
8 to having been provided to you in response to the  
9 December 12th, 2013 --

10 A. I believe so, yes.

11 Q. And do you remember reviewing these e-mails  
12 from your G drive?

13 A. Yes.

14 Q. Do you know why these e-mail results weren't  
15 sent to you until November of 2014?

16 A. No.

17 Q. Do you know approximately when you actually  
18 reviewed these e-mails?

19 A. Several days after receiving them.

20 Q. And do you know what you did with the e-mails  
21 after you reviewed them?

22 A. I printed out the ones that were relevant and I  
23 may still have them on my computer.

24 Q. Did you provide them to anybody?

25 A. Yes.

1 Q. So am I right that based on this document you  
2 didn't actually provide any e-mails to anyone in  
3 response to Muslim Advocates's requests at or around the  
4 time of January 2014, when that initial search and  
5 response was made?

6 A. I don't know.

7 Q. Is there anything you could do to refresh your  
8 recollection? Excuse me.

9 Is there anything you could do to find out?

10 A. When I provided them the e-mails?

11 Q. Uh-huh.

12 A. The hard copies?

13 Q. Yes. Or no. Well, my question was whether or  
14 not you provided any e-mails at or around the time that  
15 the request was made in December of 2013.

16 A. Well, I could say that I didn't, if I didn't  
17 receive them until this date, unless there was another  
18 set of e-mails that I received, and there would be a  
19 date stamp, I would assume, when I turned over the  
20 information that I had obtained.

21 Q. Do you remember there being another set of  
22 e-mails?

23 A. No. It's all kind of a blur.

24 Q. And with regard to the e-mails referenced in  
25 Exhibit 9 -- or rather the results mentioned in

1 Exhibit 9, do you know the topic of those results?

2 A. A topic I assigned?

3 Q. Like, I mean, do you know what those results  
4 related to?

5 A. Oh.

6 Q. What subject matter they concerned?

7 A. It would have been whatever -- what was  
8 requested in the 15.2.

9 Q. And do you remember what that was?

10 A. I could go back and look. Did you want me to  
11 go back?

12 Q. Sure.

13 A. It would have been document -- or Exhibit 5  
14 that we previously discussed, related to Muslim Mapping,  
15 Community Mapping.

16 Q. So am I right that I understand your testimony  
17 to be that the results mentioned in Exhibit 9 are in  
18 response to the request contained within Exhibit 5,  
19 which is a supplemental request for records of search  
20 terms used and -- excuse me -- records of search terms  
21 and databases used to search for records on the topic of  
22 Community Mapping?

23 A. Well, based upon the timeline and the specific  
24 request of e-mails, I would say yes.

25 Q. And I'm sorry, where do you see the specific

1 request of e-mails?

2 A. "A search of the Department's e-mail system and  
3 other electronic databases for the term 'Community  
4 Mapping' providing screenshots of the use of the term  
5 and the databases searched."

6 MR. JOHANSEN: Sergeant, could you identify the  
7 exhibit you're referring to?

8 THE WITNESS: Five.

9 BY MR. CHARNEY:

10 Q. Thank you.

11 So am I right that sometime around  
12 November 5th, 2014, was the first time that the LAPD  
13 searched its e-mail system for the term "Community  
14 Mapping"?

15 MR. JOHANSEN: Objection. That assumes facts  
16 not in evidence, and I believe that may misstate the  
17 witness's testimony.

18 You may answer the question.

19 THE WITNESS: As related to the request, yes.

20 BY MR. CHARNEY:

21 Q. And I'm sorry --

22 MR. JOHANSEN: And also --

23 BY MR. CHARNEY:

24 Q. When you --

25 MR. JOHANSEN: I'm sorry. One other objection,

1 that he's here in his individual capacity and not as a  
2 PMQ for the department.

3 BY MR. CHARNEY:

4 Q. When you say "as related to the request," what  
5 do you mean?

6 A. You asked if this was the first time that  
7 e-mails were searched, and I'm saying that it appears  
8 that I was sent e-mails on a specific date in Exhibit 9,  
9 and then there was a request on Exhibit 5. So I would  
10 say that that would be the first time.

11 Q. And do you specifically remember reviewing any  
12 e-mails responsive to the request for Community Mapping  
13 before approximately November 5th, 2014?

14 A. I can't say for sure.

15 Q. And is there anything you could consult to find  
16 out?

17 A. E-mail search.

18 Q. And how would that e-mail search be recorded  
19 that you could consult it?

20 A. If it shows that I searched it and when I  
21 printed it out.

22 Q. And what record are you referring to that you  
23 could consult?

24 A. A record that would have been given to the  
25 Discovery Section.

1 Q. And is this a record you would have given to  
2 the Discovery Section after searching e-mails, or  
3 reviewing e-mails?

4 A. If I searched it, yes.

5 Q. And what form would that record take? Like,  
6 would it be a 15.2 --

7 A. Oh.

8 Q. -- would it be a letter? A memo? An e-mail?

9 A. It would be the printout of the e-mail.

10 Q. So, like, the printout of the e-mail that you  
11 would actually provide to the LAPD?

12 A. Correct, or Discovery.

13 Q. Right. But there wouldn't be, like, a separate  
14 kind of transmittal e-mail or some sort of departmental  
15 form saying, "Here are the records"?

16 A. There may be, but I don't remember doing it,  
17 but if I did do one, then reviewing it of course would  
18 refresh my memory.

19 Q. And just to be clear, am I right that the  
20 results in Exhibit 9, your basis for believing that they  
21 are e-mails is based on reviewing Exhibit 5 in  
22 connection with Exhibit 9 as you sit here today, not  
23 your actual personal memory?

24 A. I personally remember reviewing e-mails but I  
25 can't personally tell you when.

1 Q. In searching for the -- in and around  
2 December 2013 or January of 2014, when you were  
3 searching in response to the request, did you consult  
4 the departmental manual to identify if there were any  
5 places that you should look for records?

6 A. No.

7 Q. Did you consult the departmental manual to  
8 determine if there were any types of records that you  
9 should look for?

10 A. No.

11 Q. Did you consult any other departmental policies  
12 or procedures or guidelines for that information?

13 A. No.

14 Q. Why not?

15 A. Just didn't.

16 MR. CHARNEY: Do you mind going off the record?

17 MR. JOHANSEN: Oh, no, that's fine.

18 (Recess)

19 BY MR. CHARNEY:

20 Q. Sergeant Seguin, do you understand you're still  
21 under oath?

22 A. Yes.

23 Q. Going back to the P drive that you searched, am  
24 I right that you testified that you didn't know the time  
25 period of documents that are retained in there, in the P

1 drive?

2 A. That's correct.

3 Q. And so just to be clear, you don't know if  
4 there were documents from before 2009 in there when you  
5 searched in 2013?

6 A. I can't say 100 percent.

7 Q. And even if there were some documents from  
8 before 2009, it's also possible that, you know, older  
9 documents could have been deleted out of the P drive by  
10 the time you got to 2013?

11 A. Or archived.

12 Q. Did you check any archives in searching for  
13 records responsive to Muslim Advocates's request for  
14 Community Mapping records?

15 A. No.

16 Q. Why not?

17 A. Because I was told there weren't any.

18 Q. And you were told that by Michael Downing?

19 A. Yes.

20 Q. Do you know if he searched the archives?

21 A. I don't.

22 Q. Did you ask Michael Downing if he had ever  
23 created any documents in regards to Community Mapping?

24 A. No.

25 Q. So it's possible he could have?



1 A. Sure.

2 Q. And did you ask him if anybody else had created  
3 any documents, anybody else within the LAPD had created  
4 any documents with respect to Community Mapping?

5 A. Not specifically, but I did ask him if he has  
6 any documents related to that subject, mapping,  
7 Community Mapping, and he told me no.

8 Q. And you asked him that around December of 2013  
9 or January of 2014?

10 A. Yes.

11 Q. And when you asked him that question did you  
12 ask him if he had ever had any documents, or did you ask  
13 him if at that time that you were asking him whether he  
14 had any documents?

15 A. Yeah, I don't think I got into specifics. I  
16 just asked him if he had any.

17 Q. So it's possible that there could have been  
18 documents outside of his possession relating to  
19 Community Mapping that he didn't have?

20 A. Sure.

21 Q. Did you check or make a request to check any  
22 backups of divisional file server -- excuse me. I'm  
23 going to take that back.

24 Did you check any backups of the CTSOB's P  
25 drive dating from around 2007 or 2008 in searching for

1 the request?

2 A. No.

3 Q. Did you ask anybody, say, in the ITD section to  
4 search backups of P drives of the CTSOB's P drive from  
5 around 2007 or 2008?

6 A. I don't believe so.

7 Q. Why not?

8 A. Because I was told there weren't any.

9 Q. What about backups of e-mails from the time  
10 period of around 2007 or 2008, do you know if -- well,  
11 first, did you search any backups of e-mail from 2007 or  
12 2008 for Community Mapping records?

13 A. I requested e-mails and they went back as far  
14 as I believe they retain them, and then I searched all  
15 of those, however far it went back.

16 Q. But you don't know exactly how far it went  
17 back?

18 A. I do not.

19 Q. So it could have gone back a year or two  
20 perhaps? I should rephrase that.

21 Am I right that it could have only gone back a  
22 year or two?

23 A. No. Just based upon the content of the  
24 e-mails, with Bratton in the e-mails, and I believe  
25 Chief Beck has been our chief for seven and a half,

1 2001, if possible.

2 Q. And as the person charged with searching  
3 CTSOB's records for records responsive to the request  
4 did you make a request to ITD to provide e-mails from  
5 2001 up through the time of the request?

6 A. I don't remember exactly how far back I asked.  
7 It may have been more of a conversation, how far can you  
8 go back? Okay, can I have those.

9 Q. But you don't remember as you sit here today?

10 A. No.

11 Q. Is there anything that would refresh your  
12 recollection?

13 A. Either probably a 15.2 requesting the e-mails  
14 and the e-mails themselves to look at the dates on them.

15 Q. In your role as the person charged with  
16 searching for records of the Community Mapping program  
17 would you want to see e-mails from 2007 to 2008 in order  
18 to respond to that request?

19 A. If that were the time, perhaps.

20 Q. Did you ever do anything to find out the time  
21 period of the Community Mapping program in responding to  
22 the request?

23 A. It may have been mentioned to me by the chief,  
24 or if it was in a document that I received.

25 Q. But you don't remember specifically trying to

1 find out, you know, okay, when was this program proposed  
2 or considered or implemented or terminated?

3 A. No.

4 Q. So turning now to the sort of documents that  
5 you would create, you know, as part of your search, not  
6 the documents you would review but what you would  
7 actually create, what do you create when you complete a  
8 search, if you create any documents?

9 A. I believe you already asked me that and I would  
10 print the documents out if in fact I had anything  
11 related to the search, and submit them.

12 Q. And so other than printing out those documents,  
13 you don't have a project tracking system or anything  
14 that you work with?

15 A. I personally do not. When the project's  
16 completed we tell the project coordinator that it's  
17 completed and that would be documented.

18 Q. Do you fill out any sort of chronological log  
19 of, like, what you did to search as part of your search  
20 duties?

21 A. I did not.

22 Q. Do you know if that's something that your --  
23 that would sort of be a standard practice for somebody  
24 searching in response to a CPRA request?

25 A. I do not.

1 Q. Did you ever ask if you were supposed to do  
2 something like that when you received this request?

3 A. No.

4 Q. And I assume nobody told you that that was  
5 something you should do?

6 A. No.

7 Q. So am I right that other than just providing  
8 the records you didn't provide any sort of summary or  
9 log or any, you know, statement of, you know, I  
10 completed a search, anything like that, to anybody in  
11 the LAPD?

12 A. No, I did not.

13 Q. And you didn't keep any records like that for  
14 your own purposes?

15 A. No.

16 MR. CHARNEY: We can go off the record if you  
17 like.

18 MR. JOHANSEN: Sure.

19 (Discussion off the record)

20 MR. CHARNEY: The parties stipulate that the  
21 original transcript will be sent to respondent's  
22 counsel's office. Respondent's counsel will arrange for  
23 the witness to review the original deposition  
24 transcript, sign the original deposition transcript  
25 under penalty of perjury, and make any changes as are

DECLARATION UNDER PENALTY OF PERJURY

I, Michael Seguin, hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on April 27, 2017; that I have made such corrections as appear noted on the Deposition Errata Page, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this 25 day of MAY 2017, at  
LOS ANGELES, California.



Michael Seguin

1 STATE OF CALIFORNIA )  
 ) SS  
2 COUNTY OF LOS ANGELES )

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

I, Jean F. Holliday, a Certified Shorthand Reporter, do hereby certify:

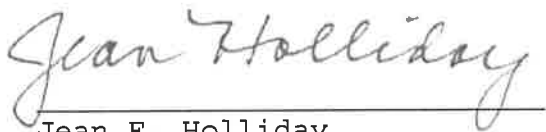
That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and place therein set forth, and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name.

Dated: May 4, 2017



Jean F. Holliday  
CSR No. 4535, RPR, CRR

1 THOMAS R. BURKE (State Bar No. 141930)  
2 thomasburke@dwt.com  
3 DAVIS WRIGHT TREMAINE LLP  
4 505 Montgomery Street, Suite 800  
5 San Francisco, California 94111-6533  
6 Telephone: (415) 276-6500  
7 Facsimile: (415) 276-6599

8 KAREN A. HENRY (State Bar No. 229707)  
9 karenhenry@dwt.com  
10 BRENDAN N. CHARNEY (State Bar No. 293378)  
11 brendancharney@dwt.com  
12 DAVIS WRIGHT TREMAINE LLP  
13 865 S. Figueroa Street, Suite 2400  
14 Los Angeles, California 90017-2566  
15 Telephone: (213) 633-6800  
16 Facsimile: (213) 633-6899

17 Attorneys for Petitioner  
18 MUSLIM ADVOCATES

19 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
20 IN AND FOR THE COUNTY OF LOS ANGELES

21 MUSLIM ADVOCATES,  
22  
23 Petitioner,

24 v.

25 THE CITY OF LOS ANGELES; THE LOS  
26 ANGELES POLICE DEPARTMENT; DOES 1  
27 THROUGH 10, INCLUSIVE,

28 Respondents.

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

AUG 11 2017

Sherri R. Carter, Executive Officer/Clerk

By: CARMEN DEL RIO, Deputy

) Case No. BS163755  
) Assigned to the Hon. James C. Chalfant  
) Dept.: 85

) **DECLARATION OF BRENDAN  
) CHARNEY IN SUPPORT OF PETITION  
) FOR WRIT OF MANDATE; EXHIBITS  
) AA-BBBB**

) [Memorandum of Points and Authorities In  
) Support of Verified Petition for Writ of  
) Mandate; Separate Statement of Facts In  
) Support of Verified Petition for Writ of  
) Mandate; and Request For Judicial Notice  
) Concurrently Filed]

) [[Proposed] Order Granting Verified Petition  
) Concurrently Lodged]

) Action Filed: July 25, 2016



**DECLARATION OF BRENDAN N. CHARNEY**

I, BRENDAN N. CHARNEY, declare:

1. I am an associate with the law firm Davis Wright Tremaine, LLP, and one of the attorneys representing Petitioner Muslim Advocates (“Muslim Advocates”) in this matter. I submit this declaration in support of the Verified Petition for Writ of Mandate (“Petition”) filed by Muslim Advocates in this matter. The matters stated in this declaration are true based on my personal knowledge and if called to testify I could and would testify competently thereto.

2. On January 12, 2017, I took the deposition of Rachel McClain in her capacity as the person designated by the Los Angeles Police Department (“LAPD”) as most qualified to testify concerning the LAPD’s e-mail backup system and undue burden claim thereto. Attached hereto as **Exhibit AA** are true and correct copies of excerpts from Volume One of the transcript of that deposition.

3. On January 26, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s person-most-qualified (“PMQ”) designee. Attached hereto as **Exhibit BB** are true and correct copies of excerpts from Volume Two of the transcript of that deposition.

4. On March 15, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit CC** are true and correct copies of excerpts from Volume Three of the transcript of that deposition.

5. On March 23, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit DD** are true and correct copies of excerpts from Volume Four of the transcript of that deposition.

6. On February 15, 2017, I took the deposition of Greg Toyama in his capacity as the person designated by the LAPD as most qualified to testify concerning the LAPD’s search for records in response to Muslim Advocates’ December 12, 2013 CPRA request concerning Community Mapping. Attached hereto as **Exhibit EE** are true and correct copies of excerpts from Volume One of the transcript of that deposition.

7. On March 16, 2017, I took the continued deposition of Greg Toyama in his capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit FF** are true and correct copies of

1 excerpts from Volume Two of the transcript of that deposition.

2 8. On March 22, 2017, I took the deposition of Anthony Huynh in his capacity as the  
3 person designated by the LAPD as most qualified to testify concerning the LAPD's divisional  
4 server backup system and undue burden claim thereto. Attached hereto as **Exhibit GG** are true and  
5 correct copies of excerpts from the transcript of that deposition.

6 9. On April 17, 2017, I took the deposition of Sgt. Michael Seguin. Attached hereto as  
7 **Exhibit HH** are true and correct copies of excerpts from the transcript of that deposition.

8 10. On May 10, 2017, I took the deposition of Sgt. Raymona Moussa. Attached hereto  
9 as **Exhibit II** are true and correct copies of excerpts from the transcript of that deposition.

10 11. On May 17, 2017, I took the deposition of Dr. Luann Pannell. Attached hereto as  
11 **Exhibit JJ** are true and correct copies of excerpts from the transcript of that deposition.

12 12. On May 31, 2017, I took the deposition of former Deputy Chief Michael Downing.  
13 Attached hereto as **Exhibit KK** are true and correct copies of excerpts from Volume One of the  
14 transcript of that deposition.

15 13. On June 8, 2017, I took the continued deposition of former Deputy Chief Michael  
16 Downing. Attached hereto as **Exhibit LL** are true and correct copies of excerpts from Volume  
17 Two of the transcript of that deposition.

18 14. Attached as **Exhibit MM** are true and correct copies of the Notice of Deposition of  
19 Person(s) Most Qualified at Respondent Los Angeles Police Department, along with Notices of  
20 Continued Deposition of Person(s) Most Qualified at Respondent Los Angeles Police Department,  
21 for the deposition of Rachel McClain in her capacity as the LAPD's PMQ.

22 15. Attached as **Exhibit NN** is a true and correct copy of the Notice of Continued  
23 Deposition of Person(s) Most Qualified at Respondent Los Angeles Police Department for the  
24 deposition of Greg Toyama in his capacity as the LAPD's PMQ.

25 16. Attached as **Exhibit OO** is a true and correct copy of the Notice of Deposition of  
26 Person(s) Most Qualified at Respondent Los Angeles Police Department for the deposition of  
27 Anthony Huynh in his capacity as the LAPD's PMQ.

28 17. Attached as **Exhibit PP** is a true and correct copy of this Court's November 8, 2016

1 Order Denying Respondents' Motion to Stay Proceedings.

2 18. Attached as **Exhibit QQ** is a true and correct copy of the transcript of the hearing  
3 held before this Court on November 8, 2016 concerning Respondents' Motion to Stay Proceedings.

4 19. On October 14, 2016, I received, via e-mail, a letter from Linda N. Nguyen, a  
5 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
6 Respondents. Attached hereto as **Exhibit RR** is a true and correct copy of the October 14, 2016  
7 letter from Ms. Nguyen, along with true and correct copies of the records enclosed with the letter.

8 20. On October 21, 2016, I received, via e-mail, a letter from Ms. Nguyen. Attached  
9 hereto as **Exhibit SS** is a true and correct copy of the October 21, 2016 letter from Ms. Nguyen,  
10 along with true and correct copies of the records enclosed with the letter.

11 21. On February 14, 2017, I received, via e-mail, a letter from Ms. Nguyen. Attached  
12 hereto as **Exhibit TT** is a true and correct copy of the February 14, 2017 letter from Ms. Nguyen,  
13 along with true and correct copies of the records enclosed with the letter.

14 22. On March 7, 2017, I received an e-mail from Kjehl Johansen, at that time a Deputy  
15 City Attorney for the City of Los Angeles, and one of the attorneys of record for Respondents.  
16 Attached hereto as **Exhibit UU** is a true and correct copy of the e-mail chain containing the March  
17 7, 2017 e-mail from Mr. Johansen.

18 23. On April 3, 2017, I sent an e-mail to Kjehl Johansen, at that time a Deputy City  
19 Attorney for the City of Los Angeles, and one of the attorneys of record for Respondents. Attached  
20 hereto as **Exhibit VV** is a true and correct copy of the e-mail thread in which my April 3, 2017 e-  
21 mail to Mr. Johansen appears.

22 24. On April 4, 2017, I received, via e-mail, a letter from Ms. Nguyen. Attached hereto  
23 as **Exhibit WW** is a true and correct copy of the April 4, 2017 letter from Ms. Nguyen, along with  
24 the transmittal e-mail. In the same e-mail transmitting the April 4, 2017 letter, Ms. Nguyen  
25 attached two PDFs collectively containing 124 pages, which Ms. Nguyen identified in the letter as  
26 documents that the City believes are the attachments to e-mails previously disclosed to Muslim  
27 Advocates in response to its CPRA Request.

28 25. Attached hereto as **Exhibit XX** is a true and correct copy of one of the attachments

1 transmitted along with Ms. Nguyen's April 4, 2017 letter: a draft LAPD document titled "Counter  
2 Radicalization Strategies, Reaching Out: Policing with Muslim Communities in an Age of  
3 Terrorism." This document was marked as Exhibit 11 at the Deposition of Michael Downing.

4 26. On June 30, 2017, I received, via e-mail, a letter from Mr. Johansen, at that time a  
5 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
6 Respondents. Attached hereto as **Exhibit YY** is a true and correct copy of the June 30, 2017 letter  
7 from Mr. Johansen, along with true and correct copies of records enclosed with the letter.

8 27. Attached as **Exhibit ZZ** is a true and correct copy of the Statement of Michael P.  
9 Downing Before the U.S. Senate Committee on Homeland Security and Governmental Affairs  
10 Presented on October 30, 2007, as marked as Exhibit 2 at the Deposition of Michael Downing.  
11 During the deposition, counsel for Respondents stipulated that this document is a business record of  
12 the LAPD and is admissible on that basis for all purposes in this action. This stipulation was  
13 memorialized on the record during the deposition, and can be found on page 28, lines 2-8 of Exhibit  
14 KK.

15 28. Attached as **Exhibit AAA** is a true and correct copy of a document titled "list of  
16 Department Groups Receiving 15.2 for Muslim Advocates", as marked as Exhibit 2 at the  
17 Deposition of Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel  
18 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
19 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
20 the deposition, and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

21 29. Attached as **Exhibit BBB** is a true and correct copy of a document titled "Legal  
22 Affairs Division Discovery Section CPRA Request", as marked as Exhibit 5 at the Deposition of  
23 Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel for Respondents  
24 stipulated that this document is a business record of the LAPD and is admissible on that basis for  
25 all purposes in this action. This stipulation was memorialized on the record during the deposition,  
26 and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

27 30. Attached as **Exhibit CCC** is a true and correct copy of a document titled "CPRA  
28 Request from Mr. Glenn Katon with the Muslim Advocates", as marked as Exhibit 6 at the

1 Deposition of Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel  
2 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
3 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
4 the deposition, and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

5 31. Attached as **Exhibit DDD** is a true and correct copy of excerpts from the LAPD's  
6 2016 2<sup>nd</sup> Quarter Department Manual, in particular sections 050.08 to 080.92, bearing bates  
7 numbers LAPD RFP-2 00055-00063 as marked as Exhibit 28 at the Deposition of Greg Toyama in  
8 his capacity as the LAPD's PMQ. This document was produced by Respondents in this action on  
9 March 3, 2017 in response to Muslim Advocates' Second Set of Requests For Production Of  
10 Documents under CCP § 2031.010 et seq.

11 32. Attached as **Exhibit EEE** is a true and correct copy of a document titled  
12 Intradepartmental Correspondence, dated January 3, 2014, and bearing bates numbers LAPD RFP-  
13 2 00039 as marked as Exhibit 29 at the Deposition of Greg Toyama in his capacity as the LAPD's  
14 PMQ. This document was produced by Respondents in this action on March 3, 2017 in response to  
15 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
16 et seq.

17 33. Attached as **Exhibit FFF** is a true and correct copy of excerpts from the LAPD  
18 Manual and the LAPD's Policies and Procedures Division Reference Guide concerning  
19 Memoranda of Understanding and Agreement, and bearing bates numbers LAPD RFP-2 00054,  
20 00064-68 as marked as Exhibit 30 at the Deposition of Greg Toyama in his capacity as the LAPD's  
21 PMQ. This document was produced by Respondents in this action on March 3, 2017 in response to  
22 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
23 et seq.

24 34. Attached as **Exhibit GGG** is a true and correct copy of printouts from the LAPD  
25 Discovery Section's tracking system, and bearing bates numbers LAPD RFP-2 0005-0008, as  
26 marked as Exhibit 34 at the Deposition of Greg Toyama in his capacity as the LAPD's PMQ. This  
27 document was produced by Respondents in this action on March 3, 2017 in response to Muslim  
28 Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010 et seq.

1 35. Attached as **Exhibit HHH** is a true and correct copy of a 15.2 transmitting Muslim  
2 Advocates' CPRA Request produced by Respondents at the deposition of Sgt. Raymona Moussa,  
3 as marked as Exhibit 2 at the Deposition of Sgt. Raymona Moussa. During the deposition, counsel  
4 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
5 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
6 the deposition, and can be found on page 15, lines 2-7 of Exhibit I.

7 36. Attached as **Exhibit III** is a true and correct copy of a Planning and Research  
8 Division Chronological Activity Log produced by Respondents at the deposition of Sgt. Raymona  
9 Moussa, as marked as Exhibit 4 at the Deposition of Sgt. Raymona Moussa. During the deposition  
10 of Sgt. Raymona Moussa, counsel for Respondents stipulated that this document is a business  
11 record of the LAPD and is admissible on that basis for all purposes in this action. This stipulation  
12 was memorialized on the record during the deposition, and can be found on page 15, lines 2-7 of  
13 Exhibit II.

14 37. Attached as **Exhibit JJJ** is a true and correct copy of a set of documents titled  
15 Official Correspondence Review produced by Respondents at the deposition of Sgt. Raymona  
16 Moussa, as marked as Exhibit 5 at the Deposition of Sgt. Raymona Moussa. During the deposition,  
17 counsel for Respondents stipulated that this document is a business record of the LAPD and is  
18 admissible on that basis for all purposes in this action. This stipulation was memorialized on the  
19 record during the deposition, and can be found on page 15, lines 2-7 of Exhibit II.

20 38. Attached as **Exhibit KKK** is a true and correct copy of an e-mail thread between  
21 former Deputy Chief Downing and Professor Samuel G. Freedman, as marked as Exhibit 9 at the  
22 Deposition of Michael Downing. This document is substantively identical (apart from the addition  
23 of bates numbers for identification purposes) to one of the documents enclosed along with the the  
24 October 14, 2016 letter from Ms. Nguyen attached hereto as Exhibit RR.

25 39. Attached as **Exhibit LLL** is a true and correct copy of an LAPD document titled  
26 "Muslim Community Engagement Initiative White Paper," as marked as Exhibit 12 at the  
27 Deposition of Michael Downing. Apart from the addition of bates numbers for identification  
28 purposes, this document is substantively identical to the document attached as Exhibit G to the

1 Petition, which Respondents admit is a true and correct copy in their First Amended Answer  
2 (“FAA”), paragraph 13.

3 40. Attached as **Exhibit MMM** is a true and correct copy of a City of Los Angeles  
4 Contract Purchase Order for an item of software called Transend, as marked as Exhibit 18 at the  
5 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. During the deposition, counsel  
6 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
7 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
8 the deposition, and can be found on page 492, lines 4-10 of Exhibit CC.

9 41. Attached as **Exhibit NNN** is a true and correct copy of the City of Los Angeles  
10 Departmental Records Disposition Schedule dated August 17, 2015, as marked as Exhibit 23 at the  
11 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. During the deposition, counsel  
12 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
13 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
14 the deposition, and can be found on page 492, lines 4-10 of Exhibit CC.

15 42. Attached as **Exhibit OOO** is a true and correct copy of a collection of documents  
16 showing the LAPD’s access of e-mail stored on backup tapes in or around June 2011 in response to  
17 an internal LAPD request, as marked as Exhibit 25 at the Deposition of Rachel McClain in her  
18 capacity as the LAPD’s PMQ. During the deposition, counsel for Respondents stipulated that this  
19 document is a business record of the LAPD and is admissible on that basis for all purposes in this  
20 action. This stipulation was memorialized on the record during the deposition, and can be found on  
21 page 492, lines 4-10 of Exhibit CC.

22 43. Attached as **Exhibit PPP** is a true and correct copy of a set of logs of restorals of  
23 backup tapes bearing bates number LAPD-RFP-2 00099-125, as marked as Exhibit 30 at the  
24 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. This document was produced  
25 by Respondents in this action on March 3, 2017 in response to Muslim Advocates’ Second Set of  
26 Requests For Production Of Documents under CCP § 2031.010 et seq.

27 44. Attached as **Exhibit QQQ** is a true and correct copy of a transcript of text messages  
28 between Leshon Frierson and Rachel McClain bearing bates number LAPD RFP-2 00072, as

1 marked as Exhibit 31 at the Deposition of Rachel McClain in her capacity as the LAPD's PMQ.  
2 This document was produced by Respondents in this action on March 3, 2017 in response to  
3 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
4 et seq.

5 45. On August 9, 2017, I visited the website of the United States National Archives and  
6 accessed the December, 1982 report of the Congressional Commission on Wartime Relocation and  
7 Internment of Civilians, titled "Personal Justice Denied" at [www.archives.gov/research/japanese-](http://www.archives.gov/research/japanese-american/justice-denied)  
8 [americans/justice-denied](http://www.archives.gov/research/japanese-american/justice-denied). Attached hereto as **Exhibit RRR** is a true and correct copy of Chapter 3  
9 of Personal Justice Denied, as available as of August 9, 2017 at  
10 <https://www.archives.gov/files/research/japanese-americans/justice-denied/chapter-3.pdf>.

11 46. On August 9, 2017, I accessed the user guide website for Adobe Acrobat and caused  
12 to be printed the portion of the user guide that covers searching PDFs in Adobe Acrobat. Attached  
13 as **Exhibit SSS** is a true and correct copy of the portion of the Adobe Acrobat user guide that  
14 covers searching PDFs, as available as of August 9, 2017 at  
15 <https://helpx.adobe.com/acrobat/using/searching-pdfs.html>.

16 47. On August 8, 2017, I visited the LAPD's website and caused to be printed an  
17 organizational chart depicting the organization of the LAPD's bureaus, offices, divisions, sections,  
18 etc. Attached as **Exhibit TTT** is a true and correct copy of the organizational chart, as available as  
19 of August 8, 2017 at <http://assets.lapdonline.org/assets/pdf/Org Chart 4-27-17-DP-4B.pdf>.

20 48. On August 8, 2017, I visited the LAPD's website and caused to be printed Volume  
21 Two of the LAPD's Manual. Attached hereto as **Exhibit UUU** is a true and correct copy of  
22 Volume Two of the LAPD's Manual, as available as of August 8, 2017 at  
23 [http://www.lapdonline.org/lapd\\_manual/volume\\_2.htm#040](http://www.lapdonline.org/lapd_manual/volume_2.htm#040).

24 49. On August 10, 2017 I caused to be printed from the website of the Washington Post  
25 an article by Abby Phillip and Abigail Hauslohner dated December 22, 2016 and titled "Trump On  
26 The Future Of Proposed Muslim Ban, Registry: 'You Know My Plans'". Attached hereto as  
27 **Exhibit VVV** is a true and correct copy of the article, as available as of August 9, 2017 at  
28 <https://www.washingtonpost.com/news/post-politics/wp/2016/12/21/trump-on-the-future-of->



1 [proposed-muslim-ban-registry-you-know-my-plans/](http://ag.ca.gov/publications/pra.pdf).

2 50. On August 10, 2017, I visited the Office of the Attorney General's website and  
3 accessed a presentation from the Office of the Attorney General titled "Public Records Act  
4 Training". A true and correct copy of the training presentation, as available as of August 10, 2017  
5 at <http://ag.ca.gov/publications/pra.pdf> is attached hereto as **Exhibit WWW**.

6 51. On February 17, 2017, I caused a letter to be sent to Mr. Johansen, at that time a  
7 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
8 Respondents. The letter proposed an arrangement by which the LAPD would conduct a narrowed  
9 search of Deputy Chief Downing's e-mail from only three months: December 2006, December  
10 2007, and December 2008. Attached as **Exhibit XXX** is a true and correct copy of my February  
11 17, 2017 letter.

12 52. On February 28, 2017, I received a letter from Ms. Nguyen responding to my  
13 February 17, 2017 letter, declining the proposal. Attached as **Exhibit YYY** is a true and correct  
14 copy of Ms. Nguyen's February 28, 2017 letter.

15 53. Attached hereto as **Exhibit ZZZ** is a true and correct copy of a Joint Stipulation  
16 Requesting Continuance of Hearing and Setting New Briefing Schedule filed in this action on April  
17 10, 2017.

18 54. Attached hereto as **Exhibit AAAA** is a true and correct copy of a collection of  
19 LAPD Intradepartmental Correspondence as marked as Exhibit 9 at the Deposition of Greg Toyama  
20 in his capacity as the LAPD's PMQ. During the deposition, counsel for Respondents stipulated  
21 that this document is a business record of the LAPD and is admissible on that basis for all purposes  
22 in this action. This stipulation was memorialized on the record during the deposition, and can be  
23 found on page 71, line 25 to page 72, line 18 of Exhibit EE.

24 55. Attached as **Exhibit BBBB** is a true and correct copy of a collection of documents  
25 showing the LAPD's response to an internal LAPD request for e-mail in or around September  
26 2011, bearing bates number LAPD RFP-2 00097-00098, as marked as Exhibit 29 at the Deposition  
27 of Rachel McClain in her capacity as the LAPD's PMQ. This document was produced by  
28 Respondents in this action on March 3, 2017 in response to Muslim Advocates' Second Set of

1 Requests For Production Of Documents under CCP § 2031.010 et seq.

2 56. On Friday, May 5, 2017 I sent an e-mail concerning anticipated testimony by  
3 Deputy Chief Downing to Kjehl Johansen, at that time a Deputy City Attorney for the City of Los  
4 Angeles, and one of the attorneys of record for Respondents. Mr. Johansen replied the same  
5 day. Attached as **Exhibit CCCC** is a true and correct copy of the May 5, 2017 e-mail thread  
6 between me and Mr. Johansen.

7 This declaration was executed on the 11th day of August, 2017, in Los Angeles, California.  
8 I declare under penalty of perjury under the laws of the State of California that the foregoing is true  
9 and correct.

10   
11 \_\_\_\_\_  
12 Brendan N. Charney

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 THOMAS R. BURKE (State Bar No. 141930)  
2 thomasburke@dwt.com  
3 DAVIS WRIGHT TREMAINE LLP  
4 505 Montgomery Street, Suite 800  
5 San Francisco, California 94111-6533  
6 Telephone: (415) 276-6500  
7 Facsimile: (415) 276-6599

8 KAREN A. HENRY (State Bar No. 229707)  
9 karenhenry@dwt.com  
10 BRENDAN N. CHARNEY (State Bar No. 293378)  
11 brendancharney@dwt.com  
12 DAVIS WRIGHT TREMAINE LLP  
13 865 S. Figueroa Street, Suite 2400  
14 Los Angeles, California 90017-2566  
15 Telephone: (213) 633-6800  
16 Facsimile: (213) 633-6899

17 Attorneys for Petitioner  
18 MUSLIM ADVOCATES

19 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
20 IN AND FOR THE COUNTY OF LOS ANGELES

21 MUSLIM ADVOCATES,  
22  
23 Petitioner,

24 v.

25 THE CITY OF LOS ANGELES; THE LOS  
26 ANGELES POLICE DEPARTMENT; DOES 1  
27 THROUGH 10, INCLUSIVE,

28 Respondents.

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

AUG 11 2017

Sherri R. Carter, Executive Officer/Clerk

By: CARMEN DEL RIO, Deputy

) Case No. BS163755  
) Assigned to the Hon. James C. Chalfant  
) Dept.: 85

) **DECLARATION OF BRENDAN  
) CHARNEY IN SUPPORT OF PETITION  
) FOR WRIT OF MANDATE; EXHIBITS  
) AA-BBBB**

) [Memorandum of Points and Authorities In  
) Support of Verified Petition for Writ of  
) Mandate; Separate Statement of Facts In  
) Support of Verified Petition for Writ of  
) Mandate; and Request For Judicial Notice  
) Concurrently Filed]

) [[Proposed] Order Granting Verified Petition  
) Concurrently Lodged]

) Action Filed: July 25, 2016

**DECLARATION OF BRENDAN N. CHARNEY**

I, BRENDAN N. CHARNEY, declare:

1. I am an associate with the law firm Davis Wright Tremaine, LLP, and one of the attorneys representing Petitioner Muslim Advocates (“Muslim Advocates”) in this matter. I submit this declaration in support of the Verified Petition for Writ of Mandate (“Petition”) filed by Muslim Advocates in this matter. The matters stated in this declaration are true based on my personal knowledge and if called to testify I could and would testify competently thereto.

2. On January 12, 2017, I took the deposition of Rachel McClain in her capacity as the person designated by the Los Angeles Police Department (“LAPD”) as most qualified to testify concerning the LAPD’s e-mail backup system and undue burden claim thereto. Attached hereto as **Exhibit AA** are true and correct copies of excerpts from Volume One of the transcript of that deposition.

3. On January 26, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s person-most-qualified (“PMQ”) designee. Attached hereto as **Exhibit BB** are true and correct copies of excerpts from Volume Two of the transcript of that deposition.

4. On March 15, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit CC** are true and correct copies of excerpts from Volume Three of the transcript of that deposition.

5. On March 23, 2017, I took the continued deposition of Ms. McClain in her capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit DD** are true and correct copies of excerpts from Volume Four of the transcript of that deposition.

6. On February 15, 2017, I took the deposition of Greg Toyama in his capacity as the person designated by the LAPD as most qualified to testify concerning the LAPD’s search for records in response to Muslim Advocates’ December 12, 2013 CPRA request concerning Community Mapping. Attached hereto as **Exhibit EE** are true and correct copies of excerpts from Volume One of the transcript of that deposition.

7. On March 16, 2017, I took the continued deposition of Greg Toyama in his capacity as the LAPD’s PMQ designee. Attached hereto as **Exhibit FF** are true and correct copies of

1 excerpts from Volume Two of the transcript of that deposition.

2 8. On March 22, 2017, I took the deposition of Anthony Huynh in his capacity as the  
3 person designated by the LAPD as most qualified to testify concerning the LAPD's divisional  
4 server backup system and undue burden claim thereto. Attached hereto as **Exhibit GG** are true and  
5 correct copies of excerpts from the transcript of that deposition.

6 9. On April 17, 2017, I took the deposition of Sgt. Michael Seguin. Attached hereto as  
7 **Exhibit HH** are true and correct copies of excerpts from the transcript of that deposition.

8 10. On May 10, 2017, I took the deposition of Sgt. Raymona Moussa. Attached hereto  
9 as **Exhibit II** are true and correct copies of excerpts from the transcript of that deposition.

10 11. On May 17, 2017, I took the deposition of Dr. Luann Pannell. Attached hereto as  
11 **Exhibit JJ** are true and correct copies of excerpts from the transcript of that deposition.

12 12. On May 31, 2017, I took the deposition of former Deputy Chief Michael Downing.  
13 Attached hereto as **Exhibit KK** are true and correct copies of excerpts from Volume One of the  
14 transcript of that deposition.

15 13. On June 8, 2017, I took the continued deposition of former Deputy Chief Michael  
16 Downing. Attached hereto as **Exhibit LL** are true and correct copies of excerpts from Volume  
17 Two of the transcript of that deposition.

18 14. Attached as **Exhibit MM** are true and correct copies of the Notice of Deposition of  
19 Person(s) Most Qualified at Respondent Los Angeles Police Department, along with Notices of  
20 Continued Deposition of Person(s) Most Qualified at Respondent Los Angeles Police Department,  
21 for the deposition of Rachel McClain in her capacity as the LAPD's PMQ.

22 15. Attached as **Exhibit NN** is a true and correct copy of the Notice of Continued  
23 Deposition of Person(s) Most Qualified at Respondent Los Angeles Police Department for the  
24 deposition of Greg Toyama in his capacity as the LAPD's PMQ.

25 16. Attached as **Exhibit OO** is a true and correct copy of the Notice of Deposition of  
26 Person(s) Most Qualified at Respondent Los Angeles Police Department for the deposition of  
27 Anthony Huynh in his capacity as the LAPD's PMQ.

28 17. Attached as **Exhibit PP** is a true and correct copy of this Court's November 8, 2016

1 Order Denying Respondents' Motion to Stay Proceedings.

2 18. Attached as **Exhibit QQ** is a true and correct copy of the transcript of the hearing  
3 held before this Court on November 8, 2016 concerning Respondents' Motion to Stay Proceedings.

4 19. On October 14, 2016, I received, via e-mail, a letter from Linda N. Nguyen, a  
5 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
6 Respondents. Attached hereto as **Exhibit RR** is a true and correct copy of the October 14, 2016  
7 letter from Ms. Nguyen, along with true and correct copies of the records enclosed with the letter.

8 20. On October 21, 2016, I received, via e-mail, a letter from Ms. Nguyen. Attached  
9 hereto as **Exhibit SS** is a true and correct copy of the October 21, 2016 letter from Ms. Nguyen,  
10 along with true and correct copies of the records enclosed with the letter.

11 21. On February 14, 2017, I received, via e-mail, a letter from Ms. Nguyen. Attached  
12 hereto as **Exhibit TT** is a true and correct copy of the February 14, 2017 letter from Ms. Nguyen,  
13 along with true and correct copies of the records enclosed with the letter.

14 22. On March 7, 2017, I received an e-mail from Kjehl Johansen, at that time a Deputy  
15 City Attorney for the City of Los Angeles, and one of the attorneys of record for Respondents.  
16 Attached hereto as **Exhibit UU** is a true and correct copy of the e-mail chain containing the March  
17 7, 2017 e-mail from Mr. Johansen.

18 23. On April 3, 2017, I sent an e-mail to Kjehl Johansen, at that time a Deputy City  
19 Attorney for the City of Los Angeles, and one of the attorneys of record for Respondents. Attached  
20 hereto as **Exhibit VV** is a true and correct copy of the e-mail thread in which my April 3, 2017 e-  
21 mail to Mr. Johansen appears.

22 24. On April 4, 2017, I received, via e-mail, a letter from Ms. Nguyen. Attached hereto  
23 as **Exhibit WW** is a true and correct copy of the April 4, 2017 letter from Ms. Nguyen, along with  
24 the transmittal e-mail. In the same e-mail transmitting the April 4, 2017 letter, Ms. Nguyen  
25 attached two PDFs collectively containing 124 pages, which Ms. Nguyen identified in the letter as  
26 documents that the City believes are the attachments to e-mails previously disclosed to Muslim  
27 Advocates in response to its CPRA Request.

28 25. Attached hereto as **Exhibit XX** is a true and correct copy of one of the attachments

1 transmitted along with Ms. Nguyen's April 4, 2017 letter: a draft LAPD document titled "Counter  
2 Radicalization Strategies, Reaching Out: Policing with Muslim Communities in an Age of  
3 Terrorism." This document was marked as Exhibit 11 at the Deposition of Michael Downing.

4 26. On June 30, 2017, I received, via e-mail, a letter from Mr. Johansen, at that time a  
5 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
6 Respondents. Attached hereto as **Exhibit YY** is a true and correct copy of the June 30, 2017 letter  
7 from Mr. Johansen, along with true and correct copies of records enclosed with the letter.

8 27. Attached as **Exhibit ZZ** is a true and correct copy of the Statement of Michael P.  
9 Downing Before the U.S. Senate Committee on Homeland Security and Governmental Affairs  
10 Presented on October 30, 2007, as marked as Exhibit 2 at the Deposition of Michael Downing.  
11 During the deposition, counsel for Respondents stipulated that this document is a business record of  
12 the LAPD and is admissible on that basis for all purposes in this action. This stipulation was  
13 memorialized on the record during the deposition, and can be found on page 28, lines 2-8 of Exhibit  
14 KK.

15 28. Attached as **Exhibit AAA** is a true and correct copy of a document titled "list of  
16 Department Groups Receiving 15.2 for Muslim Advocates", as marked as Exhibit 2 at the  
17 Deposition of Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel  
18 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
19 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
20 the deposition, and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

21 29. Attached as **Exhibit BBB** is a true and correct copy of a document titled "Legal  
22 Affairs Division Discovery Section CPRA Request", as marked as Exhibit 5 at the Deposition of  
23 Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel for Respondents  
24 stipulated that this document is a business record of the LAPD and is admissible on that basis for  
25 all purposes in this action. This stipulation was memorialized on the record during the deposition,  
26 and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

27 30. Attached as **Exhibit CCC** is a true and correct copy of a document titled "CPRA  
28 Request from Mr. Glenn Katon with the Muslim Advocates", as marked as Exhibit 6 at the

1 Deposition of Greg Toyama in his capacity as the LAPD's PMQ. During the deposition, counsel  
2 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
3 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
4 the deposition, and can be found on page 71, line 25 to page 72, line 18 of Exhibit EE.

5 31. Attached as **Exhibit DDD** is a true and correct copy of excerpts from the LAPD's  
6 2016 2<sup>nd</sup> Quarter Department Manual, in particular sections 050.08 to 080.92, bearing bates  
7 numbers LAPD RFP-2 00055-00063 as marked as Exhibit 28 at the Deposition of Greg Toyama in  
8 his capacity as the LAPD's PMQ. This document was produced by Respondents in this action on  
9 March 3, 2017 in response to Muslim Advocates' Second Set of Requests For Production Of  
10 Documents under CCP § 2031.010 et seq.

11 32. Attached as **Exhibit EEE** is a true and correct copy of a document titled  
12 Intradepartmental Correspondence, dated January 3, 2014, and bearing bates numbers LAPD RFP-  
13 2 00039 as marked as Exhibit 29 at the Deposition of Greg Toyama in his capacity as the LAPD's  
14 PMQ. This document was produced by Respondents in this action on March 3, 2017 in response to  
15 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
16 et seq.

17 33. Attached as **Exhibit FFF** is a true and correct copy of excerpts from the LAPD  
18 Manual and the LAPD's Policies and Procedures Division Reference Guide concerning  
19 Memoranda of Understanding and Agreement, and bearing bates numbers LAPD RFP-2 00054,  
20 00064-68 as marked as Exhibit 30 at the Deposition of Greg Toyama in his capacity as the LAPD's  
21 PMQ. This document was produced by Respondents in this action on March 3, 2017 in response to  
22 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
23 et seq.

24 34. Attached as **Exhibit GGG** is a true and correct copy of printouts from the LAPD  
25 Discovery Section's tracking system, and bearing bates numbers LAPD RFP-2 0005-0008, as  
26 marked as Exhibit 34 at the Deposition of Greg Toyama in his capacity as the LAPD's PMQ. This  
27 document was produced by Respondents in this action on March 3, 2017 in response to Muslim  
28 Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010 et seq.



1 35. Attached as **Exhibit HHH** is a true and correct copy of a 15.2 transmitting Muslim  
2 Advocates' CPRA Request produced by Respondents at the deposition of Sgt. Raymona Moussa,  
3 as marked as Exhibit 2 at the Deposition of Sgt. Raymona Moussa. During the deposition, counsel  
4 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
5 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
6 the deposition, and can be found on page 15, lines 2-7 of Exhibit I.

7 36. Attached as **Exhibit III** is a true and correct copy of a Planning and Research  
8 Division Chronological Activity Log produced by Respondents at the deposition of Sgt. Raymona  
9 Moussa, as marked as Exhibit 4 at the Deposition of Sgt. Raymona Moussa. During the deposition  
10 of Sgt. Raymona Moussa, counsel for Respondents stipulated that this document is a business  
11 record of the LAPD and is admissible on that basis for all purposes in this action. This stipulation  
12 was memorialized on the record during the deposition, and can be found on page 15, lines 2-7 of  
13 Exhibit II.

14 37. Attached as **Exhibit JJJ** is a true and correct copy of a set of documents titled  
15 Official Correspondence Review produced by Respondents at the deposition of Sgt. Raymona  
16 Moussa, as marked as Exhibit 5 at the Deposition of Sgt. Raymona Moussa. During the deposition,  
17 counsel for Respondents stipulated that this document is a business record of the LAPD and is  
18 admissible on that basis for all purposes in this action. This stipulation was memorialized on the  
19 record during the deposition, and can be found on page 15, lines 2-7 of Exhibit II.

20 38. Attached as **Exhibit KKK** is a true and correct copy of an e-mail thread between  
21 former Deputy Chief Downing and Professor Samuel G. Freedman, as marked as Exhibit 9 at the  
22 Deposition of Michael Downing. This document is substantively identical (apart from the addition  
23 of bates numbers for identification purposes) to one of the documents enclosed along with the the  
24 October 14, 2016 letter from Ms. Nguyen attached hereto as Exhibit RR.

25 39. Attached as **Exhibit LLL** is a true and correct copy of an LAPD document titled  
26 "Muslim Community Engagement Initiative White Paper," as marked as Exhibit 12 at the  
27 Deposition of Michael Downing. Apart from the addition of bates numbers for identification  
28 purposes, this document is substantively identical to the document attached as Exhibit G to the

1 Petition, which Respondents admit is a true and correct copy in their First Amended Answer  
2 (“FAA”), paragraph 13.

3 40. Attached as **Exhibit MMM** is a true and correct copy of a City of Los Angeles  
4 Contract Purchase Order for an item of software called Transend, as marked as Exhibit 18 at the  
5 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. During the deposition, counsel  
6 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
7 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
8 the deposition, and can be found on page 492, lines 4-10 of Exhibit CC.

9 41. Attached as **Exhibit NNN** is a true and correct copy of the City of Los Angeles  
10 Departmental Records Disposition Schedule dated August 17, 2015, as marked as Exhibit 23 at the  
11 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. During the deposition, counsel  
12 for Respondents stipulated that this document is a business record of the LAPD and is admissible  
13 on that basis for all purposes in this action. This stipulation was memorialized on the record during  
14 the deposition, and can be found on page 492, lines 4-10 of Exhibit CC.

15 42. Attached as **Exhibit OOO** is a true and correct copy of a collection of documents  
16 showing the LAPD’s access of e-mail stored on backup tapes in or around June 2011 in response to  
17 an internal LAPD request, as marked as Exhibit 25 at the Deposition of Rachel McClain in her  
18 capacity as the LAPD’s PMQ. During the deposition, counsel for Respondents stipulated that this  
19 document is a business record of the LAPD and is admissible on that basis for all purposes in this  
20 action. This stipulation was memorialized on the record during the deposition, and can be found on  
21 page 492, lines 4-10 of Exhibit CC.

22 43. Attached as **Exhibit PPP** is a true and correct copy of a set of logs of restorals of  
23 backup tapes bearing bates number LAPD-RFP-2 00099-125, as marked as Exhibit 30 at the  
24 Deposition of Rachel McClain in her capacity as the LAPD’s PMQ. This document was produced  
25 by Respondents in this action on March 3, 2017 in response to Muslim Advocates’ Second Set of  
26 Requests For Production Of Documents under CCP § 2031.010 et seq.

27 44. Attached as **Exhibit QQQ** is a true and correct copy of a transcript of text messages  
28 between Leshon Frierson and Rachel McClain bearing bates number LAPD RFP-2 00072, as

1 marked as Exhibit 31 at the Deposition of Rachel McClain in her capacity as the LAPD's PMQ.  
2 This document was produced by Respondents in this action on March 3, 2017 in response to  
3 Muslim Advocates' Second Set of Requests For Production Of Documents under CCP § 2031.010  
4 et seq.

5 45. On August 9, 2017, I visited the website of the United States National Archives and  
6 accessed the December, 1982 report of the Congressional Commission on Wartime Relocation and  
7 Internment of Civilians, titled "Personal Justice Denied" at [www.archives.gov/research/japanese-](http://www.archives.gov/research/japanese-american/justice-denied)  
8 [americans/justice-denied](http://www.archives.gov/research/japanese-american/justice-denied). Attached hereto as **Exhibit RRR** is a true and correct copy of Chapter 3  
9 of Personal Justice Denied, as available as of August 9, 2017 at  
10 <https://www.archives.gov/files/research/japanese-americans/justice-denied/chapter-3.pdf>.

11 46. On August 9, 2017, I accessed the user guide website for Adobe Acrobat and caused  
12 to be printed the portion of the user guide that covers searching PDFs in Adobe Acrobat. Attached  
13 as **Exhibit SSS** is a true and correct copy of the portion of the Adobe Acrobat user guide that  
14 covers searching PDFs, as available as of August 9, 2017 at  
15 <https://helpx.adobe.com/acrobat/using/searching-pdfs.html>.

16 47. On August 8, 2017, I visited the LAPD's website and caused to be printed an  
17 organizational chart depicting the organization of the LAPD's bureaus, offices, divisions, sections,  
18 etc. Attached as **Exhibit TTT** is a true and correct copy of the organizational chart, as available as  
19 of August 8, 2017 at <http://assets.lapdonline.org/assets/pdf/Org Chart 4-27-17-DP-4B.pdf>.

20 48. On August 8, 2017, I visited the LAPD's website and caused to be printed Volume  
21 Two of the LAPD's Manual. Attached hereto as **Exhibit UUU** is a true and correct copy of  
22 Volume Two of the LAPD's Manual, as available as of August 8, 2017 at  
23 [http://www.lapdonline.org/lapd\\_manual/volume\\_2.htm#040](http://www.lapdonline.org/lapd_manual/volume_2.htm#040).

24 49. On August 10, 2017 I caused to be printed from the website of the Washington Post  
25 an article by Abby Phillip and Abigail Hauslohner dated December 22, 2016 and titled "Trump On  
26 The Future Of Proposed Muslim Ban, Registry: 'You Know My Plans'". Attached hereto as  
27 **Exhibit VVV** is a true and correct copy of the article, as available as of August 9, 2017 at  
28 <https://www.washingtonpost.com/news/post-politics/wp/2016/12/21/trump-on-the-future-of->

1 [proposed-muslim-ban-registry-you-know-my-plans/](http://ag.ca.gov/publications/pra.pdf).

2 50. On August 10, 2017, I visited the Office of the Attorney General's website and  
3 accessed a presentation from the Office of the Attorney General titled "Public Records Act  
4 Training". A true and correct copy of the training presentation, as available as of August 10, 2017  
5 at <http://ag.ca.gov/publications/pra.pdf> is attached hereto as **Exhibit WWW**.

6 51. On February 17, 2017, I caused a letter to be sent to Mr. Johansen, at that time a  
7 Deputy City Attorney for the City of Los Angeles, and one of the attorneys of record for  
8 Respondents. The letter proposed an arrangement by which the LAPD would conduct a narrowed  
9 search of Deputy Chief Downing's e-mail from only three months: December 2006, December  
10 2007, and December 2008. Attached as **Exhibit XXX** is a true and correct copy of my February  
11 17, 2017 letter.

12 52. On February 28, 2017, I received a letter from Ms. Nguyen responding to my  
13 February 17, 2017 letter, declining the proposal. Attached as **Exhibit YYY** is a true and correct  
14 copy of Ms. Nguyen's February 28, 2017 letter.

15 53. Attached hereto as **Exhibit ZZZ** is a true and correct copy of a Joint Stipulation  
16 Requesting Continuance of Hearing and Setting New Briefing Schedule filed in this action on April  
17 10, 2017.

18 54. Attached hereto as **Exhibit AAAA** is a true and correct copy of a collection of  
19 LAPD Intradepartmental Correspondence as marked as Exhibit 9 at the Deposition of Greg Toyama  
20 in his capacity as the LAPD's PMQ. During the deposition, counsel for Respondents stipulated  
21 that this document is a business record of the LAPD and is admissible on that basis for all purposes  
22 in this action. This stipulation was memorialized on the record during the deposition, and can be  
23 found on page 71, line 25 to page 72, line 18 of Exhibit EE.

24 55. Attached as **Exhibit BBBB** is a true and correct copy of a collection of documents  
25 showing the LAPD's response to an internal LAPD request for e-mail in or around September  
26 2011, bearing bates number LAPD RFP-2 00097-00098, as marked as Exhibit 29 at the Deposition  
27 of Rachel McClain in her capacity as the LAPD's PMQ. This document was produced by  
28 Respondents in this action on March 3, 2017 in response to Muslim Advocates' Second Set of

1 Requests For Production Of Documents under CCP § 2031.010 et seq.

2 56. On Friday, May 5, 2017 I sent an e-mail concerning anticipated testimony by  
3 Deputy Chief Downing to Kjehl Johansen, at that time a Deputy City Attorney for the City of Los  
4 Angeles, and one of the attorneys of record for Respondents. Mr. Johansen replied the same  
5 day. Attached as **Exhibit CCCC** is a true and correct copy of the May 5, 2017 e-mail thread  
6 between me and Mr. Johansen.

7 This declaration was executed on the 11th day of August, 2017, in Los Angeles, California.  
8 I declare under penalty of perjury under the laws of the State of California that the foregoing is true  
9 and correct.

10  
11   
12 \_\_\_\_\_  
13 Brendan N. Charney  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT II

Raymona Moussa  
May 10, 2017

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

MUSLIM ADVOCATES,  
Petitioner,

**CERTIFIED COPY**

vs.

Case No. BS163755

THE CITY OF LOS ANGELES; THE LOS  
ANGELES POLICE DEPARTMENT; DOES  
1-10, INCLUSIVE,  
Respondents.

---

DEPOSITION OF RAYMONA MOUSSA

Wednesday, May 10, 2017

10:00 a.m. - 3:56 p.m.

865 South Figueroa Street, Suite 2400

Los Angeles, California

REPORTED BY:

Jean F. Holliday

CSR No. 4535, RPR, CRR

1 A. Yes.

2 MR. CHARNEY: And counsel and I have stipulated  
3 that these documents, in particular Exhibits 2  
4 through 8, are the LAPD's business records and are  
5 admissible on that basis for all purposes in this  
6 action.

7 MR. JOHANSEN: So stipulated.

8 BY MR. CHARNEY:

9 Q. Sergeant Moussa, if you could take a look at  
10 Exhibit 2 for me.

11 A. Okay.

12 Q. How did this document help you prepare for your  
13 deposition today?

14 A. To remind me of the original request.

15 Q. So it refreshed your recollection as to the  
16 request that's discussed in this document?

17 A. Yes.

18 Q. And turning to Exhibit 3, which is the e-mails,  
19 a set of e-mails within the department, how did this  
20 document help you prepare for your deposition today?

21 A. It's just -- I'm actually not in here so I -- I  
22 don't remember seeing this before, but it's just -- it's  
23 the same topic, just e-mails about this request  
24 basically.

25 Q. So Exhibit 3 gave you information that you



1 Q. And turning to the document that's been marked  
2 as Exhibit 7, which is a set of screenshots and e-mail,  
3 how did this document help you prepare for your  
4 deposition today?

5 A. This was requested. Again, this is after the  
6 original request. It was requested by the City  
7 Attorney.

8 Q. And what was that request in particular? What  
9 was requested?

10 A. To get screenshots of the actual search of an  
11 MOA database that we have at PPD.

12 Q. And am I right that the first two and the last  
13 pages of this set of documents are screenshots of that  
14 MOA database?

15 A. Yes.

16 Q. And how did you -- and so how did this help you  
17 prepare for your deposition today?

18 A. I'm not sure it helped. I mean it's just what  
19 was requested and I presented it.

20 Q. Okay. You reviewed this before your deposition  
21 today?

22 A. Yes.

23 Q. Did it give you any information that you hadn't  
24 had before you reviewed it?

25 A. No.

1 Q. Now I'm going to ask you to turn your attention  
2 to the document marked as Exhibit 8, which is a  
3 Memorandum of Understanding between the City of Los  
4 Angeles and the University of Southern California. How  
5 did this document help you prepare for your deposition?

6 A. It did not help me. It's something they  
7 requested and I produced.

8 Q. And by "they" do you mean the City Attorney's  
9 office?

10 A. Yes, sir.

11 Q. And did you produce it by querying the MOA  
12 database?

13 A. Yes.

14 Q. And when you queried the MOA database did this  
15 document pop up within the database and then you can  
16 print it from the database?

17 A. Yes.

18 Q. And so this is the department's copy of the  
19 Memorandum of Agreement between the City of Los Angeles  
20 and the University of Southern California?

21 A. Yes.

22 Q. In other words, the -- sort of the official  
23 copy is stored within that database?

24 A. A copy, yes.

25 Q. So other than the conversation with the City

1 Attorney and the documents that we've just looked at,  
2 Exhibits 2 to 8, is there anything else that you looked  
3 at to help prepare for your deposition today?

4 A. No.

5 Q. Any other people you talked to?

6 A. No.

7 Q. Ms. Moussa -- excuse me. Sergeant Moussa, what  
8 is the highest level of education you've completed?

9 A. I've had a few -- about three years of college.

10 Q. And what did you study in college?

11 A. Philosophy and aviation.

12 Q. Did you -- as part of those studies did you  
13 ever have any courses that dealt with records  
14 management?

15 A. I don't think so, no.

16 Q. Or, you know, managing or storing information  
17 in any way?

18 A. No.

19 Q. What about searching for or retrieving  
20 information?

21 A. No.

22 Q. And after you completed three years of college  
23 what was the -- what did you -- what job did you enter,  
24 if you took a job after college?

25 A. Law enforcement.

1 Q. And what was your first role as a law  
2 enforcement personnel?

3 A. I was a police officer in patrol.

4 Q. And was that with the LAPD?

5 A. Yes.

6 Q. And as part of that role did you receive any  
7 training with respect to storing or managing records?

8 A. Writing reports, criminal, you know, reports,  
9 if that's what you mean, yeah, but not keeping records.  
10 Just writing.

11 Q. And what about finding or retrieving records,  
12 did you receive any training for how to search  
13 departmental files for records?

14 A. Yes.

15 Q. And what was that training?

16 A. It's just hands-on, where to look for if I was  
17 searching for an old report maybe, you know, where they  
18 are at, which cabinet. Everything was manual back then.

19 Q. And when was that?

20 A. 1995.

21 Q. Okay. Was that the year that you joined the  
22 department?

23 A. Yes.

24 Q. And so am I right that your training for  
25 searching for records, that was focused on records that

1 you would need in your day-to-day duties as a police  
2 officer?

3 A. Yes.

4 Q. And what division or section of the department  
5 were you in at that time?

6 A. Devonshire Division.

7 Q. And so were you a patrol officer?

8 A. Yes.

9 Q. And so the records -- what kind of records  
10 would you be looking for as part of that job?

11 A. Criminal records. Those are in the computer,  
12 you know, DMV records to run a car or a person, wants  
13 and warrants. Besides that it would be manual records  
14 for just research.

15 Q. Did you have any responsibility for responding  
16 to California Public Records Act requests in that role?

17 A. No.

18 Q. And am I right then in understanding that you  
19 didn't actually ever participate in responding to a  
20 Public Records Act request in that role?

21 A. No.

22 Q. Did there come a time that your role within the  
23 LAPD changed from that original role you took on when  
24 you joined the department?

25 A. Yes.

1 Q. And when was that?

2 A. When I became a detective.

3 Q. And when did that happen?

4 A. That's a good question. 2006, I want to say,  
5 something like that.

6 Q. And where were you stationed, in what section  
7 or division were you stationed as a detective?

8 A. Central Division.

9 Q. And in that role did you have any new  
10 responsibilities -- excuse me. Did you receive any  
11 additional training for storing or maintaining records?

12 A. It's all under the same umbrella of records,  
13 but it's detective work. I did go to detective school.

14 Q. And was there a part of detective school that  
15 addressed storing records or maintaining records?

16 A. Yes.

17 Q. And what was that study -- what did that part  
18 of your training consist of?

19 A. It's specific to follow-up reports, you know,  
20 handling caseloads, that type of things.

21 Q. And for a layperson who's not familiar with  
22 police procedures what does that mean?

23 A. As a detective you're assigned cases, so you  
24 get a project, you know, whether somebody was arrested  
25 or a victim made a report, so you follow up, and then

1 you do a follow-up report, and everything is kept in  
2 that case, and if you have to file the case there is a  
3 folder and you go to the City Attorney or the, you know,  
4 DA's office to file the report, and if you go to court,  
5 you know, there is -- so it's the case file, that kind  
6 of record.

7 Q. So you learned how to store the records that  
8 you would create as part of your job investigating  
9 cases?

10 A. Yes.

11 Q. Did you receive any training for retrieving or  
12 finding records as part of your training to become a  
13 detective?

14 A. Just running people's history, criminal  
15 history, if they've been arrested before, been to court,  
16 the disposition, if they are in jail, that kind of  
17 stuff.

18 Q. So you -- am I right that you learned that as  
19 part of the -- in order to do the investigations that  
20 you would be doing as a detective?

21 A. Yes.

22 Q. Did you receive any training specific to  
23 searching for records in response to a CPRA request?

24 A. No.

25 Q. And after becoming a detective, after that

1 detective school training did you receive any other  
2 additional training that's relevant to storing or  
3 maintaining or retrieving records?

4 A. No.

5 Q. After becoming a detective did there come a  
6 time when your role within the department changed again?

7 A. Yes.

8 Q. And when was that?

9 A. Within a year I became a supervisor, a  
10 sergeant, and I was transferred out and I became a  
11 supervisor in patrol.

12 Q. And so at the time that you became a supervisor  
13 was there additional training that you received?

14 A. Yes.

15 Q. Did any of that training have anything to do  
16 with the California Public Records Act?

17 A. No.

18 Q. So there was no training on how to respond to a  
19 California Public Records Act?

20 A. Not at that time, no.

21 Q. Was there ever any other time that you received  
22 training on how to respond to a California Public  
23 Records Act request?

24 A. Yes.

25 Q. And when was that?



1 A. When I came to -- when I was assigned PRD.

2 Q. And when was that?

3 A. It was September of 2008.

4 Q. And was that assignment -- did that follow your  
5 previous assignment to become a supervisor of patrol  
6 officers?

7 A. I was a supervisor but a staff researcher  
8 first.

9 Q. So after you became a patrol supervisor you  
10 became a staff researcher within the Policies and --  
11 excuse me -- the Planning and Research Division?

12 A. Yes.

13 Q. And when you became a staff researcher was  
14 there any training at that time provided to you?

15 A. Yes.

16 Q. And did that training have anything to do with  
17 the California Public Records Act?

18 A. I was told how to handle, you know, one-on-one  
19 kind of training, nothing -- not a school of any sort,  
20 you know.

21 Q. And who conducted that one-on-one training?

22 A. My supervisor, I would say. I couldn't really  
23 tell you exactly who, when, that kind of thing, but  
24 yeah.

25 Q. Well, what year did you become a staff