

Attachment 13

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2006-CI-06702

3 JOHN FODDRILL

*

IN THE JUDICIAL DISTRICT

4 V.

*

57TH DISTRICT COURT

5 CITY OF SAN ANTONIO

*

BEXAR COUNTY, TEXAS

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EXCERPT FROM THE REPORTER'S RECORD

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TESTIMONY OF VIRGINIA QUINN

12

HONORABLE ANTONIA ARTEAGA

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FEBRUARY 4 & 5, 2009

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On the 4th and 5th days of February, 2009, the

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above-entitled cause came on to be heard before the

22

Honorable Antonia Arteaga in the 57th District Court of

23

Bexar County, Texas, whereupon the following proceedings

24

were taken by machine shorthand.

25

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I N D E X

23 TESTIMONY	DIRECT	CROSS	REDIRECT
24 VIRGINIA QUINN	3	62	77
25 PROCEEDINGS ADJOURNED			86

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1 E-X-C-E-R-P-T O-F P-R-O-C-E-E-D-I-N-G-S

2 TESTIMONY OF VIRGINIA QUINN

3 FEBRUARY 4, 2009

4 THE COURT: I canceled my meeting. We're
Page 2

QUINN TESTIMONY.txt

5 going to proceed. Who's your next witness?

6 MS. GAUL: Virginia Quinn.

7 THE COURT: Ms. Quinn, raise your right
8 hand.

9 (Witness was sworn.)

10 THE COURT: Please have a seat.

11 VIRGINIA QUINN,

12 having been sworn to tell the truth, testified as
13 follows:

14 DIRECT EXAMINATION

15 Q. (BY MS. GAUL) Good afternoon, Ms. Quinn.

16 A. Hello.

17 Q. Could you please state your full name for the
18 record?

19 A. Virginia Marie Quinn.

20 Q. And, Ms. Quinn, we've talked on the telephone,
21 but we've never met in person. I'm Malinda Gaul, the
22 attorney for John Foddrill.

23 A. Pleased to meet you.

24 Q. Thank you for being here. Ms. Quinn, where
25 are you currently employed?

4

1 A. I work for the State of Texas Adult Protective
2 Services.

3 Q. How long have you been in that position?

4 A. Since December the 1st of last year.

5 Q. And prior to that where were you employed?

6 A. With the city of San Antonio.

7 Q. How long did you work for the city of San

8 Antonio?

9 A. From April of 1999 up until that time, until I
10 came to the state.

11 Q. So when you began with the city in April of
12 1999, what position did you hold?

13 A. Manager of the office of municipal integrity.

14 Q. How long were you in that position?

15 A. About eight years.

16 Q. And then after that did you hold any other
17 positions with the city of San Antonio?

18 A. I did.

19 Q. What positions did you hold?

20 A. I was the manager of the detention center.

21 Q. And any other positions with the city?

22 A. I was a grant management officer.

23 Q. And how long were you in that position?

24 A. About eight months.

25 Q. And was that the last position you held with

5

1 the city?

2 A. Yes, ma'am.

3 Q. Okay. I'm going to talk about the time when
4 you were the manager of municipal integrity, okay? When
5 did you start in that position?

6 A. April of 99.

7 Q. And then when was the last time that you held
8 that position?

9 A. It was about a year prior to when I left the
10 city, so it was about eight years or -- yeah, it was
11 about eight years or so I was with the city, almost a

12 total of nine years.

13 Q. Okay. And tell the jury briefly, as the
14 manager of municipal integrity, what were your job
15 responsibilities?

16 A. I oversaw all the investigations regarding
17 city employees, fraud, waste, and abuse.

18 Q. Okay. I'm going to have you turn into the
19 blue notebook to tab 12. Do you recognize this
20 document?

21 A. I do, yes. That's from the website.

22 Q. Okay. And what website is it from?

23 A. It's from the city of San Antonio website.

24 Q. Is that website something that is available to
25 just city employees, or is it available to the public?

6

1 A. No. It's on the internet.

2 Q. And what is this document exactly that's on
3 the website?

4 A. It's just an overview of what municipal
5 integrity does, the office.

6 Q. And what is -- what is the mission of -- or at
7 this time what was the mission of municipal integrity?

8 A. To investigate any kind of allegations of
9 wrongdoing concerning city employees, contract vendors,
10 internal fraud, theft, abuse.

11 Q. According to this website, basically it sets
12 forth the municipal integrity division was created to
13 strengthen the public's confidence in the integrity of
14 municipal government; is that correct?

15 A. Right, uh-huh.

16 Q. So as far as municipal integrity, that
17 particular division, did you believe that it was
18 something that the city used to make sure that the
19 public felt comfortable with what the city was doing in
20 its business practices?

21 A. Correct.

22 Q. Okay. How would somebody make a complaint to
23 municipal integrity?

24 A. Any of a variety of ways. We accepted
25 complaints from employees, from the general public.

7

1 They would call in on the telephone, or sometimes we'd
2 get e-mails. Sometimes we'd get letters in the mail.
3 Just any way.

4 Q. And what was the responsibility of municipal
5 integrity as far as doing investigations?

6 A. We investigated every allegation that came to
7 us.

8 Q. Did you have certain subject matter that you
9 were tasked to investigate and other subject matter that
10 you wouldn't investigate? Let me see if I can ask a
11 better question. When you would get these e-mails or
12 these calls or these complaints, did you go through 'em
13 and weed 'em out and say, no, this is something that
14 needs to go to human resources, this is something that
15 needs to go to SAPD, but here's something that we would
16 investigate?

17 A. We responded to every single allegation.
18 Sometimes there were allegations that would be best

19 suited to be investigated by some other branch of the
20 city, and so if that were the case, we'd collaborate
21 with somebody. In other words, we made sure that every
22 single allegation was addressed in some kind of way and
23 followed up on that.

24 Q. Again, back to the website. If you'll look at
25 the last page of -- I shouldn't say it, page 3 of 4 of

8

1 that website, my understanding is municipal integrity
2 would investigate fraud, waste, or abuse; is that
3 correct?

4 A. Yes.

5 Q. Now, when you were manager of municipal
6 integrity, how would you have defined fraud in what you
7 were investigating if it was fraud?

8 A. Fraud is a broad umbrella. It includes
9 everything from internal theft to misappropriation of
10 funds that would come under an employee's purview, so in
11 other words, it was usually a theft because those were
12 not -- those were not uncommon.

13 Q. When you talk about theft, misuse, diversion
14 of money as mentioned in the website, did fraud always
15 have to be criminal fraud in order for municipal
16 integrity to investigate it?

17 A. No.

18 Q. Was there any type of fraud that would fall
19 into a category that would be less than criminal?

20 A. Yes.

21 Q. Did -- when you investigated fraud, were you

22 only investigating issues about employees or contractors
23 who were making personal gain off of their fraud?

24 A. Well, that was usually the case. That was
25 usually some kind of motive for it. I'd have to think

9

1 about that if you have a particular instance that -- I
2 can't think of anything where there wasn't some kind of
3 personal motivation. There's always some kind of
4 motivation that, you know, makes a person commit fraud.

5 Q. So then I would venture then into the next
6 category, waste. How would you define waste?

7 A. Unnecessary spending, or maybe it's
8 duplicitous spending or extraordinary kinds of
9 purchases, for example.

10 Q. So that would probably be things that wouldn't
11 necessarily be personal purchases, people spending city
12 money on personal items, but might be wasting city money
13 even within the context of their job.

14 A. Correct, yes.

15 Q. And then finally, abuse. How would you have
16 defined the abuse you were investigating?

17 A. Well, it would be like abusing city time or
18 abusing stipends for travel, saying that they paid
19 something for a meal and then pocketing the money, for
20 example, or something like that, abuse of their
21 privileges.

22 Q. Do you remember Mr. John Foddrill making an
23 initial report to municipal integrity?

24 A. I do.

25 Q. Prior to Mr. Foddrill making that report, had
Page 8

1 you ever met Mr. Foddrill?

2 A. Not face to face.

3 Q. When was the first time that you remember
4 meeting Mr. Foddrill face to face?

5 A. Let me see. I think he came to a party at my
6 house.

7 Q. Okay. Do you remember when that was?

8 A. It was Christmastime. Maybe it was 2005.

9 Q. Do you know if he was already working at the
10 city at that time?

11 A. He had just started to work for the city, I
12 believe.

13 Q. And I believe that the information that we
14 have -- the testimony is that Mr. Foddrill started with
15 the city in August of 2004.

16 A. Well, then, could have been 2004.

17 Q. Okay. Okay.

18 A. It was a Christmas party. I don't know which
19 Christmas party.

20 Q. Was he a friend of yours? Is that why he had
21 come to your house for a Christmas party?

22 A. I didn't know him. You want me to explain how
23 I knew him?

24 Q. Please.

25 A. Okay. A friend of mine by the name of Robert

1 Ramon, good friend, an auditor, was in the country. He
2 was actually in Afghanistan, and he sent me an e-mail
3 and asked -- he said that a member of his extended
4 family was searching for a position and would I mind
5 calling somebody over at IT and just put in a good word
6 for him, and so Robert being in Afghanistan, I did that.

7 Q. That was Mr. Foddrill that he had asked you to
8 put a good word in.

9 A. Correct, yes.

10 Q. So you did call somebody at IT and put in a
11 good word for Mr. Foddrill?

12 A. I did. It was unnecessary, as it turns out.

13 Q. What do you mean by that?

14 A. He was already being considered for the
15 position, so...

16 Q. Who did you call at IT?

17 A. Jose Medina.

18 Q. So some time after that, Mr. Foddrill is then
19 invited to your house for a Christmas party?

20 A. No. Actually, I invited Robert, and Robert
21 called me and asked me if he could bring along John and
22 his wife.

23 Q. And then other than that social interaction,
24 when's the next time you remember having any interaction
25 with Mr. Foddrill?

12

1 A. I think when he came to my office to complain.

2 Q. And can you tell us briefly what you remember
3 about the first time you might have talked with

4 Mr. Foddrill about his complaint? What was he
Page 10

5 complaining about?

6 A. There were actually two complaints that he
7 made. The first complaint -- and I guess I'd like to
8 take a look at the complaint.

9 Q. Tab 13.

10 A. Okay. Way ahead of me here. Oh, yeah, there
11 were several allegations. The first one he had been
12 threatened by his boss, Jose Medina, in the hallway.
13 The second one was that he was instructed by his
14 supervisor, Jose Medina, not to answer questions fully
15 and forthrightly in a -- I believe it was some kind of
16 an internal audit situation. And the last one was that
17 the supervisor over at IT, Hugh Miller, was showing
18 favoritism toward a company by the name of Cisco Systems.

19 Q. Let me talk about the first allegation that
20 Mr. Medina had threatened him. What was your
21 understanding of the threat that Mr. Foddrill was
22 reporting? What type of threat was he reporting?

23 A. He said that the two of them met in the
24 hallway and that they had a face-to-face confrontation,
25 and John mentioned something about he said he got right

13

1 up in his face, and they started -- John was saying he
2 couldn't do business this way, and Jose said something
3 about you'll be sorry about that. That was John's
4 allegation, you'll be sorry that you said that, or words
5 to that effect.

6 Q. And do you remember if that particular issue
7 was investigated by municipal integrity?

8 A. Yes.

9 Q. Okay. And do you know what was the finding by
10 municipal integrity as to that allegation?

11 A. Unfounded.

12 Q. What was -- do you remember why it was
13 unfounded?

14 A. Because it was unsupported. There were no
15 witnesses. Everyone that we spoke to said it was
16 uncharacteristic of him to do that. He denied it, and
17 so there was just not a lot of -- didn't have legs.

18 Q. I'm going to have you turn to page 9 of that
19 municipal integrity report. At the bottom, page 9, of
20 the report.

21 A. Okay.

22 Q. At the bottom there's a summary of an
23 interview with Jose Medina. You see it starts at the
24 bottom of page 9?

25 A. Right.

14

1 Q. It continues over to page 10.

2 A. Correct.

3 Q. Okay. And in this report there appears to be,
4 you had said -- you testified that Mr. Medina denied
5 that he had ever threatened Mr. Foddrill; is that
6 correct?

7 A. Right.

8 Q. And did Mr. Medina ever admit that there was
9 an interaction between the two of 'em?

10 A. He did.

11 Q. And did he say they had gotten angry with each
Page 12

12 other?

13 A. Well, he said -- and this is quoting from the
14 report. He said, I don't remember saying you'll be
15 sorry you said that. It's not likely I would have said
16 that. And then said, as time went on, their
17 relationship was okay, and he thought they were back on
18 track.

19 Q. And let's go a little farther, because this
20 report does actually quote Mr. Medina's statement; is
21 that correct?

22 A. It does.

23 Q. And it starts out saying that Mr. Medina
24 recalls that John's primary issue was not billing but
25 rather problems he was having with the customer service

15

1 side of ITSD; is that correct?

2 A. I don't know where you are in this report.

3 Q. Back to page 10. And you were just reading
4 from the quoted parts of Mr. Medina's statement.

5 A. Correct. Oh, yes, okay, at the top of that
6 page.

7 Q. Okay. And Mr. Medina goes on to say that me
8 and John were working late in the hallway, and so that
9 part of their story matched up; is that correct?

10 A. Right.

11 Q. And that Mr. Medina says Mr. Foddrill was
12 upset because he felt Mr. Medina wasn't supporting him;
13 is that correct?

14 A. Yes, essentially.

15 Q. And Mr. Medina says that Mr. Foddrill accused
16 Mr. Medina of having double standards; is that correct?

17 A. Correct.

18 Q. And that Mr. Medina admits that Mr. Foddrill's
19 comments upset him.

20 A. Right.

21 Q. And that he was standing in the doorway of
22 Mr. Medina's office, and that when Mr. Medina tried to
23 leave, he said excuse me, and he claims Mr. Foddrill
24 didn't move; is that correct?

25 A. Right.

16

1 Q. That he said, I said excuse me again, and
2 Mr. Foddrill moved, and I walked out.

3 A. Right.

4 Q. Right?

5 A. Uh-huh.

6 Q. But Mr. Medina does say that later he called
7 Mr. Foddrill at home about this same issue; is that
8 correct?

9 A. Right.

10 Q. Okay. And he was still upset about his
11 comments?

12 A. Uh-huh.

13 Q. So that too had matched up with Mr. Foddrill
14 had said Mr. Medina called him at home; isn't that
15 correct?

16 A. Right, uh-huh.

17 Q. Okay. So Mr. Medina says he doesn't remember
18 threatening him, and so therefore municipal integrity

19 determined that the complaint was unfounded; is that
20 correct?

21 A. Well, the reason why is because there was no
22 other supporting information. We only found -- we only
23 found a case when there was something to support it,
24 okay? Because, you know, allegations can be very
25 damaging to someone, so if there's information that

17

1 supports that, then it's founded, and if you can't
2 support it, then it's unfounded.

3 Q. So Mr. Medina and Mr. Foddrill are the only
4 two people present?

5 A. Right.

6 Q. Mr. Foddrill testified under oath it happened.
7 Mr. Medina testifies he doesn't remember it happening,
8 but that's not enough to make a finding; is that
9 correct?

10 A. Correct.

11 Q. So if -- let's say that you had a situation
12 where an employee actually did threaten somebody, if
13 they don't have a third-party witness, then you can
14 never make a finding that it's valid?

15 A. Well, it depends on whether we're talking
16 about a physical threat, okay? If he says something
17 like, you know, you'll be sorry you said that, I guess I
18 don't really take that as a physical threat. Him
19 standing in the hallway and them having words, it's been
20 my experience that when you get -- when you get two
21 people talking, they often -- you know, they'll have

22 things that are the same, but their perceptions are
23 different, okay? For example, I have kids. I don't
24 know if anybody else has kids, but if you ask one kid
25 what happened, and you ask the other kid what happened,

18

1 they have vastly different stories on exactly the same
2 thing. And so if there's nothing to corroborate it,
3 then, yes, it's unfounded. I mean, I understood there
4 were things that were common, and they definitely had
5 some kind of a confrontation there in the hallway. Did
6 it rise to the level it was founded? No.

7 Q. And you didn't consider this a threat because
8 one of the people involved is the supervisor and one is
9 the subordinate?

10 A. No.

11 Q. Because Mr. Medina has a little more power
12 over Mr. Foddrill than your two children would have over
13 each other; isn't that correct?

14 A. Yeah, but that wouldn't have anything to do
15 with it.

16 Q. So a boss threatening, you'll be sorry,
17 wouldn't trigger maybe some concern by municipal
18 integrity that the boss could take some revenge against
19 this employee?

20 A. Well, it didn't.

21 Q. And that's good. What you're saying is you
22 made no finding that Mr. Medina actually did do anything
23 to Mr. Foddrill, therefore it was not founded?

24 A. Well, and one of the reasons was because later
25 on Mr. Foddrill was to say that he actually thought that

1 Mr. Medina messed a very good -- a good sort of, you
2 know, way of treating him, and so he didn't feel
3 threatened either. There didn't appear to be anything
4 later to back that up with, and there weren't any like
5 continuing threats or harassment or anything like that
6 that we knew of.

7 Q. So when you used the word unfounded at the end
8 of your municipal integrity report, it's because you had
9 no corroborating evidence that this threat actually
10 occurred?

11 A. It's because the totality of the circumstances
12 drawn together called for an unfounded finding.

13 Q. Let's talk about the other issue that -- the
14 second issue regarding the audit that Mr. Foddrill had
15 claimed that he was being asked not to provide
16 information regarding the audit. Did you also make a
17 finding that that was unfounded?

18 A. Yes.

19 Q. Do you remember --

20 A. Let me back up to the front of this report
21 again.

22 Q. Do you remember why you concluded that that
23 was unfounded?

24 A. I'd have to review it to refresh my memory.
25 You want me to do that now?

1 Q. Yes. See if there's anything that will
 2 refresh your memory. I remember Debra Segovia and the
 3 fact that she said that the contracts could be -- could
 4 be let with a different company, as long as they -- as
 5 long as they were in keeping with the state's purchasing
 6 regulations, the department of information services
 7 contract. And essentially all the other people that we
 8 talked to, none of them -- none of them backed up any
 9 information about anything about having to do with the
 10 audit.

11 Q. Let me backtrack a little bit here before we
 12 get to the third issue that you cited in the
 13 investigation. When you start your investigation, do
 14 you limit it to just the issues that are raised by the
 15 person making the complaint?

16 A. Oh, no.

17 Q. So when Mr. Foddrill made these three
 18 allegations here that we talked about on the first
 19 page of this document, how do you determine what you're
 20 going to investigate?

21 A. Well, we start out, you know, using that, of
 22 course, as you would because, you know, go with the
 23 information that you're given. And then sometimes as
 24 you dig up information, you find out other stuff; you
 25 know, you find out things that you didn't know about or

1 things that weren't mentioned before. And so it's kind
 2 of like -- I've often likened it to a threat is a
 3 tapestry. You get a little thread, and a thread by
 4 itself, it's just a thread and doesn't look like much,

5 but you put this together and stand back, it looks like
6 a picture. And so that's what you do, you look for
7 these little pieces of information and you try to piece
8 it all together to where, when you put it all on the
9 table, you stand back and look at it, you know, it made
10 some sense to you.

11 Q. I'm going to have you flip to the back of the
12 investigation to the section that has the sworn
13 statements, and I believe that starts at page 15. It's
14 not really numbered, but it's after page 14. It's COSA
15 01130.

16 A. I'm sorry.

17 Q. That's okay. We have thousands of documents.
18 We're all a little confused.

19 A. Okay. I found 30 and it's a blank page.

20 Q. Okay.

21 A. 01130?

22 Q. Uh-huh. Okay. Then we start into sworn
23 statements; is that correct?

24 A. Yes. This is the statement of John Foddrill.

25 Q. That's the first one. And then after that we

22

1 start in to -- there's a sworn statement of Diana Lopez;
2 is that correct?

3 A. Yes.

4 Q. And it appears to be dated September 6th, 2005
5 up in the right-hand corner.

6 A. Yes, uh-huh.

7 Q. Okay. And when we first looked at the intake

8 form, the beginning where you were reading the
9 allegations, that appears to be dated August 25th, 2005.
10 So a few days later, a week or so later, statements are
11 taken from various employees. Is that the normal
12 procedure?

13 A. Right.

14 Q. Okay. And how do you determine what questions
15 you're going to ask these people in the investigation?

16 A. It depends on what the allegations were.

17 Q. So when I -- when we talked about the
18 allegations, you had testified earlier that Mr. Foddrill
19 complained about Jose Medina threatening him about the
20 audit, him trying to interfere with the audit
21 information, and then the favoritism of Cisco; is that
22 correct?

23 A. Right.

24 Q. Okay. And then we look over at -- look, for
25 example, at Diana Lopez's affidavit there.

23

1 A. Right.

2 Q. It appears that the first question is about
3 Cisco Systems, and that was a favoritism.

4 A. Uh-huh.

5 Q. And then talks about the contracting services
6 audit. That was the next; is that correct?

7 A. Yes.

8 Q. And then it talks about the relationship
9 between Jose Medina and John Foddrill, and that, again,
10 would fit in with the allegation, correct?

11 A. Yeah, it depends on what is the -- I didn't

12 specifically look at this statement, but typically, yes.
13 The investigator will, you know, line up statements and
14 ask questions depending on what he's found out from
15 other people. Sometimes, as he comes up with new stuff,
16 he'll have to add some questions or go back and ask
17 people questions again.

18 Q. And then on the second page she's asked about
19 the variable; is that correct? Can you tell me how the
20 variable works?

21 A. Yes.

22 Q. Yes. Now, is it your understanding, then,
23 that Mr. Foddrill had raised allegations concerning the
24 variable?

25 A. No, not at that time.

24

1 Q. When -- now, that's what I'm trying to figure
2 out. So when between August 25th of 2005, when
3 Mr. Foddrill came to municipal integrity and filed this
4 complaint, and September 6th of 2005 did the variable
5 come into play?

6 A. You know, there was -- there was another
7 investigation that we had, and it had to do with the
8 telephone issue, and that, I think, had -- was the first
9 time that we heard about this variable thing. And so I
10 think that he was just, you know, wanting to know if
11 this had anything to do with this variable issue.

12 Q. And who was wanting to know?

13 A. This investigator who took this statement.

14 I'm sorry.

15 Q. And who had raised the other complaint about
16 the telephone variable?

17 A. It wasn't -- it wasn't somebody else that
18 raised another complaint about the telephone variable.
19 That was not -- there was nobody else that raised the
20 complaint.

21 Q. Well, who initiated the other investigation?

22 A. Was not based on anything having to do with
23 the telephone variable. It was a completely different
24 issue. It's just we stumbled across it in the course of
25 this other investigation.

25

1 Q. Was that other investigation conducted?

2 A. I don't remember. I'd have to look at the
3 dates.

4 Q. And --

5 A. I want to say it was -- it was prior to the
6 second one -- to this second complaint from
7 Mr. Foddrill.

8 Q. The second complaint. Now, you're calling
9 that a second complaint?

10 A. No, no, no. There was -- I had two complaints
11 at municipal integrity, two formal complaints.

12 Q. Right.

13 A. It was prior to his second complaint. I don't
14 know exactly when.

15 Q. Okay. And now I'm confused, because this
16 complaint right here that --

17 A. Is the first one.

18 Q. Is the first one, August 25th of 2005.

19 A. Right.

20 Q. You're asking questions about the variable on
21 September 6th of 2005 that you said were triggered by
22 another investigation that you now claim came later
23 before his second.

24 A. I don't remember whether it was -- if it was
25 concurrent with this or if it came just before this --

26

1 or, in other words, I'd have to look at the records on
2 this other investigation to find exactly when it was.

3 Q. But it is your testimony that you don't think
4 Mr. Foddrill raised the issue of the variable in his
5 complaint.

6 A. No. I think that we're the ones who raised
7 the issue of the variable.

8 Q. Based on something you were investigating at
9 some time.

10 A. Correct.

11 Q. Okay. So sometime between August 25th of 2005
12 and September 6th of 2005 you believe municipal
13 integrity decided to investigate the variable.

14 A. I think it came to our attention in the course
15 of this other investigation.

16 Q. That's what I'm trying to figure out when you
17 think that -- you think that other investigation was
18 going on at the same time?

19 A. I don't remember. I'm sorry. I don't
20 remember when that other investigation was. Would it
21 help if I did?

22 Q. Well, it would help if you did, because it's
23 not mentioned anywhere in your municipal integrity
24 report that you were also conducting another
25 investigation.

27

1 A. Right, because it didn't have -- that person's
2 complaint was not together with this particular
3 instance.

4 Q. Okay. And you don't have any recollection of
5 what that complaint was about.

6 A. I remember it was in the health department.

7 MS. KLEIN: Your Honor, I'm going to
8 object at this time to the specifics about that
9 investigation, to the extent she has information related
10 specifically to the variable, but she's already
11 testified that investigation was not related to the
12 variable, per se.

13 THE COURT: Objection is relevance?

14 MS. KLEIN: Relevance.

15 THE COURT: How is that relevant?

16 MS. GAUL: Well, Your Honor, she did
17 testify that that investigation is what triggered their
18 investigation of the variable in this investigation.

19 THE COURT: I believe she testified that
20 during the investigation of Mr. Foddrill's complaint and
21 wherein there triggered their own initiating of
22 investigation. Would that be correct?

23 THE WITNESS: In the other investigation,
24 Your Honor --

25 THE COURT: Well, let's get down to the
Page 24

1 basics. You can ask her what -- you can ask her a
2 different question to see whether or not the second
3 investigation by some other person doing some other
4 thing is relevant to this and if she can tell us whether
5 it is or not.

6 Q. (BY MS. GAUL) Okay. I'm going to try again,
7 Ms. Quinn. Okay. August 25th, 2005, Mr. Foddrill
8 files a formal complaint with municipal integrity
9 that you claim doesn't mention the variable.

10 A. And I'm saying that I don't remember when the
11 variable came up. At some point in time we had an
12 investigation that dealt with a telephone issue, and I
13 don't remember when that was. So, I'm sorry, I just
14 don't remember it.

15 Q. That's what I'm trying to figure out. Why,
16 then, on September 6th, 2005, which would have been 12
17 days later, is your investigator, Steve Harrison, asking
18 these people about the variable?

19 A. I don't know.

20 Q. Okay. Okay. So that was the last question
21 that we had ongoing way back to what we were talking
22 about. So are you saying that when your investigator
23 takes an initial statement like he did September 6th
24 here and he goes on to take other ones in September,
25 that if information comes up, then you can investigate

1 some additional allegations?

2 A. Sure.

3 Q. Okay. Okay. Now, let's go back and talk
4 about the third allegation you said Mr. Foddrill made,
5 and that was the allegation that there had not -- had
6 been favortism by Hugh Miller towards Cisco. Is part of
7 municipal integrity -- is there -- in your investigation
8 is there anything that a city employee's not allowed to
9 do as far as favoring a vendor? I know that's a broad
10 question, but what would be considered improper
11 favortism toward a vendor?

12 A. Nepotism.

13 Q. what is -- how do you define nepotism?

14 A. Brother-in-law deals.

15 Q. Okay. Anything else that would be considered
16 favortism that wouldn't be proper?

17 A. Sure. Kickbacks, overcharges, charging to a
18 false address or a false person. There's a whole host
19 of invoicing scams that have been done by various
20 individuals at various times, I suspect.

21 Q. Okay. I'm going to have you turn to the
22 affidavit, and let me find it. Turn to the affidavit of
23 Mike Mitchell, and it's COSA 01134.

24 A. I've got it.

25 Q. Okay. And this appears to be the sworn

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1 statement of Mike Mitchell dated September 9th, 2005; is
2 that correct?

3 A. Yes.

4 Q. And at the beginning of the statement it says,
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5 I am making a statement about alleged misconduct within
6 my department; is that correct?

7 A. I don't remember it saying that, but if you
8 say it does, probably does.

9 Q. Well, I want to take you to the portion at the
10 bottom of that first page of Mr. Mitchell's statement,
11 he's asked if ITSD has ever purchased any Cisco
12 equipment, and he responds about when he wanted to
13 purchase three routers at \$116 per router from their
14 vendor Netopia and that Mr. Miller instructed him to
15 purchase those routers from Cisco for \$2,078 per router.

16 A. Right.

17 Q. Is that an example of when you would say there
18 would be an overcharge?

19 A. Well, it sounds like it, but I was to find out
20 those things were not necessarily the same animal at
21 all.

22 Q. And did you find that out from Mr. Mitchell?
23 'Cause he seemed to believe they were the same at the
24 time he made the statement; is that correct?

25 A. It's my impression, and I don't know exactly

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1 where it is in the documents or how I came about that
2 knowledge, that is because I naturally would be
3 concerned about something that would cost a lot of extra
4 money outside of it. But I found out that those two
5 pieces of equipment have radically different kinds of
6 functioning and, of course, if you listen to the company
7 representatives, they're very proud about their

8 individual products, and they show all the differences
9 and such. But our end result was we came up with the
10 idea that -- or I settled upon the idea that it was a
11 different item all together.

12 Q. Who told you that?

13 A. As I said, it's just an impression that I had
14 that I remember going through the investigation and
15 coming to that conclusion.

16 Q. Because Mike Mitchell is the head of the
17 network department, and he was requesting to purchase a
18 certain router that he felt he needed for the job.
19 would you not rely on his expertise in that?

20 A. It wasn't my call.

21 Q. So that's what I'm trying to find out. Your
22 call was that this allegation of favoritism by Mr. Miller
23 was unfounded, so I'm trying to figure out who relied
24 on --

25 A. If they were the same thing.

32

1 Q. And you didn't find this in Mr. Miller's -- I
2 mean, in Mr. Mitchell's testimony that he felt they
3 were -- were the same thing, that's why he was saying he
4 felt this was misconduct?

5 A. I'm sorry?

6 Q. Well --

7 A. Say it again.

8 Q. Mr. Mitchell testifies that Cisco had charged
9 \$2,078 per router and that Netopia charges \$116 per
10 router.

11 Q. It appears to me he's talking about the same
Page 28

12 routers because he's claiming this was misconduct that
13 he was uncomfortable with.

14 A. And that's why I tell you that I remembered
15 there being -- maybe it was a conversation with my
16 investigator.

17 Q. With who?

18 A. That he told me that he found out that they
19 were different things.

20 Q. Is that in your report anywhere here in this
21 municipal integrity report?

22 A. Like I said, I don't know where it would be.
23 It might be, but I don't know.

24 Q. Okay. And so, again, you made a finding at
25 the end of the municipal integrity report that it was

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1 unfounded; is that correct?

2 A. I did.

3 Q. Now, there was a lot of investigation on the
4 variable account; is that correct?

5 A. Yes, there was.

6 Q. Now, do you ever remember how your other
7 investigation regarding the variable account turned out?

8 A. Are you talking about Mr. Foddrill's other
9 investigation?

10 Q. No. Mr. Foddrill's other investigation had to
11 do with like FEMA time reports and all.

12 A. Right.

13 Q. I'm talking about the one you testified to
14 that triggered the question about the variable in this.

15 A. Well, I don't know that it necessarily
16 triggered it, okay? But it was a thing that came up
17 that was -- that was an item that we -- you know, that
18 caused this question.

19 Q. And at the end of this municipal integrity
20 report, did you make a finding that there were no
21 problems with the variable?

22 A. Like I said, it didn't really focus on the
23 variable. There were other issues in there. I don't
24 remember what the finding was on that other report. I'm
25 sorry. I remember -- I just don't remember.

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1 Q. What was the finding in this report regarding
2 the variable?

3 A. It was unfounded.

4 Q. And how did you come to the conclusion that it
5 was unfounded?

6 A. Well, it was a mess. The variable was just
7 kind of a mess. It was -- we came to decide in the end
8 of it all was that it wasn't very clean bookkeeping. I
9 was never able to say that, you know, there was fraud
10 and that somebody benefited here, okay? And that this
11 person --

12 Q. Let me stop you there. Okay. So, now, I want
13 to make sure. So to be fraud under your definition,
14 somebody had to benefit personally?

15 A. Well, like I said, there's usually a
16 motivation for it, okay? And the motivation is usually
17 personal benefit.

18 Q. How about the other two areas that you

19 investigated as municipal integrity? What about -- was
20 it waste? Was it abuse?

21 A. Waste or abuse? Was it waste or abuse? I
22 didn't even classify it as waste or abuse because it was
23 just sloppiness, basically, is kind of the way I
24 remember finding it is unfounded is that it was just
25 sloppy bookkeeping. I don't think there was any -- if

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1 you read the whole report, the genesis of it was
2 invented as a means to an end in a budgeting issue.

3 Q. Let's talk about what it was. Let's turn in
4 your report. Let me go to the section -- let's find the
5 exact page. Page 8 of the first part of the report,
6 that's COSA 01123.

7 Q. According to the report at the bottom of that
8 page, it was an interview with a Thomas Schmidt, and he
9 informed the investigator that he was one of the people
10 that directly created this variable some 25 years ago,
11 30 years ago.

12 A. Correct.

13 Q. And what he testifies, and you quote from his
14 statement in here in the report, that it was created 25
15 years ago because Southwestern Bell, now SBC, was
16 billing individual departments for their phones, and
17 some of the departments weren't paying their phone bills
18 on time, right?

19 A. Right.

20 Q. So they decided to pool all the phone bills
21 together under one department, each department would

22 still get billed for their phone bills, correct?

23 A. Right.

24 Q. But anything that had to do with joint

25 expenses as part of the process of a variable charge was

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1 added to each phone line as a way to pay the overhead
2 operational cost that could not be assigned to each
3 phone. The overhead included personnel costs and the
4 cost of equipment lines and switches that were used by
5 all departments. And so they couldn't fairly be given
6 to a single department. They were used by all
7 departments.

8 A. Right.

9 Q. So when it was created there was a very
10 specific purpose for this variable and how it was
11 handled; is that correct?

12 A. Well, there really wasn't specific -- that was
13 part of my problem, there really wasn't a specific
14 purpose. It was kind of a lump, all kind of overhead,
15 if you will, charge.

16 Q. But it was overhead associated with these
17 phone bills, right?

18 A. Associated with phone bills and then came to
19 be, well, how about the people who train to fix those
20 phones? Does it cover training? And then, you know, it
21 kind of got to be this, you know, lump all kind of a
22 issue.

23 Q. Where they would then start paying for the
24 trophy case and the remodeling of the office and sending
25 people on training?

1 A. All city purposes, right, all city purposes.

2 Q. So, again, I guess that's my question to you.

3 So as long as they're spending it for city purposes, it

4 doesn't matter where they spend it, how they spend it,

5 or how much they spend.

6 A. It wasn't misappropriated.

7 Q. So you didn't consider --

8 A. That wasn't --

9 Q. -- misappropriated?

10 A. Correct. It was all for city purposes.

11 Q. Okay. And so then at the end of this you

12 felt, even though you had two investigations going on

13 regarding this variable, that there was -- everything

14 was unfounded as to the variable; is that correct?

15 A. Well, it was unfounded as to fraud with the

16 variable, correct.

17 Q. Okay. Was there any finding as to the

18 variable?

19 A. Well, I wrote an e-mail that, you know,

20 basically laid out my position on it. I wasn't very --

21 I didn't think it was very clean. It wasn't handle --

22 it wasn't a good clean business process. There wasn't

23 any way to really track things and make sure that things

24 were handled properly with the variable, okay? It

25 wasn't -- it wasn't anything that Mr. Foddrill did that

1 brought that to our attention.

2 Q. So him bringing this municipal integrity
3 report, you're saying that he had nothing to do with
4 your investigating the variable.

5 A. Right.

6 Q. Okay. Even though it's throughout this whole
7 investigation regarding his complaint.

8 A. It sort of -- like I said, it sort of became
9 an issue because it came up again.

10 Q. So at the end of your municipal integrity
11 report -- I believe it ended around October 10th of
12 2005; is that correct?

13 A. I guess so. I don't know.

14 Q. And did you --

15 A. If you say so.

16 Q. Did you then contact Mr. Foddrill and tell him
17 the investigation had ended?

18 A. I don't know if I did that or not.

19 Q. Is that the normal procedure?

20 A. No, it was not our normal procedure.

21 Q. How would an employee find out what happened
22 regarding his complaint, whether an investigation is
23 over and the case is closed?

24 A. They're open to public record.

25 Q. So he should have been able to get a copy of

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1 that once it was closed in October?

2 A. If he wanted to. Other employees have done
3 that.

4 Q. Would you be surprised to know that he
Page 34

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5 actually did send an open records request for that and
6 was refused access to it?

7 A. I don't have anything to do with any of that.

8 Q. But that would seem odd to you knowing this
9 should have been a public record that he could get to.

10 A. I don't know what the reasons for that are,
11 ma'am.

12 Q. Okay. But my question is -- your
13 understanding is, once you close them, that they're then
14 a public record that the public can get to.

15 A. Unless there are some legal reasons that I'm
16 not aware of.

17 Q. Okay. So at the end of when you closed this
18 municipal integrity report, were you discussing anything
19 with any management people that there was something else
20 that was going to be in the report so therefore it
21 wouldn't be available to the public yet?

22 A. See, that's entirely outside my purview. It
23 goes to the city attorney's office, those public records
24 requests and everything, so it happens out of my line of
25 sight and out of my knowledge and everything, so I

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1 wouldn't even know.

2 Q. That's my question: Did you -- were you
3 involved in anything, anybody tell you, anything you
4 know that somehow this was a different closure of a
5 municipal integrity report than your normal?

6 A. No.

7 Q. Okay. So -- and you don't remember telling

8 Mr. Foddrill that this case had been closed as
9 unfounded.

10 A. I don't remember that. I may have done that,
11 but I don't remember doing that.

12 Q. Okay. So --

13 A. It's possible I did that.

14 Q. After you closed this complaint as unfounded,
15 what's the next thing you remember you did with this
16 municipal integrity investigation?

17 A. You mean after I wrote my final report?

18 Q. Uh-huh. Yes.

19 A. I don't remember doing anything with it.

20 Q. Let's turn to tab 16, and I believe this is --

21 A. I think I sent an e-mail.

22 Q. That's what we're going to talk about.

23 A. Is that what you're getting to?

24 Q. Yes. You just testified you sent an e-mail.
25 what's the date of the e-mail that you sent?

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1 A. I told you about the e-mail earlier.

2 Q. Right, you did. You did.

3 A. November the 29th.

4 Q. Of --

5 A. No, that's Michael Armstrong to me. Oh, it
6 was the same day, actually.

7 Q. So November 29th?

8 A. November the 29th, right.

9 Q. 2005?

10 A. I sent it to Peter Zanonì who was over the
11 financial --

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12 Q. Hang on a second. Let me go back to the date
13 of this. November 29th, 2005. Now, you closed your
14 municipal integrity investigation on October 10th of
15 2005, so about six weeks later you sent this e-mail?

16 A. If that's when you said I closed it, okay.

17 Q. That's my understanding, but let's make sure.

18 A. Right.

19 Q. That's what our date is.

20 A. It's probably true. I'm not exactly sure how
21 we got that date, but that's the date I'm understanding
22 we closed out the investigation. Oh, I know. It's on
23 the first page of the report of the investigation.

24 Q. October 10th, 2005?

25 A. Right.

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1 Q. So that's a date of the report. would it have
2 been --

3 A. Right.

4 Q. -- closed at a later date?

5 A. well, all reports that were closed out by the
6 investigators were given to me for final disposition.

7 Q. And so then some time after that you would
8 have done the final disposition.

9 A. Right.

10 Q. Is that correct? Okay. So now we fast
11 forward to tab 16, and you send an e-mail on November
12 29th, 2005, correct?

13 A. Correct.

14 Q. And you send it to Pete Zanoni, and you were

15 fixing to tell us who Peter Zanoni is before I

16 interrupted you, so go ahead and tell us.

17 A. He's the finance director.

18 Q. Of what department?

19 A. For -- maybe he was budget. I'm sorry, I
20 don't remember. Budget, yeah, I think he was budget.

21 Q. Of what department?

22 A. Budget director.

23 Q. Budget director of what?

24 A. The budget director.

25 Q. Like the big guy.

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1 A. Like the big guy.

2 Q. The big guy, the head budget director of the
3 city.

4 A. Right.

5 Q. Then it's sent to Hugh Miller, and Hugh Miller
6 is --

7 A. He was the ITSD guy.

8 Q. Okay. And Michael Armstrong --

9 A. Right.

10 Q. Okay. And Michael Armstrong was?

11 A. The CIO, Chief Information Officer.

12 Q. And you're reporting -- your subject is
13 outcome of ITSD investigation; is that correct?

14 A. Right.

15 Q. What was the reason that you sent this e-mail?

16 A. Well, just to close it out, to -- because,
17 like I said, those reports came to me and I -- you know,

18 that was the investigator's report to me, and so I

19 followed up with this e-mail as a closeout.

20 Q. Okay. Well, let's look at this e-mail. You
21 say, gentlemen, as I had previously communicated with
22 Hugh Miller, that the investigation had closed; is that
23 correct?

24 A. Right.

25 Q. And was there a reason why you would

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1 communicate with Mr. Miller as to the closing of this
2 investigation?

3 A. 'Cause he was over ITSD.

4 Q. But you don't remember communicating with
5 Mr. Foddrill.

6 A. Well, other than the information that we
7 needed from him during the course of the investigation.

8 Q. And you note that the case file is closed with
9 the notation, quote, lack of evidence/unfounded,
10 correct?

11 A. Right.

12 Q. Okay. And then you go on to say you wanted to
13 close the loop with these gentlemen to communicate your
14 findings on one particular area of concern; is that
15 correct?

16 A. Right.

17 Q. Okay. And then you go on to say that you had
18 discussed with a number of the employees about this
19 variable; is that correct?

20 A. Right.

21 Q. Okay. And what were your concerns about the

22 variable?

23 A. Would you like for me to read what I wrote?

24 It would be easier.

25 Q. Well, no. They'll be able to see the

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1 document, but just what your recollection of what your
2 concerns were.

3 A. Well, I basically laid out our understanding
4 as we came to know it as to how the variable started,
5 the way it started, what the original purpose of it was.
6 And then I said over time it underwent this
7 transformation and ending up being the kind of line item
8 it was in the budget as we knew it when we did this
9 investigation.

10 Q. And let's look at the third paragraph of your
11 e-mail towards the end. You say it begins with the
12 call. You said, because city departments were
13 essentially powerless to protest the charge, the
14 practice has continued; is that correct?

15 A. Right.

16 Q. The largely unsupervised and unregulated
17 billing of departments across the city under the guise
18 of the telephone variable for the last 25 years has
19 resulted in departments having been billed for an untold
20 amount of goods and services from which their department
21 received no benefit or for costs that rightfully should,
22 and put that in the italics, have been borne by ITSD; is
23 that correct?

24 A. Correct, yeah, right.

25 Q. So it was your belief that departments were

1 paying for things they shouldn't have been paying for
2 and that ITSD should have been paying for these.

3 A. Right. Because all of the departments are set
4 up and they all have costs -- I mean, all the
5 departments have costs. ITSD was having some of their
6 costs borne by departments that really didn't benefit
7 from that. In other words, you couldn't draw a direct
8 line, you know, saying, well, this particular training
9 goes to this particular employee who supports this
10 department's telephones, for example. It just -- that
11 line item -- that variable just kind of went out into
12 this sort of nebulous training thing and then was
13 charged out of the variable training for training.
14 There weren't any direct lines, in other words.

15 Q. Do you have any background or familiarity as
16 to how those other departments are funded?

17 A. No.

18 Q. Do you have any background or dealings with
19 grant funding?

20 A. I do.

21 Q. Do you know if any of these city departments
22 that charged this variable were funded by grants?

23 A. Conceivably, yes.

24 Q. And do grants have particular rules and
25 regulations as to how their money is spent?

1 A. Usually, yes.

2 Q. So if some department that's under a grant is
3 being billed for services they don't receive, that could
4 be a problem.

5 A. Yes, could be.

6 Q. You go on to talk in the final paragraph about
7 that no laws or written rules were violated in the
8 administration of the telephone variable because there
9 never were any; is that correct?

10 A. Right.

11 Q. Okay. No laws or written rules. What were
12 you referring to there?

13 A. Well, as far as the purchase laws? Okay. The
14 state purchasing laws about how RFPs are issued and how
15 vendors are engaged and these types of things, and then
16 too, if there are issues that would come up about the
17 variable, usually they would turn up in something like
18 an audit, you know, and then would come out as an audit
19 finding. Is that a law that's broken? No, it isn't a
20 law. It's a finding.

21 Q. How about a written rule? Are there any rules
22 with the city as far as where they can spend -- how do
23 you follow grant rules?

24 A. Well, sure. It depends on which grant it is
25 and what the rules of the grant are and, you know, what

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1 the policies are in the department and such. Am I
2 familiar with all those? No.

3 Q. Well, but you do say here in this e-mail that
4 you're saying no laws or written rules were violated.

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5 A. I didn't know it was going to be that literal.
6 I couldn't see there were any rules or regulations that
7 were intentionally violated. Let's put it that way.

8 Q. But now sitting here thinking about it, there
9 might be some rules or ordinances. There might have
10 been a problem with this variable; is that correct?

11 A. Conceivably, but I just couldn't chase the
12 rabbit down the hole that far.

13 Q. Right. For example, this \$300,000 that was
14 talked about in municipal integrity report, it was a
15 network expense that was charged to the telephone
16 variable. Do you know if that \$300,000 had been
17 approved by city council in an ordinance?

18 A. I don't.

19 Q. But if there had been an ordinance, that's a
20 rule. That's a law. That's the city's laws.

21 A. Sure.

22 Q. Is that correct? Okay. So let's go back to
23 the e-mail. You said, though, here, that it appears
24 that the business practices associated with this
25 variable are unsound and almost certainly contributed to

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1 a laissez-faire fiscal environment in ITSD; is that
2 correct?

3 A. Right.

4 Q. Okay.

5 A. That was the reason for the concern.

6 Q. Right. What did you mean by unsound?

7 A. Well, the fact there wasn't -- what I've

8 already said. There wasn't a lot of accountability and
9 there weren't any clear, you know -- I mean, when you're
10 talking about money, you like to see where things are
11 spent and where they're spent out of and what the lines
12 of demarcation and such, and because this variable was
13 kind of lumped all in together, it didn't have that same
14 kind of clear demarcation.

15 Q. Now, I don't believe there were ever any
16 allegations or any findings of personal gain, but could
17 you assure these gentlemen that that variable had not
18 been spent by anybody for personal gain?

19 A. Well, none of that ever came up with the 25
20 individuals that we spoke with, so is it possible? You
21 know, it's like anything is possible. Martians could
22 have landed last night. Anything is possible. We
23 couldn't find anything.

24 Q. We're a little closer to possible --

25 THE COURT: I'm sorry, Ms. Gaul, I'm

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1 going to have to interrupt your direct, but we can
2 continue again tomorrow at 9:30. I promised that we'd
3 have you out of here by 5, and it's a couple minutes
4 'til. My apologies. Ms. Quinn, if you'll be so kind as
5 to return tomorrow to the 57th, we'd be glad to have
6 you. We are adjourned.

7 (Proceedings adjourned.)

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1 E-X-C-E-R-P-T O-F P-R-O-C-E-E-D-I-N-G-S

2 TESTIMONY OF VIRGINIA QUINN

3 FEBRUARY 5, 2009

4 (Jury in.)

5 THE COURT: You may be seated. Good
6 morning. You're doing very good. Let's get going and
7 use all that energy up. Court now calls 2006-CI-17037,
8 Mr. John E. Foddrill, Senior versus City of San Antonio.

9 Ms. Gaul, I believe that you were still
10 asking questions of Ms. Quinn; is that correct?

11 MS. GAUL: Yes, Your Honor.

12 THE COURT: You may continue.

13 MS. GAUL: Thank you.

14 DIRECT EXAMINATION CONTINUED

15 Q. (BY MS. GAUL) Morning, Ms. Quinn. Welcome
16 back.

17 A. Good morning. Thank you.

18 Q. Could you go ahead and turn to tab 12 in that
19 notebook? This is back to the municipal integrity
20 website.

21 A. Uh-huh.

22 Q. Okay. According to the website, my
23 understanding is that municipal integrity was created to
24 have a formal process for reporting, investigating, and
25 resolving cases of fraud, waste, and abuse, correct?

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1 A. Correct.

2 Q. And we've talked about -- you've given us the
3 information about reporting and investigating. When you
4 do make a finding in municipal integrity -- at the time
5 you were there as the manager, what would you do to
6 resolve the case?

7 A. What I typically did was I wrote a final
8 report and sent it to the director of the department
9 involved and my chain of command through the city
10 manager's office.

11 Q. Now, is municipal integrity a division of the
12 city of San Antonio?

13 A. It is.

14 Q. And then your chain of command goes up to city
15 manager, correct?

16 A. Well, it depends on you're talking about now
17 or then.

18 Q. Okay. No, we need to talk about at the time
Page 46

19 you were manager and at the time this was going on.

20 A. Okay. At the time, yes, I reported directly
21 to the city manager's office.

22 Q. Okay. And municipal integrity could
23 investigate both civil fraud and criminal fraud; is that
24 correct?

25 A. When the case took on a criminal nature, I had

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1 a detective assigned to our office, and he took it from
2 there.

3 Q. But it still was out of your office; is that
4 correct?

5 A. Yes, that's correct.

6 Q. Okay. And then you would work either with the
7 city manager or the departments to resolve any issues
8 that you had; is that correct?

9 A. All I did was I was just a finder of fact, so
10 all I did was report what I found and turn it over.

11 Q. And that's my question. So when the website
12 talks about resolving the cases, then that's what you
13 do. You create a finding of fact that you then turn
14 over to the department so -- departments or the city
15 manager; is that correct?

16 A. That's right.

17 Q. For action.

18 A. Right.

19 Q. Okay. Now, part of municipal integrity's
20 existence at that time was to allow both city employees
21 and the public to make complaints; is that correct?

22 A. Yes. Anyone could make a complaint.

23 Q. Was there any built in protection if a city
24 employee made a complaint to municipal integrity that
25 they wouldn't be retaliated against?

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1 A. There was a policy -- and forgive me, I don't
2 know when it was passed, but it was called an
3 administrative director, and the administrative
4 directive counseled employees about not retaliating
5 against those who would speak up.

6 Q. Now I'm going to have you turn to tab 23. I
7 believe there had been some testimony yesterday that
8 Mr. Foddrill filed a second complaint; is that correct?

9 A. That's right.

10 Q. Okay. And when was the date that that
11 complaint was initiated?

12 A. January 17th, 2006 at 11:45 a.m.

13 Q. Okay. I'm going to have you turn to the final
14 report. It's on page COSA 742 is where it starts.

15 A. Yes.

16 Q. Okay. And then if you'll just turn to the
17 next page. When was the final report prepared?

18 A. February the 2nd, 2006.

19 Q. February 22nd?

20 A. February 22nd.

21 Q. 2006; is that correct?

22 A. Yes.

23 Q. Okay. According to this final report, I
24 believe it came from you directly; is that correct?

25 A. Yes.

1 Q. Okay. And in the final report it talked about
2 Mr. Foddrill had brought four issues in this report; is
3 that correct? If you'll look under allegation on that
4 page, COSA 00743. E-mailed a list of four issues he
5 wanted investigated?

6 A. That's what I'm looking for.

7 Q. First sentence it says on January 17th --

8 A. Right. It said two of them appeared to be
9 human resources --

10 Q. Okay. I'll get to those questions, but my
11 first question is he e-mailed four issues; is that
12 correct?

13 A. Yes.

14 Q. Okay. And then you go on to say that two of
15 those issues appeared to be human resources related; is
16 that correct?

17 A. Correct, yes.

18 Q. So that you consulted with human resources
19 administrator on January 25th and she agreed that human
20 resources would investigate those complaints, correct?

21 A. Correct.

22 Q. And one of those complaints that she was to
23 investigate was the fact that Mr. Foddrill had said he'd
24 been brought into the office with Mr. Miller,
25 Mr. Armstrong and Ms. Gonzalez and told that he was an

1 embarrassment to the department; is that correct?

2 A. I didn't -- I'm sorry, I don't remember. I'm
3 sure that that's right, but I don't remember reading
4 that.

5 Q. Okay. Let's go back to COSA 740, number 1.

6 A. Number 1. Supervisory retaliation on behalf
7 of Michael Armstrong and Diana Gonzalez because Foddrill
8 went to OMI with unfounded allegations in 2005. He
9 believes retaliation violated the whistleblower act.

10 Q. So that was one of the issues you turned over
11 to human resources for investigation; is that correct?

12 A. That's right.

13 Q. Why did you do that?

14 A. Well, because of the fact that, you know, he
15 was raising a retaliation issue, and that was the kind
16 of thing that human resources would deal with.

17 Q. So the fact he was raising a retaliation for
18 going to municipal integrity, that wasn't something that
19 you would investigate?

20 A. Well, I believe that this was vetted with my
21 staff, and it's hard for me to remember exactly. I
22 remember speaking with Nancy Trevino and her offering
23 the kinds of alternatives, the kinds of intervention,
24 things that seemed appropriate at the time, so how we
25 actually got there, I don't exactly recall, but I was

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1 confident that that was going to be addressed.

2 Q. And it does say in your report, on
3 February 22nd of 2006, that human resources said they
4 would investigate those complaints and issue their own

5 report of findings, correct?

6 A. Yes.

7 Q. And did they issue those report of findings?

8 A. I have no idea.

9 Q. You never followed up?

10 A. Off my radar, not in my scope of -- I don't --

11 in other words, I don't tend after their business.

12 Q. Turn to tab 10. This is a chronology coming
13 out of the human resources office, and if you'll look at
14 page 5 of 6 of tab 10, that's COSA 00940?

15 A. Okay.

16 Q. According to your report, you talked with
17 Nancy Trevino on January 25th, 2006, and it doesn't
18 appear to be documented in human resources that
19 conversation, nor does a report or investigation
20 regarding that allegation ever appear in the human
21 resources chronology. Does that surprise you?

22 A. Well, it says that Steve Harrison told Kelly
23 Gray, who was a human resources person, that municipal
24 integrity was going to investigate 2 and 3 and that in
25 Mr. Foddrill's e-mail and ITSD was going to address 1

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1 and 4.

2 Q. And then that was -- that was shown on
3 January 20th of 2006; is that correct? If you'll go
4 back one page, that entry's dated January 20th of 2006.

5 Q. It says Kelly Gray received a call from Steve
6 Harrison's office of municipal integrity. Mr. Foddrill
7 sent an e-mail to Ms. Quinn on January 17th with the

8 subject line whistleblower act violation, e-mail
9 referenced four issues. And then Steve Harrison
10 informed Kelly Gray that municipal integrity was going
11 to investigate issues 2 and 3 that were outlined in
12 Mr. Foddrill's e-mail and IT -- and for ITSD to address
13 issues 1 and 4. Not human resources, ITSD.

14 A. Well, you'll understand that human resources
15 representatives were each assigned to the departments,
16 and so it's really kind of a semantics thing. The human
17 resources person Toshua Larkins was assigned to ITSD,
18 and so --

19 Q. well, but that's not who you talked to. You
20 talked to Nancy Trevino, right?

21 A. I talked to Nancy Trevino. She was ultimately
22 the -- see, the way the human resources works is that
23 they have department representatives in all the
24 departments, and so when Nancy Trevino is sort of the
25 top of the ladder, so she's kind of the mother ship, for

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1 lack of a better word, and all of the other
2 representatives are on the departments. So if you say
3 that ITSD was going to investigate it, I would take a
4 step further and think that that would probably be
5 Toshua Larkins.

6 Q. And, in fact, Toshua does document in this
7 chronology everything she's done up to that point, but
8 after that entry there is no entry of any investigation
9 as to that complaint.

10 A. Okay.

11 Q. And you never followed up on that.

QUINN TESTIMONY.txt

12 A. It wouldn't be my place to do that.

13 Q. And, in fact, in this municipal integrity
14 report that's at tab 23, none of the witnesses are asked
15 about those two issues; is that correct?

16 A. I don't know off the top of my head, but if
17 you say that's right, I don't doubt that.

18 Q. What you did investigate this request for
19 hours for the FEMA evacuation issue; isn't that correct?

20 A. That's right.

21 Q. And then the Alexander Utility Engineering
22 contract?

23 A. That was looked into as well.

24 Q. Okay. And it was determined this, too, was
25 unfounded; is that correct?

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1 A. Correct.

2 Q. And I'll have you turn to tab 41, and do you
3 recognize that document?

4 A. I do.

5 Q. And that is a memo from you to the file; is
6 that correct?

7 A. Yes.

8 Q. What's the date of that memo?

9 A. May the 25th.

10 Q. Of what year?

11 A. 2006.

12 Q. What does your memo say?

13 A. It says, closed, unfounded, draft dated
14 February 22nd in file.

15 Q. So on February 22nd, 2006, you prepared the
16 report and then you closed the file unfounded on
17 May 25th, 2006?

18 A. That's right.

19 Q. Okay. Why the delay between February and May?

20 A. I don't remember.

21 Q. And then back to tab 12 again as to human
22 resources -- not 12, I apologize. Tab 10, human
23 resources chronology. And at the bottom of page 2 of
24 6 --

25 A. I'm sorry, I don't recognize this document.

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1 Q. And I understand that. It's not something you
2 prepared. It's already been put into evidence. That's
3 why I'm having you refer to it. And I understand you
4 wouldn't have seen this. This is a human resources
5 chronology.

6 A. Oh, okay.

7 Q. But I just want you to note at the bottom of
8 page 2 of 6, which is COSA 00937, it does state in this
9 chronology that you and Mr. Harrison advised
10 Mr. Foddrill on October 10th, 2005 of the outcome of the
11 investigation.

12 A. Concludes which investigation?

13 Q. This would have been with the first one.

14 A. The first one, okay.

15 Q. And I know you testified you couldn't remember
16 whether you talked to him or not, but human resources
17 seems to think that you and Mr. Harrison did talk to
18 Mr. Foddrill on October 10th of 2005.

19 A. Okay.

20 Q. And that -- you don't have one memory right
21 now one way or the other; is that correct?

22 A. No. I don't -- I don't know -- I can't
23 testify to the accuracy of their documentation.

24 Q. Sure. Sure. Okay. Let's go back to -- have
25 you flipping all over the place. Let's go back to tab

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1 23, the second report. It appears you followed the same
2 procedure you had done before interviewing witnesses,
3 preparing a report, and making a finding; is that
4 correct?

5 A. Right.

6 MS. GAUL: At this time, pass the
7 witness. Thank you, Ms. Quinn.

8 THE COURT: Your witness.

9 CROSS EXAMINATION

10 Q. (BY MS. KLEIN) I'd like to go back to the
11 start of your testimony yesterday. You gave some
12 background as to what you've been doing currently.
13 Before you came to the city of San Antonio, what was
14 your work experience?

15 A. I was a captain with the Harris County
16 Sheriff's Office for 22 years.

17 Q. For 22 years?

18 A. Uh-huh.

19 Q. And did you have a background in investigation
20 before you came to work for the office of municipal
21 integrity?

22 A. Sure.
23 Q. Okay. Now, you told the jury about
24 Mr. Foddrill coming to your Christmas party at the
25 request of a mutual acquaintance, correct?

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1 A. Right.
2 Q. And that you'd been asked to give a reference
3 for Mr. Foddrill coming to work at the city. Do you
4 recall testifying to that?
5 A. You said mutual acquaintance, and really he
6 was kind of a family member of Mr. Foddrill, from what I
7 understood.
8 Q. Okay. But he was someone who you had worked
9 with --
10 A. He was a good friend of mine, yes.
11 Q. Okay. And you had been contacted to actually
12 give Mr. Foddrill a sort of a reference for his
13 application for the job with the city, correct?
14 A. Right.
15 Q. During that same time period before
16 Mr. Foddrill was actually hired, did you have any
17 further contact with Mr. Foddrill?
18 A. I did.
19 Q. What was that about?
20 A. He called me to ask me about the hiring
21 process over at ITSD, because he said that there were
22 some unusual things going on over there. It had to
23 do -- I remember he said that he was offered the
24 position, and then they withdrew the offer and it was
25 just kind of a mess, and he wanted to complain about it.

1 Q. Did he discuss with you possibly filing a
2 grievance at that time?

3 A. He did.

4 Q. And what advice did you give him concerning
5 that?

6 A. Well, as I recall, he asked to file an
7 employee grievance, and I said, well, you're not an
8 employee yet.

9 Q. So before -- I'm sorry. Go ahead. Are you
10 finished?

11 A. Yeah, that's it. I'm sorry.

12 Q. So before he even came into employment with
13 the city of San Antonio, he was wanting to file a
14 grievance as an employee.

15 A. Yes.

16 Q. Now, let's take a look at the first report,
17 which is at tab 13. It's the head of the office of
18 municipal integrity. Did you ever instruct any of your
19 staff to cover up any portion of this investigation?

20 A. No, I didn't.

21 Q. Did you ever instruct anybody in your staff to
22 be sure and not to make findings against any city
23 employee, director, anything of that sort?

24 A. I don't do that, no, ma'am.

25 Q. In your career -- I believe you testified

1 yesterday that you'd been with the office of municipal
2 integrity for, what, nine years?

3 A. Almost.

4 Q. During that time period did you ever have
5 occasion to actually -- let me rephrase that. Were you
6 ever afraid or felt that you could not bring charges or
7 make a finding against a city employee or a city
8 director?

9 A. You mean during the time that all this
10 happened? No, I was not.

11 Q. Okay. Thank you. Now, Steve Harrison
12 actually conducted the investigative part of the -- or
13 the investigation itself, correct?

14 A. Correct.

15 Q. At any point in time were you ever -- while
16 that investigation was going on, were you ever
17 questioned as to whether or not you would have
18 impartiality in performing this investigation?

19 A. No.

20 Q. Were you ever contacted by the then city
21 manager, Mr. Bono, concerning whether or not you could
22 be impartial on this investigation?

23 A. Yes, I was.

24 Q. Could you tell the jury about that
25 conversation, please?

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1 A. Mr. Bono was the acting city manager at the
2 time, and he was my direct boss, and he called me up one
3 day wanting to know was I -- was my office investigating
4 this case with Mr. Foddrill, and I said yes, and he

5 said, you know, I understand that Mr. Foddrill is making
6 claims that he's been to your house for a Christmas
7 party and he's got this in the bag. And I said, well,
8 that's just -- I said, he has been to my house for a
9 Christmas party, and I explained the circumstances, and
10 I said, however, that doesn't mean anything as far as
11 the investigation goes. It has no bearing on the
12 investigation whatsoever.

13 Q. So were you swayed either by the fact it was
14 Mr. Foddrill who filed this complaint or by the fact of
15 who he was making the complaints about when it came down
16 to getting a final determination on these claims?

17 A. No, ma'am.

18 Q. I'd like to just touch on a couple of things
19 contained in that first report, if I could.

20 A. Uh-huh. This one on tab 13?

21 Q. Tab 13.

22 A. Okay.

23 Q. With respect to the allegation that Mr. Medina
24 had made threats to John Foddrill, there was some
25 testimony about that yesterday, and I just want to

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1 clarify that. It's my understanding that really the
2 only evidence you had concerning those allegations was
3 Mr. Foddrill's word versus Mr. Medina's word, correct?

4 A. That's what it boiled down to, yes, ma'am.

5 Q. Back in your days of law enforcement, would
6 the fact that you had one person saying, I've been
7 assaulted, and the other person saying, no, I didn't do

8 it, you have no other evidence, would that have been
9 sufficient for you to have arrested and incarcerate
10 somebody for assault?

11 A. Well, a lot of times there's other evidence,
12 you know, if you're talking about an assault case,
13 you're talking about bruises or torn clothing. There
14 wasn't even any bodily contact between these two, and it
15 didn't rise to the level of like a terroristic threat.
16 He wasn't -- didn't say anything like, you know, I'm
17 going to set fire to your house or something like that.
18 It wasn't any -- it was an employee to employee brew ha
19 ha, basically, is the way I could see that. And the
20 fact they were both on good terms after that, that they
21 kind of put it aside, sort of sealed the deal, if you
22 will. I knew there was some kind of a confrontation.
23 I couldn't find out exactly what it was without a
24 recording, and so it was unfounded.

25 Q. If I could, on tab 13 could you turn to

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1 page COSA 01132? C-O-S-A. It's back a little ways
2 after the sworn statements.

3 A. Got it.

4 Q. Okay. On that page -- that is a portion of
5 the voluntary statement of John Foddrill, correct?

6 A. Yes.

7 Q. Okay. I'd like you to take a look at the
8 first full paragraph starts, my discovery.

9 A. Yes.

10 Q. And the next sentence states, on or about
11 June 16th, 2005 while working late in the evening, I

12 told Jose Medina about the billing problems I discovered
13 and problems we were having covering repair tickets that
14 had been turned away by the customer services group, and
15 I couldn't keep doing business the way we were. Do you
16 see that?

17 A. Yes.

18 Q. And that is the alleged incident when
19 Mr. Medina threatened him, correct?

20 A. Correct.

21 Q. And that was June 16th, right?

22 A. Yes.

23 Q. And when did Mr. Foddrill make this report to
24 municipal integrity? You can look at the cover
25 page again.

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1 A. All the way in the beginning. August the
2 25th.

3 Q. So that was more than two months after this
4 alleged threat, correct?

5 A. Yes.

6 Q. Did Mr. Foddrill bring you any evidence that
7 between June 16th, 2005 and August 25th, 2005 -- that
8 Mr. Medina had, in fact, carried out this threat? Done
9 something --

10 A. No.

11 Q. -- to -- something to make him sorry?

12 A. No.

13 Q. Okay. would that have been some evidence to
14 support his claim?

15 A. Ostensibly, yes.

16 Q. Now, for a moment I'd like to just talk about
17 the variable. We talked about that yesterday?

18 A. Yes.

19 Q. Do you have any recollection that Mr. Foddrill
20 ever reported that any specific grant rule had been
21 violated?

22 A. No.

23 Q. If, in fact, he had said to you, I know
24 there's a grant at the police department, and I believe
25 those rules have been violated, what steps would you

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1 have taken in this investigation?

2 A. Would have looked specifically at what he
3 alleged was the violation.

4 Q. Do you recall him even -- even making the
5 allegation that grant rules had been violated even that
6 broadly?

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

8 Q. Okay. Let's turn -- let's go ahead and look
9 at the second complaint which was at P23.

10 A. Got that one memorized now.

11 Q. Was it unusual -- if you saw someone coming in
12 with a complaint that somebody had more of an employment
13 matter -- was it unusual for you to ask HR to step in at
14 that point?

15 A. No.

16 Q. On that second report, let's talk about the
17 FEMA records that Mr. Foddrill claims had been tampered
18 with. Do you know what sort of investigation was taken

19 with respect to those FEMA records?

20 A. I do, yes.

21 Q. Can you explain that to the jury, please?

22 A. Sure. When the city of San Antonio accepted
23 the Katrina evacuees, the FEMA evacuees, it was a
24 first-time thing for the city. We didn't know what to
25 do, so we were all kind of scrambling. They set up

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1 emergency shelters out at Kelly Air Base, and they
2 started doing things like hiring contractors for
3 portable air compressors and all kinds of things. So
4 the city was tasked to do something we had never done
5 before, and the people who were called upon to go out
6 there to be part of the set-up out at Kelly field that
7 included things like telephones, like electricians and
8 plumbers, and all the kinds of things to make the
9 housing out there okay for the people who were going to
10 be temporarily housed.

11 All of those people, of course, were city
12 employees, and so they all had to be paid. And so
13 nobody knew, however, because we'd never done this
14 before -- nobody knew that -- that the exempt employees,
15 the managerial employees, were going to be paid any more
16 than they normally were with their regular salaries.
17 And that later turned out to be the case, that the
18 government was going to -- we found out later on into
19 the thing that -- into the part -- way into the
20 evacuation thing itself, as the payroll records started
21 to accrue, that the supervisors were going to be paid

22 over and above their regular salaries for all of the
23 overtime that they themselves contributed.

24 Q. So --

25 A. In overtime capacity.

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1 Q. So as far as when you got this complaint from
2 Mr. Foddrill --

3 A. Right.

4 Q. -- what sort of an investigation did your
5 office do to determine whether or not there had been
6 fraud related to his FEMA records?

7 A. Well, that's what we did is we started
8 interviewing some of the people from ITSD, and we
9 started pulling the payroll records and talking to the
10 people who had the wherewithal to know how those pay
11 records were handled and how -- you know, how the
12 government paid them and those types of things, so we
13 just started -- you know, took accurate records.

14 Q. And were the records reviewed in detail?

15 A. Yes, they were.

16 Q. Do you recall having received telephone
17 records for Mr. Foddrill's cell phone?

18 A. Yes.

19 Q. And what importance would that have?

20 A. Well, it was my understanding that
21 Mr. Foddrill was not at Kelly most of the time, that
22 there were some ITSD personnel who were deployed to
23 Kelly, but Mr. Foddrill was supposed to be working from
24 his home most of the time.

25 Q. And did the cell phone records assist you in

1 any way in determining whether his hours submitted were
2 inappropriate?

3 A. Yes.

4 Q. In what way?

5 A. Well, you know, it's hard when you're trying
6 to work backwards and trying to piece together hours,
7 okay? Mr. Foddrill, I believe, had applied for like 96
8 hours of overtime. However, when we -- what they went
9 to look at the -- my investigator sat down with all the
10 pay sheets and the telephone records and such, and
11 because he was working out of his house on his city cell
12 phone, he took all those times of the phone calls that
13 he made relative to the Katrina FEMA effort, and even
14 piecing together the times in between all of those phone
15 calls and giving him the benefit of the doubt, all of
16 those phone call times in between, it was about 55
17 hours.

18 Q. And just so we're clear on the allegation
19 concerning these FEMA hours, Mr. Foddrill was not
20 accusing the city of having taken too much money from
21 the federal government, overcharging the federal
22 government, was he?

23 A. No.

24 Q. His claim was that basically we undercharged
25 the federal government.

1 A. That's right.

2 Q. Did you have any involvement in the
3 investigation concerning the complaints on Alexander
4 utilities?

5 A. That was the second part of this.

6 Q. Okay. And do you recall what your office
7 undertook to determine the validity of that complaint?

8 A. Well, it dealt with -- yes. It dealt with a
9 contract with Alexander Utility Engineering and how that
10 came about. It was the -- the selection process for the
11 contract.

12 Q. Okay.

13 A. And you want me to tell --

14 Q. If you could generally tell what you did as
15 far as the investigation, what sort of information you
16 gathered.

17 A. Okay. The investigator talked with everybody
18 who was involved in the selection process and looked at
19 all of the paperwork that was generated for that during
20 the selection process. They have like a scoring
21 mechanism and comments and things that were -- that the
22 members wrote down.

23 Q. And if I could turn your attention under tab
24 23 to COSA 00745.

25 A. Uh-huh.

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1 Q. The very bottom of the page, I'll represent to
2 you there was an allegation by Mr. Foddrill that when he
3 tried to object to the process, he had been shouted
4 down. Are you familiar with that allegation?

5 A. Yes.

6 Q. And if you could for the jury read what your
7 finding was, the last sentence on COSA 00745 going on to
8 00746.

9 A. It says that all the individuals interviewed
10 denied that ITSD contract coordinator Robert Valdez
11 shouted down dissenting opinions, as Mr. Foddrill
12 claims.

13 Q. And then goes on also to say that Mr. Foddrill
14 was a member of the committee, correct?

15 A. Correct.

16 Q. Mr. Foddrill himself was a member of the RFP
17 committee and voted for the selected vendor. He made no
18 notation of any reservations he may have had with the
19 process on the documentation. Was that the sort of
20 evidence that you relied upon in determining these
21 claims were unfounded?

22 A. And interviews from the other members, yes.

23 Q. Now, you testified a little while ago you did
24 this letter on -- or the memo on February 22nd, 2006,
25 but the actual formal closing of the file wasn't until

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1 sometime in May, correct?

2 A. Yes.

3 Q. Was that unusual to have some lapse between
4 the time that you might finish an investigation and the
5 time you close it?

6 A. Not necessarily. Just depends on what else
7 was going on at the time that was a priority issue.

8 Q. And if further information came in to you
9 after February 22nd, 2006, would you have looked into
10 that further?

11 A. Sure. And I was -- I regularly reopened cases
12 and added, you know, points and bullets that needed to
13 be investigated.

14 Q. I'd like to turn your attention back to tab 10
15 now. This is the document you discussed with Ms. Gaul
16 earlier.

17 A. Yes. It's the human resources chronology.

18 Q. Okay. And that's what Ms. Gaul referred to it
19 as, but there's nothing on this document to actually say
20 that it's the human resources chronology, is there?

21 A. No.

22 Q. And you've never seen this document before?

23 A. No.

24 Q. You have no knowledge of Nancy Trevino
25 participated in the creation of this document, do you?

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1 A. No.

2 Q. You don't know if Nancy Trevino ever even saw
3 this document, do you?

4 A. Don't know.

5 Q. And can you make out -- I know these are
6 copies we have. But on each of these pages there's what
7 we would refer to as a watermark across it. Do you know
8 what I'm talking about?

9 A. Yes, uh-huh.

10 Q. What does that say?

11 A. It says draft.

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12 Q. So this would not be a final time line
13 according to its face; is that correct?

14 A. I wouldn't think so, no.

15 MS. KLEIN: We'll pass the witness.

16 THE COURT: Redirect?

17 MS. GAUL: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 Q. (BY MS. GAUL) Ms. Quinn, tab 10, do you see
20 at the bottom it says COSA 00936?

21 A. Yes.

22 Q. Okay. And do you have any reason to --
23 sitting here today, to know why the city of San Antonio
24 would provide a document in discovery that wasn't a true
25 document?

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1 MS. KLEIN: Objection, Your Honor. I've
2 never indicated this was not a true document.

3 MS. GAUL: That's exactly what the
4 questioning was about challenging the document, so I
5 want to see what her knowledge is with whether this is
6 not a correct document.

7 THE COURT: well, ask that question.

8 Q. (BY MS. GAUL) Do you have any reason to
9 believe this is not a correct document?

10 A. I really don't know anything about this
11 document, ma'am.

12 Q. Okay. Let's go back to the FEMA hours. You
13 said that in your investigation of municipal integrity
14 that you pulled Mr. Foddrill's cell phone records to

15 determine if his hours were correct.

16 A. That's right.

17 Q. For what period of time did you look at his
18 cell phone records?

19 A. You mean over how many days were they looked
20 at or --

21 Q. Yes, ma'am.

22 A. I don't know that. I mean, I don't know how
23 long it took to put all this information together. Is
24 that the question you're asking?

25 Q. No. The question is how many days of cell

79

1 phone records --

2 A. Oh, what period of time over the cell phone
3 records. I don't know that off the top of my head
4 either. Sorry.

5 Q. Could you turn to tab 24, and I'll tell you
6 Mr. Foddrill has testified that he submitted requests
7 for reimbursement for the date September 2nd, 2005 --

8 THE COURT: I'm sorry, Mrs. Gaul, are you
9 asking for her personal knowledge and not necessarily
10 informing her of somebody else's testimony?

11 MS. GAUL: No. I'm leading up to a
12 question.

13 THE COURT: Okay. Let's get to the
14 question.

15 Q. (BY MS. GAUL) Okay. Ms. Quinn, this
16 document shows that Mr. Foddrill submitted requests
17 for time from September 2nd, 2005 through October 4th
18 of 2005. Did you pull the cell phone records for all

19 of those dates?

20 A. I did not do that. My investigator did, Steve
21 Harrison.

22 Q. Did he pull for all of those dates, to your
23 knowledge?

24 A. I don't know.

25 Q. Do you know if he pulled Mr. Foddrill's home

80

1 telephone records?

2 A. I don't know.

3 Q. And you did testify he was working from home.

4 A. Yes. That's what he said.

5 Q. And do you know if he pulled Mrs. Foddrill's
6 cell phone records?

7 A. I don't -- I don't remember hearing anything
8 about Mrs. Foddrill.

9 Q. Do you know if he pulled Mr. Foddrill's pager
10 records?

11 A. I don't know.

12 Q. And your testimony is that municipal integrity
13 took these cell phone records and figured out, even
14 including the time in between, that there could only be
15 55 hours possible that he could have worked.

16 A. And what we also did, though, was compare
17 those hours against everybody else who was similarly
18 situated out there.

19 Q. And one of those people was Mike Mitchell;
20 isn't that correct?

21 A. Yes.

22 Q. Mr. Mitchell testified he didn't keep track of
23 his records.

24 MS. KLEIN: Objection, Your Honor.

25 There's been no testimony from Mr. Mitchell in this

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1 case.

2 THE COURT: We don't have a question.

3 Ask the question.

4 Q. (BY MS. GAUL) The question is: In your
5 municipal integrity report, Mr. Mitchell made an
6 affidavit and said he didn't keep track of his
7 records, correct?

8 A. That's correct.

9 Q. So how could you compare Mr. Foddrill's
10 records to Mr. Mitchell's who never kept records?

11 A. Mr. Mitchell submitted for 12-point something
12 hours.

13 Q. But he didn't keep record of all of his time,
14 correct?

15 A. That's what he estimated.

16 Q. Now, that's another question. He estimated
17 and he was allowed to estimate, and there was no problem
18 with that.

19 A. No, there wasn't any problem with that.

20 Q. And, in fact, eventually the city bumped his
21 hours up to about 40-something hours and submitted it to
22 FEMA, correct?

23 A. Correct. According to the testimony that we
24 had from other people who were out there at Kelly field,
25 he was out there just about, you know, hour to hour. He

1 was there around the clock practically and grossly
2 misstated his -- under-shot his hours that he was
3 present there.

4 Q. How many hours total was he working on the
5 project?

6 A. I don't know how many hours he ended up being
7 credited with, but all the information that we got from
8 the other people said that he was there a long time.

9 Q. Now, you're just talking about that first
10 weekend, aren't you?

11 A. Yes.

12 Q. Of the Labor Day weekend.

13 A. Yes.

14 Q. Were you aware Mr. Foddrill continued to work
15 on this project for the next month?

16 A. I only know the information that was gathered
17 in the report, ma'am.

18 Q. Do you know how long the evacuation process --
19 how long were the evacuees in those locations?

20 A. It was a long time. I have no idea. It was
21 just for --

22 Q. Months?

23 A. Yeah, it was a long time, yeah.

24 Q. And a lot of city employees got checks; isn't
25 that correct?

1 A. They did.

2 Q. And some of the fire department and the police
3 department got big checks for their time; isn't that
4 correct?

5 A. They did.

6 Q. Some up to the ranges of thousands of
7 thousands and dollars, right?

8 MS. KLEIN: Objection, Your Honor,
9 relevance.

10 THE COURT: well, she testified she knew
11 about this. But how is the fire department or the
12 police department relevant to Mr. Foddrill's case here
13 today, Ms. Gaul?

14 MS. GAUL: Okay. I'll move on.

15 THE COURT: Thank you.

16 Q. (BY MS. GAUL) Okay. Let's talk about -- in
17 the end it was your finding of municipal integrity
18 that Mr. Foddrill's claims that his hours were
19 under-reported was unfounded, correct?

20 A. Yes. But understand, the contest was at the
21 beginning of that time period, because we hadn't ever
22 taken those -- we had never -- he didn't get used to
23 recording those hours. After we got used to the FEMA
24 forms, then it got to be no problem. But it was those
25 first couple of weeks that, you know, the reporting

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1 period in there that was really of contest, because
2 nobody knew how to take those hours, how to record them.

3 Q. well, according -- let's go back here, tab 24,
4 and the last page of tab 24. Mr. Foddrill testified

QUINN TESTIMONY.txt

5 that his concern arose in December, late December of
6 2005 when he was still submitted these reports that
7 under-reported his hours. were you aware of that?

8 A. I'm sorry, I'm not familiar with this
9 document. I don't know what it is.

10 Q. You've never seen this document that was part
11 of the municipal integrity investigation?

12 A. I would not have individually, you know,
13 reviewed that. I might have reviewed it at the time,
14 but it doesn't mean anything to me right now.

15 Q. Okay. You testified that if Mr. Foddrill
16 would have mentioned to you that there might be a
17 problem with grants and the variable, that you would
18 have looked into that; is that correct?

19 A. Specific information, if he brought up
20 specific information, yeah, I feel sure we would have
21 looked into that.

22 Q. Well, yet you testified it was your department
23 that started the investigation on the variable; is that
24 correct?

25 A. Yes.

85

1 Q. Had you ever looked into the grant issue
2 regarding the variable?

3 A. Yes.

4 Q. what did you find?

5 A. well, the same kind of thing came up with
6 the -- you know, revealed the whole variable thing was
7 kind of a big lumped in financial mess, basically.

8 Q. When Mr. Bono called you about Mr. Foddrill's
 9 statement, did you talk to Mr. Foddrill about that?
 10 A. I did not.
 11 Q. Did you note that in your investigation?
 12 A. No, I did not.
 13 Q. So you never asked Mr. Foddrill his side of
 14 whether he had said that?
 15 A. No, I did not.
 16 Q. And back to the hiring process. Were you
 17 aware that a complaint had been filed regarding the
 18 initial hiring of Mr. Foddrill?
 19 A. Mr. Foddrill told me.
 20 Q. So you never talked to Diana Lopez to see if
 21 she had filed a complaint about it?
 22 A. No. I don't believe I did. I don't remember
 23 if I did.
 24 Q. And finally, what reference did you give for
 25 Mr. Foddrill when you were asked by your friend to do

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1 that?

2 A. All I -- all I wanted to do was make sure they
 3 saw his resume, that it was one of the ones they were
 4 looking at. Our human resources department has been
 5 known to pass over some really good candidates, and
 6 somehow or another the resumes never make it through to
 7 the final blush, and I just wanted to, you know, see if
 8 they had his resume. And, like I said, they already
 9 did, so that's the only thing I did.
 10 Q. Okay.

11 MS. GAUL: That's all I have. Thank you.
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12 Pass the witness.

13 THE COURT: Any recross?

14 MS. KLEIN: We have nothing further, Your
15 Honor.

16 THE COURT: May this witness be excused?

17 MS. GAUL: Yes, Your Honor.

18 THE COURT: Ms. Quinn, you're still under
19 the rule. The rule's been invoked. Please don't speak
20 about this case at all until the case is finalized.

21 It's been a pleasure having you.

22 THE WITNESS: Thank you, ma'am.

23

24 (End of excerpt.)

25

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1 STATE OF TEXAS

2 COUNTY OF BEXAR

3

4 I, Kayleen Rivera, Certified Court Reporter in
5 and for Bexar County, State of Texas, do hereby
6 certify that the above and foregoing contains a true
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9 occurred in open court or in chambers and were
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12 I further certify that the total cost for the
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