

STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

Hon. Tracy E. Green
Third Circuit Court
Detroit, Michigan

Formal Complaint No. 103
Volume 8

P R O C E E D I N G S

held before the Special Master Hon. Betty R. Widgeon (P32596)
via Zoom, in Michigan, on Monday, September 27, 2021,
commencing at or about 9:29 a.m.

APPEARANCES:

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REPORTER: Elsa J. Jorgensen, CSR-6600

ALSO PRESENT: Hon. Tracy E. Green;
Ms. Cassandra Drysdale-Crown, Assistant
Attorney General; and others via livestream

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T A B L E O F C O N T E N T S

Volume 8, Monday, September 27, 2021

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1 S E P A R A T E R E C O R D

2 (At 9:44 a.m., beginning of separate record.)

3 THE MASTER: All right. We are in the
4 separate room at this time, and I am going to record
5 this, but it is not going to be livestreamed, in case
6 there is a need for a backup to Ms. Jorgensen's
7 transcript for the separate record.

8 All right. I'm ready for you to proceed,
9 Ms. Weingarden.

10 BOBBI JO FERGUSON,
11 at 9:44 a.m., after having been first duly sworn was
12 examined and testified as follows:

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

14 BY MS. WEINGARDEN:

15 Q. Good morning, Ms. Ferguson.

16 A. Good morning.

17 Q. Except for the time you testified, have you and I had
18 any communication with each other?

19 A. No.

20 Q. Have we communicated through Attorney Cassandra
21 Drysdale-Crown?

22 A. In regards to receiving a subpoena and so forth, yes.

23 Q. Did you and Ms. Drysdale-Crown go through some questions
24 that I provided to her in anticipation of your testimony
25 today?

1 A. I'm sorry. You were breaking up.

2 Q. All right. I'll say it again.

3 Did you and Ms. Drysdale-Crown go through some
4 questions that I submitted to her in anticipation of
5 your testimony today?

6 A. I did receive some questions, yes.

7 Q. Okay. Have you reviewed all of the unredacted CPS
8 investigative reports related to this case?

9 A. Yes.

10 Q. How many did you review?

11 A. One.

12 Q. Do you know the date and number or the date and
13 complaint date of that report?

14 A. Yes. The complaint date, I believe, was August 6th of
15 2018.

16 Q. And do you know how many pages it was?

17 A. I believe it was 32 pages.

18 Q. Do you know what dates were printed at the bottom of the
19 last page of the report?

20 A. There was a -- the supervisory approval date I believe
21 was April of 2019.

22 Q. Okay.

23 MS. WEINGARDEN: Counsel, can you stipulate
24 that that's Exhibit 18 that we've been referring to?

25 MR. ASHCRAFT: I can't stipulate to that,

1 because Exhibit 18 is 34 pages long.

2 MS. WEINGARDEN: Okay.

3 BY MS. WEINGARDEN:

4 Q. Ms. Ferguson, do you have access to that report?

5 A. I can gain it if allowed.

6 MS. WEINGARDEN: Judge, could she?

7 THE MASTER: Yes, you certainly may get that
8 report.

9 THE WITNESS: Okay. It is 34 pages long.

10 BY MS. WEINGARDEN:

11 Q. And can you tell us what dates are on the bottom of the
12 last page?

13 A. September 18th, 2018, is the worker signature and
14 date -- or the date, the disposition date. And the
15 supervisory dispositional approval date is April 15th,
16 2019.

17 Q. April 15th or April 5th?

18 A. My report states April 15th.

19 Q. Okay.

20 MS. WEINGARDEN: Mr. Ashcraft, can you now
21 stipulate that that is Exhibit 18 that we've been
22 referring to?

23 MR. ASHCRAFT: Yes.

24 BY MS. WEINGARDEN:

25 Q. Ms. Ferguson, have you checked the report to see if

1 there is a statement that says Tracy Green, or the
2 grandmother, informed CPS that she put makeup on
3 Gary Jr.'s facial slap mark, or words to that effect?

4 A. Yes. I have reviewed that report and that statement is
5 not in the report.

6 Q. Have you checked that report to see whether there's a
7 statement to the effect that the reason Tracy Green, or
8 the grandmother, put makeup on Gary Jr.'s face was
9 because he was being teased by his younger brother
10 Russell?

11 A. That statement is not located in the report.

12 Q. Now, are you aware that there are three other CPS
13 reports relating to these children?

14 A. Yes, I am.

15 Q. Have you reviewed them in anticipation of your testimony
16 today?

17 A. I have only reviewed them to -- yes.

18 Q. So I'm going to ask you the same two questions about
19 those other three reports, but first we have to identify
20 them. Okay?

21 A. Okay.

22 Q. Can you get access to those other three reports? First,
23 we need the master's permission so just answer yes or
24 no.

25 A. Yes.

1 MS. WEINGARDEN: Judge, can she access those
2 reports?

3 THE MASTER: Yes. Ms. Ferguson, are you
4 accessing them by pulling up copies that you have on a
5 computer or something, a laptop?

6 THE WITNESS: They would be on my laptop.

7 THE MASTER: Okay, that's fine. I saw you
8 looking to the corner and I thought I saw the computer
9 glare. So that's fine. I just wanted to make sure that
10 you have them there and not hard copies of them.

11 THE WITNESS: No, I have a couple of different
12 screens. I'm sorry, Your Honor.

13 THE MASTER: It's not a problem. Just wanted
14 to clarify that. Thank you. Go ahead.

15 BY MS. WEINGARDEN:

16 Q. So, Ms. Ferguson, could you refer to the report that has
17 complaint date June 24th of '18 that is 25 pages long,
18 and let me know when you find that on your computer?

19 A. Okay. Do you have the investigation ID?

20 Q. Yes. 18911718.

21 A. Thank you.

22 Okay, I have the report.

23 Q. Could you refer to the last page and tell us what are
24 the typewritten dates at the bottom of the last page?

25 A. Worker's dispositional date is September 13th, 2018, and

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1 the supervisory dispositional approval date is
2 September 28, 2018.

3 Q. How many pages is that report?

4 A. 27.

5 THE COURT REPORTER: I'm sorry.
6 Judge Widgeon, I did not hear the second date clearly.
7 Could I get that repeated?

8 THE MASTER: Yes.

9 THE COURT REPORTER: The supervisory
10 dispositional approval date.

11 THE MASTER: Ms. Ferguson, if you could give
12 those dates again.

13 THE WITNESS: The worker dispositional date is
14 September 13th, 2018, and the supervisory dispositional
15 approval date is September 28, 2018.

16 BY MS. WEINGARDEN:

17 Q. And did you tell us it was 27 pages long?

18 A. Yes.

19 Q. Is there another report or complaint date June 24th of
20 '18 with different signature dates that is 27 pages
21 long?

22 A. It is 27 pages long.

23 Q. All right. So now I'm going to ask you to find a report
24 dated June 24th of '18 as the complaint date and see if
25 there is another report with that date on it.

1 A. Yes, there is.

2 Q. Could you tell us what dates are at the last page at the
3 bottom?

4 A. The worker disposition date is September 13th, 2018, and
5 the supervisory dispositional approval date is
6 September 28, 2018.

7 Q. And how many pages long is that?

8 A. 25.

9 Q. Okay. That's the report that I'm asking you to refer to
10 when I'm asking you the following questions. Okay? And
11 for the record --

12 THE MASTER: Yes. One moment, Ms. Weingarden.
13 Ms. Jorgensen, were you able to get those dates?

14 THE WITNESS: Yes.

15 THE MASTER: Thank you. Go ahead,
16 Ms. Weingarden.

17 MS. WEINGARDEN: So for the record, that is
18 number Exhibit 16 that we've been referring to.

19 BY MS. WEINGARDEN:

20 Q. Ms. Ferguson, have you had an opportunity to read that
21 report?

22 A. Yes, I have.

23 Q. An unredacted copy of that report?

24 A. Yes.

25 Q. I'm going to ask you the same questions I asked you

1 about the first report that we've talked about.

2 Have you checked to see if there is a
3 statement that says Tracy Green, or the grandmother,
4 informed CPS that she put makeup on Gary Jr.'s facial
5 slap mark, or words to that effect?

6 A. I have reviewed the report, and I don't recall seeing
7 that statement.

8 Q. Have you checked the report to see whether there is a
9 statement to the effect that the reason Tracy Green, or
10 the grandmother, put makeup on Gary Jr.'s face was
11 because he was being teased by his younger brother
12 Russell?

13 A. I did not see that statement.

14 Q. Next I'm going to ask you to refer to a different
15 complaint date. This would be complaint date August 6th
16 of '18, and it's ten pages long. Just a yes or no.

17 Are you able to access that by your computer?

18 A. Yes, I am able to access it.

19 MS. WEINGARDEN: Judge, does she have
20 permission to access it?

21 THE MASTER: Yes.

22 THE WITNESS: Could I confirm the
23 investigation ID, please?

24 BY MS. WEINGARDEN:

25 Q. Yes. 36081728.

1 A. That's the investigation ID?

2 Q. Yes.

3 A. The investigation date?

4 Q. Is that the same as a complaint date?

5 A. Yes.

6 Q. August 6th of 2018.

7 A. That was the -- okay. Yes, I do have it.

8 Q. How many pages long is it?

9 A. That's the -- if I'm correct, that is the first
10 investigation that we referred to at the beginning,
11 which is 34 pages long.

12 Q. Is there another report dated August 6th of '18
13 complaint date that is ten pages long?

14 A. Not that I have accessed.

15 Q. If I were to tell you that we all have a copy of that
16 ten-page report I'm referring to, do you have any
17 explanation for why you don't have that in your computer
18 system?

19 A. There could be a couple of different things. One is it
20 could be under a different case name, which I wouldn't
21 have pulled for the redaction.

22 Q. If I gave you a case ID number, would that help you?

23 A. Yes.

24 Q. 9871719.

25 THE WITNESS: Your Honor, may I be able to

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1 access that?

2 THE MASTER: Yes.

3 MR. ASHCRAFT: Excuse me, Ms. Weingarden.

4 Where were you reading that number from?

5 MS. WEINGARDEN: From the upper left corner of
6 the first page of Exhibit 17.

7 MR. ASHCRAFT: I see. Thank you.

8 THE WITNESS: And you stated that the
9 complaint date was August 6th, 2018?

10 BY MS. WEINGARDEN:

11 Q. Yes.

12 A. I don't have access to that.

13 Q. Okay. Can you explain to us why we would have copies
14 but you do not?

15 A. I can't explain that.

16 Q. All right. Next, could you access a complaint date of
17 June 24th of '18 that's 27 pages long?

18 THE WITNESS: Do I have permission,
19 Your Honor?

20 THE MASTER: You certainly do.

21 THE WITNESS: Okay. I have access to that
22 report.

23 BY MS. WEINGARDEN:

24 Q. Is that complaint date June 24th of 2018?

25 A. Yes.

1 Q. Is it 27 pages long?

2 A. Yes.

3 Q. Can you tell us what dates are typed on the bottom of
4 the last page of the report?

5 A. Those dates are on page 26, and there is a worker
6 signature and dispositional date of September 13th,
7 2018, and a supervisory dispositional approval date of
8 September 28, 2018.

9 Q. Okay. If I were to tell you -- okay.

10 Have you had an opportunity to review that
11 report, an unredacted copy?

12 A. Yes.

13 Q. I'm going to ask you again the same questions I asked
14 you before.

15 Have you checked the report to see if there is
16 a statement that says Tracy Green, or the grandmother,
17 informed CPS that she put makeup on Gary Jr.'s facial
18 slap mark, or words to that effect?

19 A. Yes, I have reviewed the report for that.

20 Q. Does that statement appear anywhere?

21 A. No.

22 Q. Have you checked that report to see whether there is a
23 statement to the effect that the reason Tracy Green, or
24 the grandmother, put makeup on Gary Jr.'s face was
25 because he was being teased by his younger brother

1 Russell?

2 A. That statement is not in the report.

3 Q. So my question now goes to all three of the reports that
4 you and I have discussed.

5 Was that statement redacted from any of those
6 three reports?

7 A. Absolutely not.

8 Q. Does the fact that there are more than three reports --
9 you saw three. We have four.

10 Does the fact that there are four reports
11 cause you concerns about the reports' legitimacy?

12 A. No.

13 Q. Why not?

14 A. The two reports that have the same investigation ID and
15 complaint date, the differences between the 25 pages and
16 the 27 pages, when I reviewed the report, the
17 differences, there's always continued upgrades within
18 the system.

19 So there's information, and it's the format of
20 the report. In this particular report, it's just the
21 new formatting is coming through, which extended the
22 report to the 27 pages.

23 Q. And when you say "new formatting," can you explain
24 better what that means?

25 A. Sure. So in the one report that's 25 pages long, in

1 particular, I can look at the last couple of pages and I
2 can see the differences between the 25 pages and the 27
3 report, because even in the -- there's going to be the
4 dispositional -- the findings and the narrative are
5 pulling through.

6 There's dispositional questions that are in
7 the 27-page report. Those are typically -- they're
8 input into the system, and they're now carried through
9 on the official report. So the report that was
10 regenerated at that time is the official record of the
11 department. It's just showing there's the dispositional
12 required questions that carried through on the new
13 formatting of the report.

14 Q. In other cases that you've reviewed, are there sometimes
15 multiple reports about the same allegations of abuse or
16 neglect?

17 A. Yes.

18 Q. In other cases that you reviewed, are there sometimes
19 multiple reports about the activity relating to the same
20 children?

21 A. Yes.

22 Q. Is it within your expertise to explain why there may be
23 more than one report about the same allegations of abuse
24 or neglect?

25 A. Yes.

1 Q. Please explain the potential reasons.

2 A. Well, there's a couple of different reasons. So it
3 depends -- number one, is there multiple complaints that
4 were called in, and were those multiple complaints or
5 are there multiple complaints that were assigned.

6 And then with the multiple reports that are
7 saved within our system, there is that potential because
8 as others have accessed the system and saved and
9 generated those reports, that will continue to save and
10 generate a report each time it's done in that fashion.

11 Q. So is there anything about this system or about these
12 specific reports in this case that caused you to lose
13 confidence in the information provided in the reports?

14 A. Absolutely not.

15 MS. WEINGARDEN: Thank you. I have no other
16 questions.

17 THE MASTER: Thank you. Mr. Ashcraft,
18 questions on cross-examination, please?

19 MR. ASHCRAFT: Thank you, Judge.

20 C R O S S - E X A M I N A T I O N

21 BY MR. ASHCRAFT:

22 Q. Ms. Ferguson, if you would, please, remind us what your
23 position is --

24 A. I'm a --

25 Q. -- with MDHHS.

1 A. I am a state administrative manager.

2 THE MASTER: One moment, please.

3 Ms. Jorgensen, I saw you looking as if you were missing
4 something. There was a little bit of talking over. Did
5 you get that or do we need to go over that again?

6 THE COURT REPORTER: I did get it fully. I
7 could hear Mr. Ashcraft. But there was a little bit of
8 overtalking. Thank you, Judge.

9 THE MASTER: All right. Thank you. You may
10 continue, Mr. Ashcraft.

11 MR. ASHCRAFT: Thank you, Judge.

12 BY MR. ASHCRAFT:

13 Q. And do I understand correctly, Ms. Ferguson, that you
14 only have three CPS reports in the system you're looking
15 at?

16 A. For the dates identified. So if I were to look at the
17 regenerated reports, there is two reports for the one
18 investigation.

19 Q. Two reports for the June 24 of '18 investigation?

20 A. June 6, 2018.

21 Q. No. June 24, 2018.

22 A. Oh, I'm sorry. Can I -- that is the -- 27, 25. There
23 are two reports generated.

24 Q. And you only have one report from August 6 of 2018;
25 correct?

1 THE WITNESS: Judge, may I defer back to the
2 system to verify?

3 THE MASTER: Yes.

4 BY MR. ASHCRAFT:

5 Q. With the judge's approval, you may, yes.

6 A. So there is only one report which would be the
7 supervisory approved report in the system.

8 Q. And the supervisory approved report date for that
9 August 6, 2018, report is April 15 of 2019?

10 A. Yes.

11 Q. You're not aware of a report that is ten pages long with
12 a caseworker dispositional date of September 18, 2018,
13 and a supervisory approval date of October 4, 2018?

14 A. If that is in the system, that is not one that I would
15 have accessed because I have the 34-page report.

16 Q. Would it surprise you that that report is out there?

17 A. No.

18 Q. Let's take a look at the reports, please. And I don't
19 know if you have them available to you with exhibit
20 numbers ascribed to them, but that's what we've been
21 using in this case to delineate which report we're
22 talking about.

23 Do you have them with exhibit numbers
24 ascribed?

25 A. No.

1 Q. All right. So this might take a little bit of time to
2 do, but let's begin by looking at what we're calling and
3 have identified as Exhibit 16, and that's the 25-page
4 report from June 24 of 2018. Could you just bring that
5 up, please?

6 A. Okay.

7 Q. Now, that is 25 pages long and it shows the caseworker
8 dispositional date of September 13, 2018; correct?

9 A. Yes.

10 Q. And what does the dispositional date represent?

11 A. The dispositional date for the worker and the supervisor
12 are those dates that the report has been approved.

13 Q. Has been approved?

14 A. Uh-huh.

15 Q. Does the report have to be signed?

16 THE MASTER: Excuse me. To that question, has
17 been approved, your answer was yes?

18 THE WITNESS: Yes.

19 THE MASTER: Thank you.

20 BY MR. ASHCRAFT:

21 Q. And does a report have to be signed, Ms. Ferguson,
22 before it's approved?

23 A. The way our unit looks at these reports is if there is a
24 supervisory and a worker approval date, we're not -- we
25 do not need to have an actual signature because it is

1 electronically signed.

2 Q. Thank you. So is the answer to my question, no, an
3 official report does not have to be signed?

4 A. Correct.

5 Q. So a report is official so long as it does contain a
6 typed date for the CPS worker dispositional date as well
7 as a typed date for the supervisor dispositional date;
8 correct?

9 A. It's not a typed date. It is a system -- the system,
10 you have to check it in order to approve it and then it
11 displays on the report.

12 Q. I see. So that means that a report is reviewed as an
13 electronic document, and there is some sort of a
14 check-the-box notice that either the CPS worker checks
15 which then the computer ascribes the typed date, and the
16 same case for the supervisor; is that right?

17 A. Well, it's a little more complicated, but I simplified
18 it to checking a box, yes. Because there's other
19 actions that are required to process in order to
20 complete an investigation, but, ultimately, once you
21 provide all of that information, the system recognizes
22 all of that information as contained, there is an
23 approval portion to that.

24 Q. I see. So in order for either of those two dates to be
25 ascribed by the computer onto the actual report, certain

1 functions will have had to have been completed that
2 confirm that that's the final report; correct?

3 A. Correct.

4 Q. Thank you. So let's look at that first report, please,
5 June 24, 2018, of 25 pages. Are you with me?

6 A. Yes.

7 Q. Now, that's September 13, 2018, and September 28, 2018,
8 and we know that it's a file report because those dates
9 are ascribed; right?

10 A. Correct.

11 Q. If you would kindly turn to page number 21 for me, or
12 scroll to page number 21.

13 A. Okay.

14 Q. Are you with me?

15 A. Yes.

16 Q. Thank you. Actually, I misspoke. If you could kindly
17 go to page number 23 of the report.

18 A. Okay.

19 Q. I would like you to look at the entry for August 9,
20 2018. Do you see that?

21 A. Yes.

22 Q. There is a single entry, August 9, 2018, at 1:39 p.m
23 dealing with successful case contact between Ms. Apple
24 and Tracy Green; correct?

25 A. Yes.

1 Q. There are no other entries in Exhibit Number 16 for
2 August 9 of 2018; correct?

3 A. Correct.

4 Q. Thank you. Now, if you would, please, we're done with
5 that one. If you would, please, look now at what we
6 have been describing as Exhibit 42. That's the same
7 complaint date, but that's the 27-page version. If you
8 would, please, turn to that document.

9 A. Okay.

10 Q. You're with me, then?

11 A. Yes, I am.

12 Q. Thank you. Now, if you would, please, just confirm that
13 this Exhibit 42 that was 27 pages long carries the same
14 ascribed signature dates of September 13 and
15 September 28 of '18. Correct?

16 A. Yes.

17 Q. If you would, please, turn to page number 21.

18 A. Okay.

19 Q. And I'll ask you the same question with regard to an
20 August 9, 2018, entry. Let me know when you're there.

21 A. Yes.

22 Q. There is only one entry for August 9, 2018, and that's a
23 1:39 p.m. entry; correct?

24 A. Correct.

25 Q. Okay. Now, I need you to do a couple things for me

1 here, because it's important that we keep this clear on
2 the record. You indicated to Ms. Weingarden a few
3 minutes ago in response to her questions that
4 Exhibits 16 and 42 are the same reports, the only
5 difference deals with pagination, or I believe the words
6 you used was formatting; is that right?

7 A. That would be correct.

8 Q. That's not true, though, is it, Ms. Ferguson?

9 A. Why is that?

10 Q. If you would, please, open up page -- or Exhibit
11 Number 16 again, which is the 25-page version. I would
12 like you to turn to page 23.

13 A. Okay.

14 Q. Are you with me?

15 A. Uh-huh.

16 Q. Thank you.

17 THE MASTER: And just make sure that you say
18 yes or no. I think your answer was yes?

19 THE WITNESS: Yes. Sorry, Your Honor.

20 THE MASTER: Thank you.

21 MR. ASHCRAFT: Thank you.

22 BY MR. ASHCRAFT:

23 Q. Now, let's look at that August 9th entry in Exhibit 16,
24 the 25-page version. Are you with me?

25 A. Yes.

1 Q. Now, including the date, that August 9, 2018, at
2 1:39 p.m. entry, including the line for the date,
3 consists of four lines of information; is that right?

4 A. Yes.

5 Q. All right. Now let's turn to Exhibit 42 which is the
6 27-page version that you said is the same report, it's
7 just different due to formatting. I'd like you to look
8 at the same August 9, 2018, at 1:39 p.m. entry. Tell me
9 when you're there.

10 A. Yes.

11 Q. Now, after that entry there is an entry for August 16 of
12 2018 at 9:00 a.m.; correct?

13 A. Yes.

14 Q. Now, when you compare that to Exhibit Number 16 they're
15 all spread apart, those two entries. Do you see those?

16 A. Okay. Yes.

17 Q. Thank you. Is this what you're describing as formatting
18 change?

19 A. It does appear to be the identical contact.

20 Q. Right, I understand that.

21 But my question is, is this what you're
22 talking about when you're talking about formatting
23 change?

24 A. I never realized that that -- I never realized that did
25 those on those reports. What I looked for is those

1 dispositional questions and other things that come
2 forward in the report. So the spaces and the names
3 being confined to that area which causes those spaces I
4 wouldn't be looking at, unless there is discrepancies
5 within the report.

6 Q. Okay. Well, formatting changes due to computer software
7 updating doesn't delete investigator's notes, does it?

8 A. No.

9 Q. Okay. That would be something that would be highly
10 unusual; right?

11 A. Yes.

12 Q. As a matter of fact, that wouldn't happen, would it?

13 A. Not to my knowledge.

14 Q. All right. Now, if you would, please, let's look at two
15 new documents. The first one you don't have, which you
16 indicated is the ten-page version of the August 6
17 report. So what I'm going to do, with the judge's
18 permission, is I'm going to show you that Exhibit
19 Number 17, which is the ten-page version of that report.
20 Okay?

21 A. Okay.

22 MR. ASHCRAFT: Your Honor, may I do so?

23 THE MASTER: Yes.

24 MR. ASHCRAFT: Thank you.

25 ///

1 BY MR. ASHCRAFT:

2 Q. Ms. Ferguson, I'm showing you what has been marked in
3 this case as Exhibit Number 17. Do you see that?

4 A. Yes.

5 Q. Thank you. Now, this is a ten-page report which you say
6 you don't have. I'd like to scroll down to the bottom.
7 First on the first page you see it's complaint date
8 August 6, 2018; right?

9 A. Yes.

10 Q. Okay. And we're going to scroll down to the bottom.
11 And on page number 10, you see the worker disposition
12 date September 18, 2018, and the supervisor disposition
13 date October 4, 2018; right?

14 A. Yes.

15 Q. Okay. Now, that means that this is a final report as
16 well; right?

17 A. Well, given the fact that we have another report, I'd be
18 looking for other variables, then.

19 Q. Other variables, okay.

20 A. Uh-huh.

21 Q. Let's scroll up specifically to page number 7, and we're
22 going the start at the bottom of page number 6 where it
23 ends an August 8, 2018, investigator's note. But then
24 at the top of page 7 of Exhibit Number 17 there is an
25 investigator's note August 9 at 11:25 a.m.; right?

1 A. Yes.

2 Q. And August 9 at 11:35 a.m.; correct?

3 A. Yes.

4 Q. All right. Now, those two entries were not in

5 Exhibits 16 or 42, were they?

6 A. I don't believe so.

7 Q. What was in Exhibits 16 and 42 was an entry for

8 August 9, 2018, at 1:39 p.m. We saw that; right?

9 A. Yes.

10 Q. But that entry is not in this report, Exhibit 17, is it?

11 A. No.

12 Q. Thank you. Now, if you would, please, take a look at

13 Exhibit 18, which is the one that you have in your

14 system that is 34 pages long.

15 A. Okay. I'm there.

16 Q. Thank you. Now, Exhibit Number 18, if you would,

17 please, scroll with me to --

18 MR. ASHCRAFT: I'm going to take this screen

19 off, Your Honor, with your permission.

20 THE MASTER: Yes.

21 BY MR. ASHCRAFT:

22 Q. All right. Looking at Exhibit Number 18, Ms. Ferguson,

23 if you would, please, turn to page number 5. Well, you

24 know what? Let's begin by going to the last page so we

25 keep the same order.

1 A. I'm there.

2 Q. Thank you. So here, the disposition dates are
3 September 18, 2018, and April 15, 2019; is that right?

4 A. Correct.

5 Q. So this is a different report than Exhibit Number 17,
6 isn't it?

7 A. Yes.

8 Q. Now, if you would, please, turn with me to page
9 number 5.

10 A. Okay.

11 Q. On page number 5 we see the entry for August 9 at
12 11:25 a.m. and if we turn to page 6 we also see the
13 entry for August 9 at 11:35 a.m.; right?

14 A. Yes.

15 Q. And those were not in Exhibits 16 and 42; right?

16 A. Correct.

17 Q. And we also notice on page number 6 that the August 9
18 entry at 1:39 p.m. that was in Exhibits 16 and 42 is not
19 in this Exhibit Number 18; is that right?

20 A. Correct.

21 Q. Now, there is no question that the investigative work
22 that was done on August 9, 2018, at 11:25 a.m. and
23 11:35 a.m. was completed on August 9; correct?

24 A. I'm sorry. Can you repeat that?

25 Q. Yes. If an investigative note is contained in the

1 investigative report and a date is ascribed to that,
2 that represents the date and the specific task that was
3 completed; right?

4 A. That the -- so that's the social work contact date and
5 information for that specific date and time of what
6 occurred, yes.

7 Q. Thank you. Right down to the specific hour and minute
8 of the day; correct?

9 THE MASTER: One moment. Yes. Ms. Jorgensen
10 had her hand up. She couldn't get that last part.
11 Ms. Jorgensen, read the last thing that you were able to
12 decipher, and then we'll repeat.

13 (The question was read back as follows:
14 "QUESTION: Thank you. Right down to the
15 specific hour and minute of the day;
16 correct?")

17 THE WITNESS: Correct.

18 THE MASTER: All right, thank you.
19 Mr. Ashcraft, continue.

20 MR. ASHCRAFT: Thank you, Your Honor.

21 BY MR. ASHCRAFT:

22 Q. When we look at the August 9, 2018, entries for
23 11:25 a.m. and 11:35 a.m. that are in Exhibits 17 and 18
24 but not in Exhibits 16 and 42, there is no question that
25 that investigative work on that date was completed

1 before Exhibits 16 and 42 were finalized; correct?

2 A. Well, there is a couple of things that could be coming
3 into play with these reports.

4 Q. Hold on for one second.

5 A. Okay.

6 Q. If you would, please, answer my question.

7 A. Okay.

8 Q. Would you answer my question, please?

9 A. So the question was there is no -- could you repeat
10 that, please?

11 Q. Yes. There is no question that the investigative work
12 that was done on August 9, 2018, at 11:25 a.m. and
13 11:35 a.m. was work that was completed before
14 September 13 of 2018; correct?

15 A. Correct.

16 Q. And that information is not in those reports, the two
17 different versions we have, Exhibits 16 and 42, for
18 June 24 of 2018; correct?

19 A. Correct.

20 Q. And do you know whether or not Tracy Green contacted CPS
21 to express her concerns about investigation that needed
22 to be done by CPS regarding the mother of the two boys
23 at issue in these reports?

24 A. Based on the reports, no.

25 Q. I'm sorry. You cut out. I didn't hear what you said.

1 A. Based on the reports, no, there is no -- no information.

2 Q. So if I were to ask you questions, Ms. Ferguson, about
3 the dates that Tracy Green contacted CPS and asked that
4 they investigate things such as psychiatric
5 hospitalizations, violence, perjury, and the like, you
6 don't know any of that information because you were not
7 involved at the fact level associated with these
8 reports. Is that accurate?

9 A. That is correct.

10 Q. Now I'd like to talk for just a moment about the
11 difference between redaction and deletion. When you in
12 your unit, if I may refer to it that way, handles a
13 redaction process, that means that you black it out
14 either through a computer block-and-cover function or
15 even sometimes you use something like a permanent marker
16 to strike sentences and the like; is that right?

17 A. Correct.

18 Q. A redaction process does not mean that you would go into
19 any of these reports and delete information; is that
20 correct?

21 A. Correct.

22 Q. And deletion of information from any of these
23 investigative reports, especially when they carry the
24 dates of the CPS worker and the supervisor disposition
25 confirming they are final, would be improper; correct?

1 A. There's -- the only exception would be is if the record
2 was amended in any fashion, but our unit doesn't handle
3 amendments.

4 Q. Do I understand you to say that only if there is an
5 amendment would information be deleted?

6 A. Correct. That's -- and if I may elaborate.

7 Q. Yes.

8 A. That's if, for some reason, that things were -- because
9 there's a point in time with our system that if you did
10 not close out properly that case information moved from
11 one case to the next, so we can go back and put that
12 information in the correct case file.

13 Q. Even after --

14 THE MASTER: One moment, please. I heard
15 "case information from" and then "one case to the next,"
16 but I don't think I heard the verb or whatever you were
17 saying. Could you repeat that, please?

18 THE WITNESS: Yeah. There was one point in
19 time where multiple case investigations, it was possible
20 where the social work contacts transferred into the
21 inappropriate case, and so for -- we have the ability to
22 remove that.

23 Because it's not part of their record, we have
24 the ability to remove that social work contact and put
25 it back in the appropriate case file. So I have seen

1 that on occasion.

2 MR. ASHCRAFT: And -- thank you, Judge. May I
3 proceed?

4 THE MASTER: Ms. Jorgensen, did you get that?

5 THE COURT REPORTER: I did, Your Honor. Thank
6 you.

7 THE MASTER: All right. Thank you. Yes,
8 Mr. Ashcraft.

9 MR. ASHCRAFT: Thank you.

10 BY MR. ASHCRAFT:

11 Q. Ms. Ferguson, if information in this particular instance
12 that you said that you have seen that occur, if the
13 information that is transferred is relevant to both or
14 two or more investigations, would the information remain
15 in both investigative reports?

16 A. Can you elaborate on that question?

17 Q. Well, I'm not really able to elaborate on it because you
18 don't have a specific fact example to give me with
19 regard to the moving of information between reports. So
20 the best way that I can ask you, you said that you have
21 heard of that occurring in the past, if, maybe in
22 hindsight, something needs to be moved because it's in
23 the wrong report and it needs to go to a different
24 report; is that right?

25 A. Correct. Because it's not affiliated with those case

1 members.

2 Q. Okay. But if the information that is contained in the
3 report that is being moved is relevant to both
4 investigations if there is more than one, then you would
5 expect that information to remain in both reports;
6 correct?

7 A. Yes, I would assume so.

8 Q. I'm sorry. Did you say, yes, you would assume so?

9 A. Yes.

10 Q. Thank you. If information is moved from one report to
11 another, as you indicated that you have heard occur in
12 the past, is there some sort of a log or some sort of
13 detail or an entry that is made in each of the reports,
14 meaning the report from which information was extracted
15 and the report to which information was added?

16 A. So if it's removed out of a case report it doesn't
17 pertain to that -- those case members, so there's
18 typically not. In other reports I've seen amendments.
19 If it's been approved and the case has been reopened,
20 et cetera, there is an amendment area that can be
21 completed.

22 Q. And does that reflect, then, the information that was
23 extracted from one and moved into another?

24 A. If it doesn't pertain to those case members, no, because
25 it's, again, not part of their case information.

1 Q. And in the event that that occurs, is there at least a
2 notation in the report that indicates that it was
3 amended?

4 A. If it's going into a supervisory approved record, yes,
5 there is an amendment process that would be followed.
6 If the case is --

7 Q. Go ahead.

8 A. If the case is reopened, there is also a process that
9 would be followed.

10 Q. Thank you. And where is that amendment process noted?

11 A. It's typically in MiSACWIS -- in MiSACWIS, and then
12 typically we note it within a social work contact for
13 the date and time that we're amending the record.

14 Q. And can you, please, take a look for me at these reports
15 and tell me where in the report I would find that
16 notation, if it exists at all?

17 A. Those -- in the reports -- in the one report that you
18 displayed to me, that is not displayed. But there is
19 one other area that you would -- you could look, and
20 that's in the approval screen within MiSACWIS itself.

21 Q. All right. So can we agree that in the four reports of
22 the different versions we looked at this morning there
23 is no notation in those reports that an amendment has
24 occurred; correct?

25 A. Correct.

1 Q. Thank you. Now, you say that there is one other source
2 of information that could be reviewed to see if an
3 amendment has been made?

4 A. It would be -- it would be contained within MiSACWIS
5 only.

6 Q. So within the computer system itself only?

7 A. Yeah. There would be one other place that I would be
8 looking for it at.

9 Q. Meaning within MiSACWIS?

10 A. Yes.

11 Q. I see. Now, is there a way to generate a report for
12 that?

13 A. No, no report. Not -- not the -- as a supervisor how
14 I'd be looking at it, no, there is no report to be
15 generated.

16 Q. I see.

17 MR. ASHCRAFT: Your Honor, may I have just a
18 moment, please?

19 THE MASTER: Yes.

20 MR. ASHCRAFT: Just 30 seconds. Thank you.

21 Thank you, Your Honor. May I proceed?

22 THE MASTER: You may.

23 MR. ASHCRAFT: Thank you.

24 BY MR. ASHCRAFT:

25 Q. Ms. Ferguson, at some point you were an MDHHS Child and

1 Family Services section manager; is that right?

2 A. No, not a section manager.

3 Q. You've never been?

4 A. A section manager, no.

5 Q. Section manager, okay.

6 Is your work for CPS assigned to a particular
7 section?

8 A. Yes.

9 Q. What is that section?

10 A. Business Service Center One.

11 Q. And is Ms. Apple within that same section?

12 A. No.

13 Q. How about Ms. Todd-Robinson?

14 A. No.

15 Q. Mr. Baker?

16 A. No.

17 Q. Ms. McDougale?

18 A. No.

19 Q. Have you ever been a supervisor for CPS or for foster
20 care?

21 A. Excuse me?

22 Q. Have you ever been a supervisor at CPS or for foster
23 care?

24 A. Yes.

25 Q. And when was that?

1 A. 2008 to 2013.

2 Q. Can you tell -- strike that.

3 Do you know when reports are generated off of
4 the system and sent to people?

5 A. Yes.

6 Q. And how can you tell that?

7 A. Oh, I am sorry. I misinterpreted the question. So no.
8 If somebody generated a report and distributed it, no, I
9 would have no information on that.

10 Q. Does anyone within CPS have, for example, a log or a
11 detailed journal or anything along those lines that
12 confirms or records when a report is generated and
13 provided to someone outside CPS?

14 A. So the redaction unit, we record every -- every request
15 that we process.

16 Q. And how is that recorded?

17 A. We keep a log, but we also generate and save within
18 MiSACWIS the completed reports that we've redacted. So
19 we upload every redaction we've completed.

20 Q. And every redaction, then, is contained within the
21 system?

22 A. Every report that we've completed. So there may be
23 paper -- paper ones that were completed prior to Swiss
24 [phonetic], which is an old computer system prior to
25 MiSACWIS. Prior to that was strictly Word documents and

1 that's -- so we also upload anything that our unit has
2 completed.

3 Q. Understood. When did MiSACWIS take over as the system
4 that takes care of the reports?

5 A. April of 2014.

6 Q. April of 2014. Thank you.

7 A. Yes.

8 Q. Who has authority to release reports from MDHHS?

9 A. The director has authority as well as -- we do have the
10 authority -- if it's based upon the Child Protection Law
11 that the requester is eligible to receive the reports,
12 we do have the authority to redact them accordingly and
13 process those as well.

14 Q. And who has the ultimate authority to approve that, a
15 release of a report?

16 A. That can be done at the county level, the redaction unit
17 level, as well as our management within the department.

18 Q. Did you say manager?

19 A. Management.

20 Q. Management, thank you.

21 And is there a protocol for how reports are
22 released, meaning in electronic format only, in paper
23 format, are they e-mailed, those sorts of things?

24 A. I can only answer to what the redaction unit themselves
25 do.

1 Q. Okay. And answer if you would, please, with regard to
2 the redaction unit.

3 A. So our redaction unit for parent perpetrators, we tend
4 to mail those out via US Postal Service. Our private
5 agency partners were able to encrypt and e-mail those
6 out.

7 But typically we send those back to the county
8 level. If they are going through the United States
9 Postal Service, we tend -- we send those back to the
10 county to process and send out.

11 The only other ones that we tend to mail -- or
12 e-mail directly would be our Tribal partners and travel
13 representatives. Otherwise, everything is typically
14 done through the county themselves.

15 Q. Understood. Thank you.

16 MR. ASHCRAFT: Your Honor, may I just have one
17 moment?

18 THE MASTER: Yes, you may.

19 MR. ASHCRAFT: Thank you.

20 (At 10:49 a.m., pause in proceedings.)

21 (At 10:50 a.m., proceedings resume.)

22 MR. ASHCRAFT: Thank you, Your Honor. I have
23 no further questions. Thank you.

24 THE MASTER: All right. I'm not sure if there
25 are going to be questions on redirect. If so, let's

1 take a break before we do that. We'll take a ten-minute
2 break, please.

3 MR. ASHCRAFT: Understood. Thank you, Judge.

4 THE MASTER: Remember, everyone, to mute your
5 video and -- to stop your video and mute your audio.

6 (At 10:51 a.m., off the record.)

7 (At 10:58 a.m., on the record.)

8 THE MASTER: It looks like we are all back and
9 ready to proceed. Ms. Weingarden, I believe you have
10 redirect?

11 MS. WEINGARDEN: Yes.

12 THE MASTER: And you're on mute.

13 MS. WEINGARDEN: Ms. Ferguson, can you hear
14 me?

15 THE WITNESS: Yes, ma'am.

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

17 BY MS. WEINGARDEN:

18 Q. What is a complaint date?

19 A. Complaint date is the date that a call or e-mail has
20 been received by centralized intake regarding
21 allegations of abuse, neglect.

22 Q. So if we have reports with two separate complaint dates,
23 what does that mean to you?

24 A. That those are different investigations.

25 Q. If there is one open investigation that's pending and a

1 new complaint comes in, do the two complaints get merged
2 into one investigation?

3 A. Not necessarily. There is some accept-assign, and that
4 I would have to defer to somebody at the local level.
5 Because the accept-assign, I'm not really familiar
6 because I'm not an assigning supervisor.

7 THE MASTER: One moment, Ms. Weingarden.
8 Would you specify -- you said if there is a complaint, I
9 believe, and if a new complaint comes in. You're
10 talking about in the same investigation?

11 MS. WEINGARDEN: No. I was referring to two
12 separate investigations, two different -- two different
13 allegations of abuse or neglect.

14 THE MASTER: Regarding two different parties?

15 MS. WEINGARDEN: Well, not necessarily.

16 THE MASTER: All right.

17 MS. WEINGARDEN: Could I rephrase the
18 question?

19 THE MASTER: Yes. Because I'm not clear on
20 what you're asking.

21 BY MS. WEINGARDEN:

22 Q. Okay. Ms. Ferguson, if there is two separate complaint
23 dates, two separate complaints involving the same
24 children, and one allegation comes in first and is being
25 investigated and then there is another allegation that

comes in, the question was, do the two investigations get merged into one?

A. I would have to defer to the time period. Older complaints, they were investigated separately traditionally. There is now an accept-assign that if an investigation is still open, it may or may not be. But, again, I'm not within the field to be able to decipher what circumstances are when it's accept-assign versus a whole new investigation.

Q. So I'm not sure if I heard you correctly. Did you say that the policy or procedures have changed?

A. Yes.

Q. Do you know when they changed?

A. No.

Q. Is it possible for two separate investigations involving the same children to go on at the same time?

MR. ASHCRAFT: Foundation.

THE WITNESS: Yes.

MR. ASHCRAFT: I'm sorry.

MS. WEINGARDEN: I can lay a foundation.

MR. ASHCRAFT: I'll withdraw the objection.

Go ahead.

THE MASTER: Okay. One moment before you do.

Ms. Jorgensen, are you able to decipher what was just said?

1 THE COURT REPORTER: I was, Your Honor, yes,
2 despite the over-speaking a little.

3 THE MASTER: All right. Thank you.

4 Ms. Weingarden, I believe Mr. Ashcraft withdrew his
5 objection, so you may proceed with that if you will ask
6 it again.

7 BY MS. WEINGARDEN:

8 Q. So, Ms. Ferguson, can two investigations go on at the
9 same time involving the same children with different
10 complaints?

11 A. Yes.

12 Q. Do you know whether they are both done by the same
13 worker?

14 A. It depends on the size of the county, but it is very
15 possible that it's assigned to different workers.

16 Q. Are you familiar with how Wayne County does it?

17 A. No.

18 Q. Okay. Now, you had been shown reports, two reports for
19 the complaint date of June 24th of 2018 and two reports
20 for the complaint date of August 6th of 2018; is that
21 true?

22 A. Yes.

23 Q. The two reports from the August -- I mean from the
24 June 24th date, you were shown a paragraph from the
25 August 9th entry, which was four lines long. Do you

1 recall Mr. Ashcraft showing you those?

2 A. Yes.

3 Q. And you compared the two August -- I'm sorry --
4 June 24th, '18, paragraphs under the August 9th date of
5 those two reports. Do you recall that?

6 A. Yes.

7 Q. And they were the same. Is that fair to say?

8 A. Yes.

9 Q. Four lines long?

10 A. Yes.

11 Q. Then you were shown a ten-page report which you don't
12 have in your computer system and you were shown the
13 34-page report that you do have in your computer system,
14 and both of those related to the complaint date of
15 August 6th of 2018. Do you recall that?

16 A. Yes.

17 Q. And do you recall looking at page 7 on the ten-page
18 report that Mr. Ashcraft screen shared with you to show
19 you the August 9th entries that started at 11:25 a.m.
20 and then 11:35 a.m.? Do you remember seeing that on the
21 ten-page report that he screen shared with you?

22 A. Yes.

23 Q. And do you recall that that entry took up the entire
24 page for August 9th?

25 A. I believe so.

1 Q. Then you yourself were able to access the 34-page report
2 that we've got marked as Exhibit Number 18 that also
3 relates to August 9th investigation. Do you recall
4 that?

5 A. Yes.

6 Q. And did that August 9th entry start at 11:35 a.m., and
7 was it also a long entry, about four paragraphs?

8 A. I would have to defer back to the report.

9 MS. WEINGARDEN: Okay. Judge, could she do
10 that?

11 THE MASTER: Certainly.

12 THE WITNESS: Okay. I've located it.

13 BY MS. WEINGARDEN:

14 Q. Okay. So I'm going to ask you to go to the bottom of
15 page 5, the entry dated August 9th of 2018 at 11:25 a.m.
16 Do you see that, the last line on that page?

17 A. Yes.

18 Q. Then I'm going to ask you to turn to page 6 and look at
19 the top line of that page.

20 A. Yes.

21 Q. And the next four paragraphs after that. Do you see it?

22 A. Yes.

23 Q. So all of those entries relate to August 9th of 2018.
24 Is that fair to say?

25 A. Yes.

1 Q. And do those paragraphs duplicate what Mr. Ashcraft
2 showed you on screen sharing on the ten-page report that
3 you don't have, with respect to August 9th?

4 A. I honestly can't recall. I remember when he screen
5 shared, we honed in on the August 9th 11:25 contact.

6 MS. WEINGARDEN: Okay. May I ask,
7 Mr. Ashcraft, can you stipulate that it's a duplicate in
8 both reports?

9 MR. ASHCRAFT: That the August 9th at
10 11:35 a.m. entry is duplicate?

11 MS. WEINGARDEN: That as well as the 11:25.

12 MR. ASHCRAFT: I will stipulate that those two
13 are duplicate but the 1:39 is missing.

14 MS. WEINGARDEN: Okay. So, Judge, do you need
15 us to put that stipulation in writing or is this oral
16 stipulation sufficient?

17 THE MASTER: I believe this stipulation is
18 sufficient.

19 MS. WEINGARDEN: Okay.

20 BY MS. WEINGARDEN:

21 Q. So, Ms. Ferguson, would you expect the reports for the
22 same complaint date to contain the same information in
23 each of the reports?

24 A. The same -- so these are the same investigation with the
25 same content and social work contacts, is the question.

1 Q. Yes.

2 A. Yes.

3 Q. Okay. So if there is more than one report relating to
4 that one complaint date, would you expect the
5 information to be the same in both of those reports?

6 A. Well, if there is differences in the reports I would
7 have to research to see why there's differences in the
8 report.

9 Q. Okay. So you would expect to see the same information
10 and if there was something different, you would need to
11 research why that is?

12 A. Yes.

13 Q. Okay. Now, would you expect reports for different
14 complaint dates to duplicate information in the reports
15 from the other complaint date?

16 A. No.

17 Q. If there are two ongoing investigations regarding the
18 same children but different allegations of abuse or
19 neglect, would you expect all the reports of both
20 investigations to mimic each other?

21 A. It would -- it would depend on the time period that the
22 report was created. And would you like me to expand?

23 Q. Yes, please.

24 A. So there was a point in time where we were to
25 consolidate and add all contacts, regardless of which

1 investigation they belonged to, into the report. But
2 that was since changed in order to identify
3 investigation social work contacts and separate those
4 out, unless they were pertinent to one another, but
5 typically the investigation and the allegations are
6 different.

7 Q. Do you know when the policy changed?

8 A. No. It was some time ago.

9 Q. Was it longer ago than June 24th of 2018?

10 A. Yes.

11 Q. So just to make sure we're communicating, in the old
12 days before the investigation in this case began, the
13 cases were merged -- the complaints were merged?

14 A. Yes.

15 Q. But by June 24th of 2018 they were no longer merged?

16 A. Correct.

17 MS. WEINGARDEN: Thank you. I have no other
18 questions.

19 THE MASTER: Mr. Ashcraft, anything further?

20 MR. ASHCRAFT: I do. Thank you, Judge.

21 R E C R O S S - E X A M I N A T I O N

22 BY MR. ASHCRAFT:

23 Q. Just a couple things, Ms. Ferguson. Looking back at 17,
24 Exhibit 17, which was the ten-page report, with the
25 judge's permission, I'm going to -- well, I'll just tell

1 you and if you have any question let me know and I'll
2 clarify for you.

3 But in Exhibit 17, the August 6th report, it
4 has the worker's disposition file date of September 18
5 of 2018, and it's ten pages long. Exhibit No. 18, the
6 same report date that happens to be 34 pages long, has
7 the exact same CPS worker disposition and final --
8 finalization date, September 18 of 2018. Right?

9 A. Correct.

10 Q. So information was added to that report, at least 24
11 pages' worth were added to that report after
12 September 18 of 2018?

13 A. It appears so.

14 Q. You don't have an explanation for that, do you?

15 A. I would research it to see if the case was reopened,
16 because the dates -- the supervisory dates are different
17 and the page numbers are different. So, for me, if I
18 was having to examine the report, I would definitely be
19 looking at seeing if the case was reopened.

20 Q. Right. But you testified earlier that the CPS worker
21 disposition and finalization date stands as a final
22 report. Right?

23 A. Unless there's exceptions when the case is reopened or
24 reexamined.

25 Q. Right. But in that event, then the CPS worker

1 disposition and finalization date would be different;
2 correct?

3 A. Can you -- can you repeat the question?

4 Q. Sure. In that instance, there would be a new date if
5 the case were reopened and additional information were
6 included, then the CPS worker disposition and
7 finalization date would be changed to reflect that;
8 right?

9 A. I can't answer that particular question.

10 Q. Well, you answered the question a little bit earlier,
11 Ms. Ferguson, about what the dates that are
12 computer-ascribed to these reports means.

13 A. I can attest to, from my experience, seeing the
14 differences with the -- when I look at a case for the
15 supervisory approval date and the changes that I have
16 seen.

17 Q. Right. But we've seen changes in the supervisory date
18 here in Exhibits Number 17 and 18 by several months, but
19 there is the exact same sign-off date by the CPS worker
20 investigator; right?

21 A. Correct. And I can't -- I can't answer to that. I
22 don't know the -- I don't know how that happens.

23 Q. And there is 24 more pages added to the report, even
24 though the worker sign-off date is the same; right?

25 A. Correct. Again, I don't have a response to that.

1 Q. Thank you. And to be clear, Exhibits 16 and 42, which
2 are the June 24 of 2018 report date or complaint date,
3 and Exhibits 17 and 18, which are the August 6, 2018,
4 complaint dates, those reports were signed off by the
5 disposition and finalization by the CPS worker only five
6 days apart; right?

7 A. I believe so.

8 Q. Thank you. One other area. You testified a moment ago
9 that there was a process implemented by CPS where you
10 could, but didn't have to, consolidate reports, and you
11 testified that this happened sometime before 2018; is
12 that right?

13 A. Yes.

14 Q. Did I hear you testify correctly that they could be
15 separated out, quote, unless information was pertinent
16 to both, close quote?

17 A. I'm not -- I have to apologize. I don't recall that.

18 Q. You don't recall testifying to that six minutes ago?

19 A. I've been asked a lot of questions, sir, so if you ask
20 me the question, I can respond.

21 Q. Okay.

22 A. Because I believe I was talking about the accept and
23 link and the -- prior to -- I couldn't even tell you how
24 many years ago when we had investigations and we ran
25 them separately, but then we have accept a links now,

1 and I believe I did state I don't know what the policy
2 is for accept a link. I'm not a CPS supervisor who does
3 case assignments.

4 Q. Okay. Thank you very much.

5 MR. ASHCRAFT: I have no further questions.

6 THE MASTER: Thank you. May this witness be
7 excused?

8 MS. WEINGARDEN: Yes.

9 THE MASTER: Mr. Ashcraft, any objections?

10 MR. ASHCRAFT: No objection. Thank you,
11 Your Honor.

12 THE MASTER: All right. Thank you. Thank
13 you, Ms. Ferguson. We appreciate your testimony today,
14 and the next -- and so you may leave. Thank you so
15 much.

16 (At 11:16 a.m., witness excused.)

17 THE MASTER: Ms. Weingarden, your next witness
18 for today is -- is that Mr. Baker?

19 MS. WEINGARDEN: Yes.

20 THE MASTER: All right. And I don't see
21 anyone in the waiting room, but perhaps that's because
22 I'm here and not in the main room. One moment. Let me
23 see. If he is in the waiting room, what I would do is,
24 we would go back on the main record, I would swear him
25 in, and then we would come back into this separate

1 record room. So let me see that first.

2 I'm going to close this room. There he is.
3 Just now came in. All right. So we need to all go back
4 into the main room. I'll close these rooms, and then
5 we'll swear Mr. Baker in. Thank you.

6 - - -

7 (At 11:17 a.m., end of separate record.)
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1 (At 11:18 a.m., livestream resumes.)

2 THE MASTER: So we are back in the main
3 hearing room at this point, and, Ms. Weingarden, I
4 believe you're ready to call your second witness. That
5 would be Mr. Adam Baker. He is in the waiting room at
6 this time. We are on the main record at this time; is
7 that right, Ms. Jorgensen? And once he is sworn in,
8 then we will go back on the separate record. One
9 moment, please.

10 All right. I'm going to let him in now. Good
11 morning. I think it's still morning. Good morning,
12 Mr. Baker. How are you?

13 MR. BAKER: I'm fine. Thank you. Good
14 morning, Your Honor.

15 THE MASTER: Good morning. Mr. Baker, we are
16 going to start at this time by my swearing you in. It's
17 been several days, so I'm going to go back over the
18 sequestration order and also the witness protocol that I
19 went over with you before.

20 After that, we will go back on a separate
21 record that's a different room that all of us will be
22 in, and there will be questions from Ms. Weingarden and
23 from Mr. Ashcraft.

24 Raise your right hand, please. Do you have
25 your hand raised? I just can't see it. All right.

1 It's off to the side. Thank you.

2 Do you swear or affirm that your testimony
3 today will be the truth, the whole truth, and nothing
4 but the truth so help you? Do you so swear?

5 MR. BAKER: Yes, I do.

6 THE MASTER: All right. You may put your hand
7 down.

8 THE WITNESS: Yes, I do.

9 THE MASTER: Thank you.

10 ADAM BAKER,
11 at 11:20 a.m., having been first duly sworn by
12 the master testified as follows:

13 THE MASTER: Now, let me go over the witness
14 protocol. Witnesses shall certify that they are alone
15 in the room where they testify or identify all
16 individuals present during the examination. Are you
17 alone in the room?

18 THE WITNESS: Yes, I am.

19 THE MASTER: All right. Thank you. No
20 witness shall access or review any documents or other
21 materials beyond the relevant trial exhibits, pleadings,
22 or transcripts, or police reports during their testimony
23 until the trial is over.

24 No witness shall have a document within reach
25 or sight. If a witness needs to refer to a document, he

1 may do so only if invited by counsel or approved by the
2 master.

3 Witnesses shall certify under oath that no one
4 has given them information by any means to assist in
5 testifying, that counsel and the master cannot observe.

6 Do you so certify?

7 THE WITNESS: Yes.

8 THE MASTER: Thank you. Witnesses shall not
9 have access to cell phones, laptops, smartwatches, or
10 similar devices in the room during their examination,
11 other than the device which they will use for their
12 virtual testimony.

13 Now, if you happen to have your cell phone in
14 the room, it's all right for it to be in the room, but
15 you need to have it away from you so that you cannot
16 access it during your testimony.

17 Any questions with respect to the witness
18 protocol?

19 THE WITNESS: No.

20 THE MASTER: All right. Thank you. I'm going
21 to go on, then, to the sequestration order. This order
22 and the sequestration will remain in effect until the
23 witnesses are released from it by the master or until
24 the proceeding before the master concludes. To be
25 clear, this means that the order remains in effect even

1 after the witness testifies, unless the witness is
2 released by the master.

3 Sequestration includes a prohibition on any
4 witness, except while testifying via Zoom during the
5 proceedings, from doing any of the following:
6 Discussing his testimony in any format or by any means
7 with another witness, viewing the proceedings on any
8 device, listening to the proceedings on any device, or
9 accessing or viewing any information about proceedings
10 via any social media or news outlets.

11 Potential witnesses may discuss the pending
12 formal hearing with counsel for the parties and may be
13 shown exhibits by counsel prior to their testimony.

14 Failure to serve the order by any party or a
15 violation of the order by a witness is grounds to
16 exclude a witness or exclude testimony given by that
17 witness prior to discovery of the failure or the
18 violation.

19 Do you have any questions regarding anything
20 that I have read, Mr. Baker?

21 THE WITNESS: No, I don't.

22 THE MASTER: All right. Thank you. Counsel,
23 at this time are you ready for us to go into the
24 separate record?

25 MS. WEINGARDEN: Yes.

1 THE MASTER: All right. One moment, please.

2 And, Mr. Ashcraft, you are also ready?

3 MR. ASHCRAFT: I am ready, Your Honor. Thank
4 you.

5 THE MASTER: All right. We are going to move
6 into that room. We will not be livestreaming. We will
7 have the transcript by Ms. Jorgensen. So we'll all move
8 into that room. One moment.

9 (At 11:24 a.m., livestreaming ends.)

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1 S E P A R A T E R E C O R D

2 (At 11:24 a.m., beginning of separate record.)

3 THE MASTER: All right. We are now all in the
4 breakout room, which is called the separate record room
5 for our purposes, and this is being recorded. It is not
6 being livestreamed. The recording is a backup with the
7 transcript if and when that would be needed.

8 Ms. Weingarden, are you ready to proceed?

9 MS. WEINGARDEN: Yes.

10 THE MASTER: All right. You may.

11 ADAM BAKER,
12 at 11:25 a.m., after having been first duly sworn was
13 examined and testified as follows:

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

15 BY MS. WEINGARDEN:

16 Q. Mr. Baker, could I ask you to pull your computer screen
17 down a bit. We're looking at your ceiling. That's
18 better. Thank you.

19 A. How's that?

20 Q. Okay. Thank you.

21 Since the last time you testified in this
22 hearing, have you and I had any direct communication?

23 A. No.

24 Q. Have we communicated the questions I was going to ask
25 through the Attorney General, Ms. Drysdale-Crown?

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1 A. Yes.

2 Q. Have you had any direct communication with Mr. Ashcraft?

3 A. No.

4 Q. Have you been communicating with him through Attorney
5 General Drysdale-Crown in terms of the questions he
6 would ask you?

7 A. Yes.

8 Q. Okay. Did Tracy Green complain to you or anyone else
9 that you're aware of that Ms. Apple was biased in this
10 investigation?

11 A. Yes.

12 Q. Did she do so verbally or in a written document?

13 A. I don't recall the initial part, if it was verbally to
14 Ms. McDougale or even if I was present in the room on a
15 phone call, but we did meet on October 22nd with
16 Ms. Green regarding her concerns.

17 Q. That would be October 22nd of 2018?

18 A. Yes.

19 Q. As a result of your conversation with Judge Green, did
20 you remove Ms. Apple and her supervisor from being the
21 investigators in this case?

22 A. Well, it wasn't just from the meeting with Ms. Green,
23 but it was review of the case. And so we made a
24 decision as a group or a county that she would be -- we
25 would reassign the case to a different worker and

1 supervisor for a fresh set of eyes on it.

2 THE MASTER: One moment, please,
3 Ms. Weingarden. Ms. Jorgensen, would you go back to the
4 very first question? I believe there were two questions
5 that you were asking combined into one, and I didn't
6 know the answer to that question. If you could read
7 that again, and then, Ms. Weingarden, if you would
8 separate those questions.

9 THE COURT REPORTER: So the question that the
10 witness just answered or farther back, Your Honor?

11 THE MASTER: I believe it was the first
12 question that Ms. Weingarden asked. It was either the
13 first or the second.

14 (The question was read back as follows:

15 "QUESTION: Since the last time you
16 testified in this hearing, have you and
17 I had any direct communication?

18 "ANSWER: No.")

19 THE MASTER: I'm sorry. That was not the
20 question. The question was, Ms. Weingarden, when you
21 asked if it was either to him or to someone else that
22 Judge Green had made the complaint, and the answer was
23 yes, but I didn't know to which one.

24 MS. WEINGARDEN: I can rephrase that, Judge.

25 THE MASTER: Thank you.

1 BY MS. WEINGARDEN:

2 Q. Mr. Baker, did Tracy Green complain to you that
3 Ms. Apple was biased?

4 A. I can't recall the initial part of the complaint, but
5 within our meeting on the 22nd she definitely was
6 concerned that she was biased towards the mother.

7 Q. Okay. And when you say "she," do you mean Tracy Green?

8 A. Yes.

9 Q. And when you say "the mother," are you referring to
10 Russell and Gary Jr.'s mother, Choree Bressler?

11 A. Correct.

12 Q. So you decided to reassign Ms. Apple and appoint two
13 different investigators to that complaint?

14 A. Yes, correct.

15 Q. What was the reason you decided to reassign Ms. Apple?

16 A. Well, I looked at the initial complaint as well as
17 Ms. McDougale, who is the section manager, and I believe
18 our deputy director and director looked at the
19 complaint. And it was consensus that the initial
20 disposition on the complaint that put Ms. Green onto
21 Central Registry was not complete, and so we decided to
22 assign another investigator and supervisor to the case.

23 Q. Explain to us what Central Registry is.

24 A. So Central Registry is, you know, any time that somebody
25 has a risk score as a high or intensive, there would be

1 placement on Central Registry for child abuse and
2 neglect.

3 Q. Who assigns the risk of intensive?

4 A. Well, the supervisor and the worker do the risk
5 assessment. Or the worker does it, and the supervisor
6 approves it.

7 Q. Was Tracy Green the subject of that investigation?

8 A. Initially she was the subject. However, when we
9 reviewed the case and found it -- or found the report to
10 be incomplete, we also made the determination that the
11 focus of the case was the father and she was not a
12 person responsible for the custody of the children.

13 Q. So besides the October 22nd, 2018, meeting you had with
14 Judge Green, did you have any other communication with
15 her?

16 A. There was an e-mail communication and I think one more
17 phone call. I can't be sure about the phone calls, if
18 Ms. McDougle had talked to her or if she had e-mailed
19 Ms. McDougle and then Ms. McDougle forwarded it to me.
20 I did have one communication in which she thought there
21 were some confidentiality issues.

22 Bless you.

23 Q. Thank you.

24 Okay. So -- so she made a complaint to you.

25 You had a meeting with her. You had an e-mail with her.

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1 You had at least one phone call with her. And you
2 decided to remove Ms. Apple from the investigation. Is
3 that fair?

4 A. Yes. We decided, but I think it was more regarding the
5 report and the incompleteness of the report.

6 Q. So who was the director of the Department of Health and
7 Human Services Wayne County at that time?

8 A. Annie Ray.

9 Q. Is Annie Ray now retired?

10 A. Yes.

11 Q. Do you know whether she and Tracy Green had a personal
12 relationship?

13 A. I don't know that they had a personal relationship. I
14 can't comment to that.

15 Q. You also said Ms. McDougale was present at that meeting?

16 A. Yes.

17 Q. And yourself and anybody else?

18 A. Lynette Wright was the deputy director at the time. Now
19 she's the Wayne County Child Welfare director.

20 Q. Okay. So Ms. Apple made the determination that Tracy
21 Green should be put on Central Registry. Is that how it
22 happened?

23 A. Yes.

24 Q. And did her supervisor approve of that decision?

25 A. Yes.

1 Q. And then when Judge Green objected you assigned two new
2 workers to the case. Is that fair?

3 A. Yes. Well, the official assignment date of the new
4 staff, probably -- yeah, probably would have been after
5 the date of the meeting.

6 Q. And the reason you told us you assigned two new people
7 was because you wanted a second set of eyes on it. Is
8 that what you said?

9 A. Yes. Yes.

10 Q. And what exactly does that mean?

11 A. So we took what she was saying, she had some concerns
12 from her point of view. And looking at the report,
13 there were things that were -- that were incomplete on
14 the report and -- or that the report needed some
15 supplemental information. So we thought, you know,
16 assigning a new worker and supervisor would be, at that
17 point, beneficial to the case.

18 Q. So who did you appoint?

19 A. Juliette Todd-Robinson as the CPS worker and Franchesca
20 Vega as the CPS supervisor.

21 Q. After they were assigned did Ms. Apple have anything
22 more to do with this case?

23 A. She would have been following through on the initial
24 petition that she filed with the court, so, yes, she
25 would have had court responsibility still.

1 Q. Would she have had responsibility of further
2 investigation?

3 A. I think after the point in time where Juliette took over
4 as primary that she wouldn't have had any other actions
5 in the investigation.

6 Q. I just want to make sure I heard you correctly. Did you
7 say would not have?

8 A. Yes.

9 Q. All right. Did Ms. Apple receive any commendations for
10 her work on this case?

11 A. So I went back and looked, and it looks like she
12 received a token or coin, a government coin, on
13 October 11th, 2018.

14 Q. Can you explain to us what the governor's -- what did
15 you call?

16 A. It was a government -- good government token.

17 Q. Explain to us what that is.

18 A. So, you know, we were allotted -- every office was
19 allotted some good government tokens to hand out to
20 staff when they were recommended by somebody within the
21 office or their manager to be recognized for good work.

22 Q. And did you have a part in selecting her as one of the
23 people to receive that award?

24 A. I can't recall from looking at -- because we kept -- we
25 keep track of those at the time, at least we did when we

1 had them. But it looks like Ms. McDougale distributed
2 the coin to her at our staff meeting, which was on
3 October 11th, 2018. Usually they come through my
4 secretary, and they tell us who's recommending and for
5 what reason.

6 Q. And do you have a say in whether or not you approve of
7 someone else's selection of her?

8 A. Yes.

9 Q. Did you approve of Ms. Apple getting that award?

10 A. Yes.

11 Q. Did you determine whether Ms. Apple was biased in this
12 investigation?

13 A. We sat down and had a discussion with her and the
14 supervisor, and we didn't make the determination that
15 she was biased.

16 Q. I just want to make sure I understood you. Did you say
17 you did not determine she was biased?

18 A. Correct.

19 Q. Okay. You were just speaking quickly. I wanted to make
20 sure we got that.

21 A. Okay.

22 Q. Do you believe that Ms. Apple deserved that award?

23 A. Yes. The award, when I looked at our log, it was logged
24 for her empathy and enthusiasm on several media cases,
25 and the word "several" was in there, as well as her

1 helping out team members.

2 Q. Did she get disciplined in terms of being demoted or a
3 salary reduction because of her work in this case?

4 A. No.

5 Q. When you met with Tracy Green in person on October 22nd,
6 2018, did she ever tell you that she put makeup on one
7 of her grandson's faces to cover up a handprint?

8 A. I don't recall that.

9 Q. Did she ever tell you that she put makeup on one of her
10 grandson's faces to cover up a handprint because the
11 younger brother was teasing the older brother about it?

12 A. I don't recall that either from the meeting, but --

13 Q. What about -- I'm sorry. I didn't mean to interrupt
14 you.

15 A. Oh, no. Go ahead.

16 Q. What about in the e-mail conversation you had with her?

17 MR. ASHCRAFT: Excuse me, Judge. Judge, I
18 have an objection.

19 THE MASTER: What's the objection?

20 MR. ASHCRAFT: Mr. Baker was completing his
21 answer when Ms. Weingarden asked the next question.

22 THE MASTER: I believe I heard Ms. Weingarden
23 say excuse me and then Mr. Baker said no problem,
24 continue, or something like that.

25 But let's go ahead and do that again just to

1 make sure, Ms. Weingarden.

2 BY MS. WEINGARDEN:

3 Q. So in your meeting with her she did not tell you those
4 two things that I just asked you about. Is that fair to
5 say?

6 A. Yes. I don't recall that.

7 Q. You also told us you had some e-mail communications with
8 her; is that right?

9 A. Yes.

10 Q. In those e-mail communications did she make those two
11 statements to you?

12 A. I would have to go back and look, but I don't recall
13 that offhand.

14 Q. In her phone calls with you, did she make those two
15 statements to you?

16 A. Not that I recall.

17 Q. Have there been other situations where people express
18 bias to you and you remove the worker from the case?

19 A. Yeah. I think in child welfare it's pretty common,
20 especially when you're dealing with petitions and things
21 like that, because, you know, families would often
22 disagree. Paternal and maternal sides of families often
23 disagree where placement should be or, just in general,
24 maybe there's some underlining issues between families.

25 Q. So it's -- go ahead.

1 A. It's common for us to meet with clients who are upset,
2 grandparents, aunts, uncles, biological parents,
3 stepparents.

4 Q. And is it common for you to remove a worker and replace
5 her with someone else, as an investigator?

6 A. I wouldn't say it's common, but we always -- to this
7 day, we also have identified what we call triage staff
8 at North Central. And so, you know, if there's any ever
9 issues with somebody leaving abruptly and going on
10 medical leave or resigning or, you know, maybe have
11 something that was incomplete, we would assign it to our
12 triage specialist. So I believe at that time Juliette
13 was a triage worker on Fran's unit.

14 Q. Have you had situations in the past where someone
15 complained about being put on Central Registry and you
16 then removed a worker and replaced her with someone
17 else?

18 A. I can't recall a specific incident like that, but we've
19 met with clients and, you know, had a different change
20 on a petition, and, you know, have gone back to in-home
21 services versus going to court. I mean, so we have had
22 changes on cases. I just can't recall a Central
23 Registry.

24 Q. Okay. Have you had a chance to review all the CPS
25 investigative reports involving Gary Davis-Headd Sr. and

1 his children?

2 A. Yes. I've reviewed the most recent ones that started in
3 June, I think June 24 --

4 Q. How many did you review from --

5 THE MASTER: There was some overtalking, so
6 let's hear the witness's complete answer and then,
7 Ms. Weingarden, your question of how many. Mr. Baker?

8 THE WITNESS: From June 24th, I believe the
9 report was dated June 24th, the complaint date, 2018
10 forward.

11 BY MS. WEINGARDEN:

12 Q. How many June 24th complaint date reports have you read?

13 A. Well, there's -- so the initial June 24th, 2018, report
14 there's only really one report in the system. So when
15 you finalize in MiSACWIS, it's finalized and so -- but
16 at any time, you know, somebody who wants to view the
17 entire report has to go in and generate it in MiSACWIS.

18 Now, they can hit the save button, but if
19 you're not done with a case yet, it will save a copy.
20 So, you know, it looks like we had two different section
21 managers that, you know, pulled up that case and
22 generated it and saved it in the system and at two
23 different dates. So that's why there's two copies in
24 there for that report. Does that answer the question?

25 Q. Yes, in part. Thank you.

1 So the two reports that are dated June 24th,
2 2018, that you accessed, are they both legitimate
3 reports?

4 A. Well, the contacts, all the social work contacts would
5 be finalized, and I don't believe anything has ever been
6 changed in those reports. So the only thing that looked
7 different was two of the kids -- or two or three of the
8 kids went from household members to non-household
9 members.

10 So I attribute something like that is our
11 system issue. So when you move kids in the system from
12 living with this parent, that's the household that they
13 lived in, and then they become out of house,
14 non-household members, meaning that they're somewhere
15 else.

16 So I'm thinking that the other report was
17 generated later and, thus, in the system the report was
18 reading them as non-household members, and so that was
19 the difference between the two.

20 Q. But the statements that witnesses told the investigators
21 remains the same in both of those reports?

22 A. Yes.

23 Q. And are they legitimate reports, even though there are
24 two of them?

25 A. Yes.

1 Q. Did you then go on to read two reports dated August 6th
2 of 2018 complaint date?

3 A. Yes.

4 Q. Were you able to find two of them or just one of them?

5 A. No. That has multiple complaints, because -- go ahead.
6 Do you want me to go?

7 Q. No. Go ahead.

8 A. The first report was the one that was dispositioned by
9 Ms. Cavanaugh -- or approved by Ms. Cavanaugh,
10 dispositioned by Ms. Apple. And then the second one was
11 the one by Juliette Todd and Franchesca Vega.

12 Q. So did you see the first one? Do you know it to be a
13 ten-page report?

14 A. Yes, I think that sounds about right.

15 Q. And then the second one is a 34-page report?

16 A. Yes, that seems about right.

17 Q. And the supervisor signed off on the 34-page report on
18 April 15th of 2019. Is that fair to say?

19 A. Correct.

20 Q. And that would be about seven months after the initial
21 report was signed off on. Is that fair to say?

22 A. Correct.

23 Q. Can you explain to us why there was a seven-month delay?

24 A. Not specifically regarding the action steps and
25 interviews that were taking place during that time. I

1 just -- it would be speculating, I think, on the
2 worker's speed of that part of the investigation and
3 follow-up interviews.

4 Q. Is it unusual for a later report to repeat information
5 that was said in the earlier report?

6 A. I've seen it before, especially when you have multiple
7 workers. You know, if you have different workers,
8 sometimes they go back and look at different things and,
9 you know, make their own document of that.

10 Q. Does information sometimes gets deleted if a new worker
11 takes over?

12 A. It shouldn't, unless it's completely un-relevant to
13 child abuse and neglect.

14 Q. So in this case we've talked about four different
15 reports; is that true?

16 A. Correct.

17 Q. Is there anything about the fact that there are four
18 reports that makes you doubt the accuracy of the
19 information in any of the reports?

20 A. No. And if I could expand.

21 Q. Please do.

22 A. You know, I don't -- it doesn't -- I don't think the
23 question's legitimacy, because to me and to people that
24 are using the system there is only one report right now,
25 and it goes back to the date of the complaint all the

1 way to the final approval, the date.

2 The reason that it appears that there's two,
3 because the supervisor approved it and finalized the
4 case early on, and then that's when our review took
5 place and the case was reopened. And so if you went in
6 and generated that report right now, you would be seeing
7 what Ms. Vega's report -- or what she authorized at the
8 end.

9 Q. Okay. If there is one open, pending investigation and a
10 new complaint comes in, do the two complaints get merged
11 into one or are they kept separate?

12 A. It depends on the window. You know, if it's I think
13 within ten days, ten business days, that it would be
14 something that would be sent to the worker to include in
15 their investigation. But if it was beyond that window,
16 it would be something that would be assigned as a new
17 complaint or a new investigation.

18 Q. So is it fair to say that the time period between
19 June 24th of 2018 and August 6th of 2018 is more than
20 ten days?

21 A. Yes.

22 Q. Would you expect the reports for the two different dates
23 to mimic each other?

24 A. Which two dates are you talking about? The June 24th
25 and the -- and the -- sorry. I forgot the date right

1 offhand.

2 Q. August 6th of 2018.

3 A. August 6th. So you're saying for those two reports to
4 mimic each other?

5 Q. Yes. Would you expect them to mimic each other?

6 A. No. Because usually it would be everything that
7 happened on the latter complaint would just be within
8 that time period. You wouldn't go back and put all the
9 stuff from the other investigation into the new report.

10 MS. WEINGARDEN: Thank you. I have no other
11 questions.

12 THE MASTER: Thank you. Mr. Ashcraft, any
13 questions of this witness?

14 MR. ASHCRAFT: I do, Your Honor, but could we
15 now take just a few minutes for a restroom break since
16 we've been going a bit?

17 THE MASTER: Certainly. Thank you. We will
18 take a ten-minute break. Let's come back at noon.
19 Thank you.

20 MR. ASHCRAFT: Thank you.

21 THE MASTER: Be sure to mute your audio and to
22 stop your video if you'd like to. Thank you.

23 (At 11:49 a.m., off the record.)

24 (At 12:01 p.m., on the record.)

25 THE MASTER: Thank you. It appears that we

1 are all back. We're ready to continue. Ms. Weingarden?

2 MS. WEINGARDEN: Did you ask if we're ready?

3 THE MASTER: Yes.

4 MS. WEINGARDEN: Yes, I'm ready.

5 THE MASTER: All right. You may proceed.

6 Continue.

7 MS. WEINGARDEN: I have no questions. It's
8 Mr. Ashcraft's turn.

9 THE MASTER: I'm sorry. I was thinking it was
10 Mr. Ashcraft who had just passed the witness to you. My
11 apologies. Mr. Ashcraft, your cross-examination,
12 please.

13 MR. ASHCRAFT: Thank you, Judge.

14 C R O S S - E X A M I N A T I O N

15 BY MR. ASHCRAFT:

16 Q. Good afternoon, Mr. Baker.

17 A. Good afternoon.

18 Q. When we were together last on August 6th of this year,
19 you testified that abandonment of a young child is
20 something for which the Child Protection Law requires a
21 petition to terminate parental rights; correct?

22 A. Correct.

23 Q. And abandonment of a young child is one of the
24 aggravated circumstances in the Child Protection Law for
25 which the filing of a petition to terminate parental

1 rights is mandated; correct?

2 A. Yes. If we're talking about the Child Protection Law,
3 yes.

4 Q. Yes. And it's not a discretionary question. It's
5 actually mandated under the law. Correct?

6 A. Correct.

7 Q. So then would it surprise you if the CPS worker involved
8 in a case testified in the proceedings that they did not
9 know what a mandatory or mandated petition was as
10 relates to abandonment of a young child?

11 A. Could you give the case specifics?

12 Q. Yes. This case.

13 A. So, you know, abandonment, I mean, that was -- there was
14 something -- there was preestablished Friend of the
15 Court orders in this matter; correct? Or --

16 Q. There was.

17 A. So, you know, in any child protection matter, we kind of
18 look at all the different circumstances. But if there
19 is some type of Friend of the Court involvement, which I
20 believe in this case Ms. Bressler took some immediate
21 action to gain custody of the children, and it's my
22 understanding from social work contacts that she
23 maintained a relationship, although not -- maybe not
24 supported by the father, that the children had some
25 contact with her.

1 Q. So a couple things about that, Mr. Baker. First of all,
2 you stated that you understood that she had maintained
3 contact; is that right?

4 A. I believe I saw that in one of the reports that the kids
5 were having contact on an iPad or something.

6 Q. Right. And that was in 2018; right?

7 A. Correct.

8 Q. And you realize, sir, that Ms. Bressler, the boy's
9 mother, was under an order of the court that indicated
10 that she couldn't have contact with the boys as of 2015
11 unless it was a supervised parenting program?

12 A. I wasn't aware of that.

13 Q. And were you aware of the fact that she, in fact, did go
14 and petition or file an application for supervised
15 parenting program time through the Growth Works
16 organization but that was not until the second week of
17 June of 2018?

18 A. No, I wasn't aware of that.

19 Q. All right. So you're not aware of any contact at all
20 other than in 2018 after she had been ordered to have no
21 contact since 2015; correct?

22 A. Correct.

23 Q. Thank you. Now, the second issue with regard to the
24 question of whether a petition is mandated, here we had
25 a circumstance where the mother between 2015 and 2018

1 didn't have contact with her children. That's certainly
2 more than 90 days. Yes?

3 A. Yes.

4 Q. So if it's an abandonment period of more than 90 days of
5 a natural parent, that's something that requires under a
6 mandated petition; correct?

7 A. See, I would view the situation differently, because the
8 children were under the care and custody of the other
9 parent.

10 Q. I guess I don't understand what you're saying. "The
11 other parent," meaning their father?

12 A. The complaint -- we did not receive the complaint that
13 alleged that the mother had abandoned the children.

14 Q. You're sure of that?

15 A. Yes, I believe so.

16 Q. Okay. And when you were told that the mother had
17 regained custody of the boys, did you find out how that
18 occurred?

19 A. No. I just -- it was in the social work contact that I
20 reviewed it.

21 Q. Well, with a mother who has been gone for a period of
22 time, there are things called temporary orders of
23 custody. Yes?

24 A. If it's a Friend of the Court term, I may not be
25 familiar with it.

1 Q. Well, you realize that sometimes a parent is put back
2 into the position of having custody of a child but it's
3 only on a temporary basis when things like the fitness
4 of the child placement, those specific issues are still
5 being addressed; right?

6 A. Yes.

7 Q. So would you not think it important that in the event
8 there had been a complaint or at least someone who told
9 CPS be aware of the fact this mother has abandoned the
10 children for a three-year term and though she has a
11 temporary custody order, it still needs to be
12 investigated?

13 A. I see this situation a little bit differently, because
14 they were in the care and custody of another parent.
15 And it wasn't a situation where children just have been
16 abandoned with a relative and no custodial parent is
17 present.

18 Q. Are there exceptions to the mandatory petition rule?

19 A. No.

20 Q. So what you just described, I think you're intimating or
21 at least telling me that that's an exception that under
22 this circumstance they were with a custodial parent,
23 Gary Davis-Headd Sr., who was the father who was
24 basically accused of physical child abuse. Is that what
25 you're saying?

1 MS. DRYSDALE-CROWN: Your Honor?

2 MS. WEINGARDEN: Judge, I object.

3 THE MASTER: All right. Who is objecting?

4 MS. WEINGARDEN: I think both myself and
5 Ms. Drysdale-Crown.

6 THE MASTER: All right. What is your
7 objection, Ms. Weingarden?

8 MS. WEINGARDEN: Relevance. He's putting CPS
9 on trial, and that's not why we're here today.

10 THE MASTER: All right. Thank you.
11 Ms. Drysdale-Crown, you have an objection?

12 MS. DRYSDALE-CROWN: I do, Your Honor. I
13 think that he, Mr. Ashcraft, is asking my client to
14 testify as an attorney about law and he is not an
15 attorney. I do not object if he asks the question in
16 your understanding, but Mr. Baker is not a qualified
17 legal analyst or attorney.

18 THE MASTER: Thank you. Mr. Ashcraft, any
19 response to either of the objections?

20 MR. ASHCRAFT: Yes, Judge. First of all,
21 there is an issue of bias in this case that has already
22 been substantiated as being an issue in the underlying
23 CPS investigation, so it makes it completely relevant.

24 Number two, with regard to the issue of
25 testifying to his understanding, I've not asked

1 Mr. Baker any questions as an expert. I haven't asked
2 him or even tried to lay a foundation for his expertise.
3 He does happen to hold a management position at CPS, and
4 if he doesn't know an answer to a question because it's
5 not within his pay grade, excuse the expression, he
6 could simply indicate that and I'll either rephrase or
7 move on.

8 THE MASTER: All right. I'll have you -- all
9 right. We will find out whether or not the witness
10 believes that he can answer this question, so that would
11 effectively be overruling the objections to this
12 particular issue, the relevance and that he doesn't know
13 enough to answer this question because he's not an
14 attorney.

15 MR. ASHCRAFT: Thank you.

16 BY MR. ASHCRAFT:

17 Q. Mr. Baker, and I'll make clear for you that I'm not
18 asking you to answer any question that you don't have a
19 base of knowledge to answer. Okay?

20 A. Okay.

21 Q. Thank you, sir. Now, under a circumstance of
22 abandonment for a period of more than 90 days by a
23 natural parent, CPS is obligated to file a mandatory
24 petition on terminating that parent's rights; correct?

25 A. Correct.

1 Q. Okay. And there are no exceptions to that; correct?

2 A. There's no exceptions there, no.

3 Q. Thank you. And CPS never filed a petition to terminate
4 the rights of Choree Bressler, the natural mother;
5 correct?

6 A. Correct.

7 Q. Thank you. Now, as part of her investigation Ms. Apple
8 must consider whether a non-offending parent failed to
9 protect the child; right?

10 A. Yes, if they were aware of the circumstances.

11 Q. Right. And one of the ways that they can be aware of
12 the circumstances is if someone from the outside calls
13 in to make them aware; right?

14 A. Yes.

15 Q. And all of this is fully detailed in the PSM; right?

16 A. Yes. I would have to review that, though.

17 MS. WEINGARDEN: Judge, could I interrupt?

18 What is a PSF?

19 BY MR. ASHCRAFT:

20 Q. Mr. Baker, why don't you tell us what PSM, the acronym
21 stands for?

22 A. Protective Services Manual.

23 Q. Thank you. And that's been admitted as evidence in this
24 case, actually.

25 Now, abandonment of that child would

1 constitute a failure to protect under the PSM; right?

2 A. Yes. Yes, it would. But I would have to see the year
3 of the policy and the policy manual that you're
4 referencing.

5 Q. Right. Okay. Are you aware that on June 24 of 2018,
6 the time that the boys in this instance, Gary Jr. and
7 Russell, were placed in a safety plan, Ms. Bressler had
8 not seen her sons for the better part of three years?

9 A. No. I've seen what's in the report.

10 Q. So because Ms. Bressler abandoned her young children for
11 three years, Ms. Apple is required by law to file a
12 petition to terminate Choree Bressler's parental rights;
13 correct?

14 MS. WEINGARDEN: Objection. Relevance.
15 Again, my argument is he's putting CPS on trial and
16 that's not why we're here.

17 THE MASTER: Response?

18 MR. ASHCRAFT: Your Honor, it's the exact same
19 objection -- or the response that I gave before, that it
20 is absolutely relevant. There is an allegation of bias
21 here. That's already been substantiated as something
22 that, in fact, was at issue in this underlying
23 investigation.

24 THE MASTER: Objection is sustained. I'll ask
25 you to move on, Mr. Ashcraft.

1555

1 MR. ASHCRAFT: Thank you, Judge.

2 BY MR. ASHCRAFT:

3 Q. The Child Protection Law requires that all department
4 employees, meaning specifically CPS, involved in
5 investigating child abuse and neglect cases shall be
6 trained in their legal duties; is that right?

7 A. Yes.

8 Q. Now, in this particular instance or this particular
9 case, Ms. Apple testified that she did not file a
10 mandatory petition and specifically did not because she
11 was advised not to by her supervisors. Do you know
12 anything about that?

13 MS. WEINGARDEN: Objection. Relevance.

14 THE MASTER: Response, if any?

15 MR. ASHCRAFT: Judge, it's relevant because
16 we're now going specifically back to the testimony of
17 Ms. Apple and if Mr. Baker has information with regard
18 to that, it certainly is appropriate in terms of
19 assessing weight and credibility.

20 THE MASTER: Thank you. Anything further,
21 Ms. Weingarden?

22 MS. WEINGARDEN: Yes. None of this has
23 anything to do with the judicial misconduct by
24 Judge Green.

25 THE MASTER: All right. So I'm going to allow
1556

1 this question. And, Mr. Ashcraft, we'll see how you
2 continue if there are any additional objections, but I
3 will overrule this one.

4 MR. ASHCRAFT: Understood. Thank you, Judge.

5 BY MR. ASHCRAFT:

6 Q. Go ahead, sir.

7 A. I don't recall any -- was there a specific supervisor
8 indicated?

9 Q. No. She just testified by her supervisors.

10 A. I don't recall that.

11 Q. Okay. I would like to talk for a few minutes about
12 Central Registry. After the Family Team Meeting here,
13 Ms. Apple's supervisor, Mary Cavanaugh, put Tracy Green
14 on Central Registry, didn't she?

15 A. Yes.

16 Q. And it's the supervisor who authorizes the placement of
17 someone on Central Registry; correct?

18 A. Yes.

19 Q. Now, if you would, Mr. Baker, tell us what Central
20 Registry is. I don't think that anyone has asked that
21 question so far.

22 A. Central Registry's basically -- it's a registry for
23 child abuse and neglect. If it's egregious act, it's
24 lifetime registry. Otherwise, it would be a ten-year
25 registry for someone before they would be expunged.

1 Q. So CPS supervisors are trained to know who may and may
2 not legally qualify for placement on Central Registry;
3 correct?

4 A. Correct.

5 Q. Placement on Central Registry works against someone
6 trying to get placement of the children who've been
7 removed; is that right?

8 A. Yes, it could hinder. Yes, it would hinder ability to
9 get placement.

10 Q. And Tracy Green was, in fact, removed from Central
11 Registry; correct?

12 A. Yes.

13 Q. And do you know the circumstances of how that occurred?

14 A. How she was expunged?

15 Q. Yes.

16 A. Yeah. I believe Ms. McDougle did the actual removal
17 or -- from the Central Registry and would --

18 Q. And that was because -- I'm sorry. I spoke over you.

19 THE MASTER: One moment. Yes. What was the
20 last part of your answer?

21 THE WITNESS: That she would have removed her
22 from Central Registry and provided her notice.

23 THE MASTER: Thank you.

24 BY MR. ASHCRAFT:

25 Q. And the reason that Tracy Green was removed from Central

1 Registry is because there was no legal basis upon which
2 to have her on Central Registry; correct?

3 MS. WEINGARDEN: Objection.

4 THE MASTER: What is your objection?

5 MS. WEINGARDEN: Again, they're putting CPS on
6 trial, and that's not what we're here for.

7 THE MASTER: All right. At this time,
8 Mr. Ashcraft, I am going to -- I'm sorry -- to sustain
9 the objection and ask you to move on, please.

10 MR. ASHCRAFT: Judge, may I ask for a point of
11 clarification quickly?

12 THE MASTER: Yes.

13 MR. ASHCRAFT: Ms. Weingarden addressed the
14 issue of Central Registry. My follow-up questions are
15 specifically within the scope of her direct examination
16 about Central Registry.

17 THE MASTER: Any further response to
18 Mr. Ashcraft's response there?

19 MS. WEINGARDEN: No.

20 THE MASTER: All right. So with respect to
21 the Central Registry questions, to the extent that it's
22 a follow-up to what Ms. Weingarden has asked, then, that
23 is -- that is an appropriate line.

24 With respect to -- I believe you asked him to
25 make some comment with respect to a legal conclusion,

1 and that basically was the reason for my asking you to
2 move on. But let me just make sure and have
3 Ms. Jorgensen read Mr. Ashcraft's last question.

4 MR. ASHCRAFT: Thank you, Your Honor.

5 (The question was read back as follows:

6 "QUESTION: And the reason that Tracy
7 Green was removed from Central Registry
8 is because there was no legal basis upon
9 which to have her on Central Registry;
10 correct?")

11 THE MASTER: So, Mr. Ashcraft, is that the
12 question that you want to ask or do you want to reask
13 your question differently?

14 MR. ASHCRAFT: May I rephrase the question,
15 Judge?

16 THE MASTER: You certainly may.

17 MR. ASHCRAFT: Thank you.

18 BY MR. ASHCRAFT:

19 Q. Mr. Baker, you understand that Tracy Green complained
20 about being placed on Central Registry and she did so to
21 Annie Ray; is that right?

22 A. She may have had some conversations. I don't know to
23 what extent.

24 Q. And you also understand that Tracy Green contacted
25 Ms. Cavanaugh to complain about that as well. Yes?

1 A. I don't recall that.

2 Q. But you do know that she complained about being placed
3 on Central Registry?

4 A. Yes.

5 Q. And she was removed?

6 A. Yes.

7 Q. And what is your understanding as to why she was
8 removed?

9 A. The report was incomplete, and we made a determination
10 she wasn't responsible for the care and custody of the
11 children.

12 Q. So then there was no basis to put her on?

13 A. Correct.

14 Q. Thank you. Now, Judge Green complained about bias in
15 the investigation; right?

16 A. Correct.

17 Q. And she also expressed concern about the safety of her
18 grandsons in the care of Choree Bressler, their natural
19 mother; right?

20 MS. WEINGARDEN: Objection. Hearsay.

21 THE MASTER: Response, please?

22 MR. ASHCRAFT: Hearsay from the party? Judge,
23 it's --

24 MS. WEINGARDEN: Judge.

25 MR. ASHCRAFT: Ms. Weingarden has asked a

1 plethora of questions about things that were said by
2 Judge Green at any given time over the course of a very
3 long period of time. I'm asking the same question in
4 follow up to specific issues raised on direct
5 examination as to what Tracy Green may have said to
6 Mr. Baker.

7 MS. WEINGARDEN: Judge, Judge Green's
8 statements are hearsay when offered by someone who was
9 not a party opponent. I am a party opponent. I'm
10 allowed to ask those questions. They're not hearsay.
11 They are hearsay if Mr. Ashcraft asks them.

12 THE MASTER: Further response, if any, before
13 I rule, Mr. Ashcraft?

14 MR. ASHCRAFT: Nothing further, Judge.

15 THE MASTER: All right. I'm going to sustain
16 the objection. Continue, please.

17 MR. ASHCRAFT: Thank you.

18 BY MR. ASHCRAFT:

19 Q. Judge Green, Tracy Green, did make statements to CPS in
20 furtherance of the investigation; correct?

21 A. Yes, I believe so.

22 Q. And as part of that, she specifically raised issues
23 relating to untreated mental illness of the mother?

24 MS. WEINGARDEN: Objection. Hearsay.

25 THE MASTER: Response, Mr. Ashcraft, if any?

1 MR. ASHCRAFT: Judge, it's in the record
2 already as an exhibit, and I'm following up specifically
3 on things that were already covered in the case. The
4 reports have been admitted -- sorry?

5 THE MASTER: No.

6 MR. ASHCRAFT: The reports have been admitted
7 to provide context. And specifically we've talked about
8 for the last two sessions these specific reports and
9 what investigator's information in the reports were not
10 in all the reports, and I'm following up on the
11 statements of Ms. Apple that someone removed this
12 information from her reports. That is certainly
13 relevant and is not hearsay.

14 THE MASTER: Thank you. Objection is
15 sustained.

16 MR. ASHCRAFT: Thank you, Judge.

17 THE MASTER: You're welcome.

18 BY MR. ASHCRAFT:

19 Q. There was nothing wrong with CPS management meeting with
20 Tracy Green, was there?

21 A. No.

22 Q. In fact, you extended an invitation for that meeting,
23 did you not?

24 A. Personally I did, I can't recall.

25 Q. But someone at the management level or above extended an

1 invitation; right?

2 A. Correct.

3 Q. And CPS engages relatives in these sorts of
4 circumstances; right?

5 A. Yes.

6 Q. Tracy Green had a right to voice her concerns about how
7 the investigation was being conducted, didn't she?

8 A. Yes.

9 Q. She did not forfeit her right as a grandparent to be
10 engaged by CPS in the investigation just because she was
11 a lawyer; right?

12 A. No, I don't believe so.

13 Q. And there was nothing discussed during your meetings --

14 THE MASTER: Just a second. The answer to the
15 question is unclear, because it felt like it was a
16 two-part question. So let's hear the question and let's
17 separate them. Ms. Jorgensen, would you read
18 Mr. Ashcraft's last question?

19 (The question was read back as follows:

20 "QUESTION: She did not forfeit her right
21 as a grandparent to be engaged by CPS in
22 the investigation just because she was a
23 lawyer; right?")

24 THE MASTER: And is there a question after
25 that?

1 (The question was read back as follows:

2 "QUESTION: And there was nothing

3 discussed during your meetings --")

4 THE COURT REPORTER: But that question was cut
5 off.

6 THE MASTER: All right. So, Mr. Ashcraft, we
7 have the question and the answer to your next to last
8 question. But would you repeat the second one, please?

9 MR. ASHCRAFT: I will, Judge. And I will,
10 with your permission, just break it down so we're clear
11 on the record.

12 THE MASTER: Yes, please.

13 MR. ASHCRAFT: Thank you.

14 BY MR. ASHCRAFT:

15 Q. Thank you, Mr. Baker.

16 Tracy Green did not forfeit her right as a
17 grandparent to be engaged by CPS in the investigation;
18 correct?

19 A. Correct.

20 Q. And just because she happened to be a lawyer did not
21 somehow render her not properly engaged by CPS in the
22 investigation; right?

23 A. Right. We -- correct. We engage relatives.

24 Q. And you did meet with Tracy Green on October 22nd of
25 2018?

1 A. Yes.

2 Q. And you told us the details about that.

3 Were issues related to Choree Bressler's
4 psychiatric hospitalization discussed?

5 MS. WEINGARDEN: Objection. Hearsay.

6 THE WITNESS: Yes.

7 MS. WEINGARDEN: And I would ask that that
8 answer be stricken.

9 THE MASTER: Is there a response?

10 MR. ASHCRAFT: Judge, I didn't communicate a
11 statement ascribed to anyone. I asked if a topic was
12 discussed in a meeting.

13 THE MASTER: All right. Thank you. Anything
14 further, Ms. Weingarden?

15 MS. WEINGARDEN: Yes. That's a backdoor way
16 of getting what Tracy Green chose to talk about at that
17 meeting.

18 THE MASTER: The objection is sustained.
19 Continue, please. And the answer that I did hear part
20 of will be stricken. Continue.

21 BY MR. ASHCRAFT:

22 Q. After the meeting that occurred, on the same day Tracy
23 Green memorialized the meeting by way of an e-mail to
24 Tiffany McDougle; correct?

25 A. Yes, correct.

1 Q. And you're aware of that e-mail?

2 A. Yes.

3 Q. And in that e-mail that went to your office she
4 specifically raised a critical --

5 MS. WEINGARDEN: Objection. Hearsay.

6 THE MASTER: Mr. Ashcraft, any response?

7 MR. ASHCRAFT: Mr. Baker just indicated he was
8 aware of the e-mail. Now I'm asking if he's aware of
9 the contents.

10 THE MASTER: Objection is sustained.

11 Continue, please.

12 MR. ASHCRAFT: Thank you.

13 BY MR. ASHCRAFT:

14 Q. At the time that Ms. Green met with you and other people
15 from CPS, Ms. Apple had not been removed from the case;
16 correct?

17 A. Yeah, I don't know the exact time frame. I can -- I
18 would have to try to really go through it to see when
19 people were assigned or reassigned.

20 Q. All right. Well, if I tell you, according to the report
21 that we'll look at in more detail, that Ms. Apple was
22 removed from the case and it was reassigned to
23 Ms. Todd-Robinson and Ms. Vega on October 28 of 2018,
24 does that refresh your recollection?

25 A. What date was that?

1 Q. October 28, 2018.

2 A. It's very likely that it was around that date.

3 Q. Okay. Well, if it were October 28, that's certainly
4 after the time that Ms. Green had her meeting with you;
5 right?

6 A. Correct.

7 Q. Now, once Ms. Apple was removed from the case, was she
8 able to further add to or in any way alter her CPS
9 investigation reports?

10 A. She was able to add supplemental information that was
11 not in the first report.

12 Q. I'm sorry. Would you say that again, please?

13 A. She was able to add supplemental information that wasn't
14 added in the first report.

15 Q. Do you know whether or not that occurred?

16 A. I believe so.

17 Q. Do you know what was added?

18 A. Offhand, the biggest one was the Kids-TALK interview.

19 Q. Anything else?

20 A. Not that I can recall specifically.

21 Q. Now, Ms. Apple testified on Friday and she indicated
22 that some of her notes were removed from her
23 investigation reports and her file by someone in upper
24 management. Are you aware of that?

25 A. No.

1 Q. Is that true?

2 A. There was a conversation that was specific to an
3 allegation that I didn't feel relevant and said it
4 shouldn't be in the report, but I don't believe it was
5 ever directed to -- directed to delete that item.

6 Q. I'm going to have to ask you some questions so I
7 understand what you're saying.

8 Are you saying that you as a supervisor
9 directed that Ms. Apple remove something from her
10 investigation report because --

11 A. No. I had the conversation about relevance --

12 THE MASTER: One moment. Mr. Ashcraft, please
13 ask that question again.

14 And, Mr. Baker, if you'll wait until he's
15 completed it so we can hear the full question.

16 Go ahead, Mr. Ashcraft.

17 MR. ASHCRAFT: Thank you.

18 BY MR. ASHCRAFT:

19 Q. Do I understand you correctly, Mr. Baker, that you told
20 Ms. Apple to remove something from her investigation
21 report and file because you questioned its relevance?

22 A. Yeah. I don't know -- I don't recall that was requested
23 to be removed, but it was questioned the relevance of an
24 allegation that was directed towards Ms. Green and the
25 Friend of the Court hearing from years ago.

1 Q. All right. And was that removed from her report?

2 A. I don't recall if it was removed from the report. I see
3 it in the first report, so it's still in the first
4 report from --

5 Q. Are you aware --

6 THE MASTER: One moment. It was still in the
7 first report from June something?

8 THE WITNESS: June 24th, 2018.

9 THE MASTER: Thank you. Mr. Ashcraft, go
10 ahead.

11 MR. ASHCRAFT: Thank you.

12 BY MR. ASHCRAFT:

13 Q. Mr. Baker, are you aware of anyone at CPS removing any
14 of the notes of Ms. Apple from any investigation report
15 or her file?

16 A. No.

17 Q. Is that something that management has the discretion to
18 do?

19 A. If it was completely irrelevant, yes, management -- a
20 supervisor, when reviewing a report -- a direct
21 supervisor could deem something inappropriate for a
22 content of a report.

23 Q. But you're not aware that -- strike that.

24 That would be an unusual event, would it not?

25 A. Yeah. There could be -- there could be times where

1 things are worded a certain way and a supervisor wants
2 them corrected and the worker goes in and corrects or --
3 that could happen.

4 Q. Are you aware of that sort of thing ever happening as
5 relates to Ms. Apple's investigation reports and file in
6 this particular matter?

7 A. No, I don't recall that.

8 Q. How about ever?

9 A. With Ms. Apple?

10 Q. Yes.

11 A. No, not that I recall.

12 Q. You never altered any of Ms. Apple's investigative
13 reports; correct?

14 A. No.

15 THE MASTER: So your answer is, yes, that is
16 correct or, no, that is not correct? You said no.

17 THE WITNESS: Oh, sorry. No, I've never
18 corrected her report or -- sorry I forgot what the
19 question was, but there was a couple in a row. But, no,
20 I've never corrected it.

21 BY MR. ASHCRAFT:

22 Q. All right. So let me just make sure that we're clear.

23 You have never altered, revised, corrected, or
24 amended any of Ms. Apple's investigation reports or
25 files; correct?

1 A. No.

2 Q. That is correct?

3 A. That's correct.

4 Q. Thank you. Now, did CPS obtain Choree Bressler's
5 psychiatric hospitalization records?

6 A. Yes, I believe so.

7 Q. Do you know what form CPS obtained them in?

8 A. What form they used to obtain it, or what form the
9 document was on?

10 Q. No. Let me ask a better question.

11 Did CPS obtain Choree Bressler's psychiatric
12 hospital admission records?

13 A. I don't believe I recall a hospitalization record.

14 Q. Ms. Bressler actually objected to that, did she not?

15 MS. WEINGARDEN: Objection. Hearsay.

16 THE MASTER: Response, if any?

17 MR. ASHCRAFT: I'll move on, Judge, to a
18 different question.

19 THE MASTER: Thank you.

20 BY MR. ASHCRAFT:

21 Q. Do you know why you didn't obtain the hospitalization
22 records?

23 A. No, I can't recall.

24 Q. Do you know what specific records CPS did obtain?

25 A. I believe it was a psychiatric evaluation of some sort.

1 Q. Is that the extent of your knowledge about what it is?

2 A. Yes.

3 Q. Do you know the origin or the source of it?

4 A. No, not offhand.

5 Q. If a parent that is being considered for placement has a
6 psychiatric history, is it something that CPS needs to
7 do in terms of investigating that?

8 A. Yeah, they would follow up on that.

9 Q. And even if that parent objected, CPS is still obligated
10 to go and obtain records or investigate the question;
11 correct?

12 A. Correct.

13 Q. And in the event the parent being considered for
14 placement still refuses, then there are mechanisms
15 available through which CPS can, in fact, get the
16 records above the objection; right?

17 A. Yes. It depends on the facility, but most of the time
18 we would be able to get those.

19 Q. And did that ever occur in this case?

20 A. I don't believe so.

21 Q. When CPS does its investigation with regard to the
22 mental health or psychiatric issues that might be
23 related to a parent being considered for placement, that
24 is something that is documented in the investigative
25 report; correct?

1 A. Correct.

2 Q. So, too, if there is an allegation brought to CPS's
3 attention with regard to something, for example, a
4 history of violence by that parent who is being
5 considered for placement, that's also something that CPS
6 investigates?

7 A. Yes. We consider all factors.

8 Q. And that would be something, likewise, that would be
9 investigated and then recorded in the investigative
10 report?

11 A. Yes.

12 Q. How about allegations of abuse in the past, physical
13 child abuse alleged against that parent who's being
14 considered for placement? Is that something CPS would
15 investigate?

16 A. Yes. We look at history of child abuse and neglect.

17 Q. And would that be something that then the
18 investigative -- investigation would be included
19 specifically in the notes in the investigative report?

20 A. Yes.

21 Q. Are you aware of any substantiated cases of abuse with
22 regard to Ms. Bressler?

23 MS. WEINGARDEN: Objection. Relevance.

24 THE MASTER: Response?

25 MR. ASHCRAFT: Response, Judge, is that we

1 have a bias complaint and an allegation in the
2 underlying case as well as in the defense of this case,
3 and that was something that was specifically addressed
4 and I'm asking whether or not it was investigated. So
5 it is relevant.

6 MS. DRYSDALE-CROWN: Your Honor, if I may, I
7 would also object because it's getting into the
8 children's protective law statutory precluded release of
9 information regarding CPS reports, and it's my
10 understanding that this was limited only to the case at
11 hand and not Ms. Bressler.

12 THE MASTER: Thank you. Anything further,
13 Mr. Ashcraft? And then I'll ask if there is any
14 continuing objection from Ms. Weingarden and from
15 Ms. Drysdale-Crown after you have responded.

16 MR. ASHCRAFT: Thank you, Judge. I have
17 nothing further to supplement.

18 THE MASTER: I'm going to sustain the
19 objections. Move on, please.

20 MS. DRYSDALE-CROWN: Thank you.

21 MR. ASHCRAFT: Thank you.

22 THE MASTER: You're welcome.

23 BY MR. ASHCRAFT:

24 Q. Mr. Baker, you testified today that Ms. Apple was given
25 an award in the form of a coin; is that right?

1 A. Yes.

2 Q. And that was given because of her empathy and enthusiasm
3 on several media cases; is that right?

4 A. Yes, and her teamwork helping out her coworkers.

5 Q. Was this award specific to this case?

6 A. I don't recall that, and it's not documented like that.

7 Q. When you say "it's not documented like that," how is it
8 documented?

9 A. Exactly how -- well, paraphrased is how I said that, to
10 her empathy, enthusiasm, her work on several media
11 cases, and teamwork and helping her coworkers out. So
12 it wasn't any one specific case, from looking at it.

13 Q. Thank you. And did you play a role in this award?

14 A. I probably did. Usually they tell me who they're giving
15 awards out to. But, you know, I would say that, you
16 know, coworkers, supervisors can nominate anyone. It's
17 a way we use, you know, for morale in the office, giving
18 out good government coins.

19 Q. And when an award is contemplated, is that something
20 that someone sends a notice around and asks for input
21 from different levels of management?

22 A. I can't remember back in 2018 how we did it, but, you
23 know, sometimes we would say at our management meeting
24 if, you know, somebody wants to recommend somebody, a
25 supervisor could do that.

1 Q. Did you chime in with regard to this award for
2 Ms. Apple?

3 A. Well, it says in there I didn't distribute it, so I
4 don't know if I was there on that day of the all-staff
5 meeting, but I probably did approve it because all
6 the -- my secretary manages the coins.

7 THE MASTER: Mr. Ashcraft, would you back up
8 for a moment and you said did you chime in. I wasn't
9 quite sure what you were meaning by "chime in."

10 MR. ASHCRAFT: Yes, thank you, Judge. I'll
11 clarify the question.

12 BY MR. ASHCRAFT:

13 Q. Mr. Baker, did you provide any input or opinion as to
14 whether or not Ms. Apple should be a recipient of this
15 award?

16 A. I can't recall my specific input from back then, no.

17 Q. Okay. Thank you. Now, do you have copies of the four
18 CPS reports that we have marked in this case as
19 exhibits?

20 A. Yes, I believe so.

21 Q. Do you know whether or not the copies that you have bear
22 a designation or notation as to specific exhibit
23 numbers?

24 A. No, I don't know which exhibit numbers they are.

25 Q. All right. So let's try to establish which ones they

1 are for my next series of questions. First, we have an
2 Exhibit 16 which is a 25-page report, complaint date
3 June 24 of '18. Could you see if you could pull that
4 one, please?

5 A. Is the request for me to pull it up?

6 Q. Yes, sir. Yeah, you'll need to look at four specific
7 reports for my next series of questions.

8 THE MASTER: Mr. Ashcraft, you're asking him
9 to gather those documents or look them up on his laptop
10 and have them ready for you to ask questions about; is
11 that correct?

12 MR. ASHCRAFT: Yes, Judge. I should have been
13 more articulate about that. That's what I need him to
14 do. It's the same four that we've been working with,
15 and that will just save time if he's able to pull them
16 all up with your permission.

17 THE MASTER: That is fine. He certainly may.
18 I didn't know if Mr. Baker's thought was you're asking
19 him to share them on screen or just to have them in
20 front of him.

21 MR. ASHCRAFT: Thank you.

22 BY MR. ASHCRAFT:

23 Q. Mr. Baker, we don't need you to share them on the
24 screen. As long as you have them available to you as I
25 ask my questions, that will suffice.

1 A. Okay. It's going to take me a couple minutes here to
2 pull those up.

3 Q. And there will be four.

4 MS. WEINGARDEN: Judge, while he's looking, I
5 want to inform you that it's almost 1:00, and
6 AG Drysdale-Crown cannot attend this hearing much
7 longer. She has an assistant who is going to ask to
8 come into the waiting room. Her name is Erin, E-R-I-N,
9 Harrington, H-A-R-R-I-N-G-T-O-N. She'll be replacing
10 Ms. Drysdale-Crown. So we're wondering if you would let
11 her in when she appears.

12 MS. DRYSDALE-CROWN: I actually have an
13 update, Your Honor. Erin Harrington was just called in
14 to an emergency hearing, so I've just rearranged my
15 calendar. I'm available till 3:30. That's the latest
16 that I could put off my other motion hearing.

17 THE MASTER: All right. Thank you.

18 MS. DRYSDALE-CROWN: Thank you.

19 THE MASTER: Thank you. Given that
20 information, I think we can continue at this time.
21 Ms. Jorgensen, please remind us where we were, the last
22 question and answer.

23 (The question was read back as follows:

24 "QUESTION: We don't need you to share

25 them on the screen. As long as you have

1 them available to you as I ask my
2 questions, that will suffice.")

3 THE COURT REPORTER: And then the witness said
4 it would take him a couple minutes to pull those up.
5 And Mr. Ashcraft said, "And there will be four."

6 THE MASTER: All right. Thank you.
7 Mr. Baker, have you pulled those documents up? Do you
8 have all four of them?

9 THE WITNESS: Your Honor, I actually wanted to
10 say as I tried to open different programs, everybody is
11 choppy and my computer is saying low performance, close
12 additional programs. Is there any way Mr. Ashcraft can
13 share the documents?

14 THE MASTER: All right. Thank you.
15 Mr. Ashcraft, is that something that you are prepared to
16 do at this time?

17 MR. ASHCRAFT: I am, Your Honor.

18 THE MASTER: All right. Thank you.

19 BY MR. ASHCRAFT:

20 Q. Thank you, Mr. Baker. I'm going to show first what has
21 been marked as Exhibit Number 16. Are you with me?

22 A. Yeah.

23 Q. Thank you. So this is a report from complaint date
24 June 24 of 2018. It is 25 pages long, and I'm going to
25 scroll down to the bottom.

1 And this has a disposition date for worker
2 Ms. Apple September 13th of '18 and for disposition
3 approval supervisor Cavanaugh September 28th of 2018;
4 correct?

5 A. Correct.

6 Q. Now, I'm going to direct your attention to page
7 number 23. And on page number 23 of this report there
8 is a single entry for August 9 of 2018, and that's at
9 1:39 p.m.; correct?

10 A. Correct.

11 Q. And that's a contact between Ms. Apple and Tracy Green;
12 correct?

13 A. Correct.

14 Q. Thank you. Now, I'm going to move to Exhibit Number 42.
15 This is the same complaint date. This report is
16 27 pages long, and I'm going to scroll down to the end.

17 And on page number 26 we don't have
18 signatures, but we have the same disposition and
19 approval dates, September 13 of '18 and September 28 of
20 '18. Do you see that?

21 A. Yes.

22 Q. And then I'm going to scroll up to page 21. Do you see
23 on the page that has the August 2018 entries by
24 Ms. Apple there is still the single entry August 9,
25 2018, at 1:39 p.m.; correct?

1 A. Correct.

2 Q. Thank you. Now I'm going to move to Exhibit Number 17,
3 which is an August 6th, 2018, complaint date. Do you
4 see that?

5 A. Yeah. Yes, I do. Sorry.

6 Q. Don't be sorry. Thank you. I'm going to scroll down to
7 the last page. This report is ten pages long, and it
8 has the worker disposition date September 18 of '18 and
9 the supervisor disposition approval date October 4 of
10 '18; correct?

11 A. Correct.

12 Q. Now I'm going to scroll up to page number 7, and I want
13 to look for the August 9, 2018, at 1:39 p.m. entry that
14 was in Exhibits 16 and 42. So this is the bottom of
15 page 6, which shows an entry from August 8th. And when
16 we get to the top of page 7 we have two entries for
17 August 9, one at 11:25 a.m. and one at 11:35 a.m. Do
18 you see that?

19 A. Yes.

20 Q. But if we scroll down, the entry for August 9 at
21 1:39 p.m. is gone; correct?

22 A. Yes.

23 Q. But we do have two new entries, August 9 at 11:25 and
24 August 9 at 11:35, and both of those reflect successful
25 case contacts by phone between Ms. Apple and Tracy

1 Green; is that right?

2 A. Yes, that's correct.

3 Q. These two entries were not in Exhibits 16 and 42, the
4 June 24 complaint date reports; correct?

5 A. Correct.

6 Q. Now I'm going to show you Exhibit Number 18. This is
7 another version of the August 6, 2018, complaint date
8 report. Do you see that?

9 A. Yes.

10 Q. This one, however, is 34 pages long, and I'm going to
11 scroll down to the bottom. And we come to the worker
12 disposition date September 18, 2018, five days after the
13 worker disposition date from the first two reports;
14 right?

15 A. Yes.

16 Q. And a supervisor disposition approval date of April 15,
17 2019; correct?

18 A. Correct.

19 Q. Now, during your testimony did you indicate that this
20 document, Exhibit Number 18, is the complete report or
21 at least the most recent version that we have here?

22 A. Yeah, that should be the complete finalized report.

23 Q. Okay. Now I'm going to scroll up to page number 6. And
24 on page number 6 under "Social Work Contacts" we see
25 entry of August 6, August 7, August 8, and at the bottom

1 of page 5 we see August 9, 2018, at 11:25 a.m.; right?

2 A. Yes.

3 Q. And then August 9 at 11:35 a.m.; right?

4 A. Yes.

5 Q. But the August 9 at 1:39 p.m. entry is not there, the
6 one that was in the first two reports June 24; correct?

7 A. Yes.

8 Q. Now, looking at these two new entries, August 9 at 11:25
9 and August 9 at 11:35, they also specifically document
10 telephone contact between Leslie Apple and Tracy Green;
11 correct?

12 A. Correct.

13 Q. And if you look at the 11:35 a.m. entry, what does it
14 reflect?

15 A. A call from Ms. Green and just a discussion about them
16 being listed as perpetrators.

17 Q. And this information specifically makes reference to --
18 this report narrative here specifically makes reference
19 to concerns that Tracy Green has with regard to Choree
20 Bressler as custodial parent; correct?

21 MS. WEINGARDEN: Well, objection to the
22 hearsay.

23 THE MASTER: Response, if any?

24 MR. ASHCRAFT: Judge, it's the report that we
25 have been looking at and asking questions about for two

1 different sessions, number one.

2 Number two, it's part of the report that has
3 been admitted for a limited purpose. And one of the
4 issues here is whether or not information has been
5 removed, and on Friday Ms. Apple testified that
6 information was, in fact, removed from her reports by
7 CPS workers.

8 THE MASTER: Thank you. Any continuing
9 objection, Ms. Weingarden?

10 MS. WEINGARDEN: The exhibit he's referring
11 to, Exhibit Number 18, has not been admitted yet. Until
12 today, we didn't have any authentication of that report.

13 THE MASTER: Thank you. Mr. Ashcraft,
14 continued response?

15 MR. ASHCRAFT: Yes, Judge, two things.
16 Specifically, number one, I would move, then, for the
17 admission of Exhibit Number 18, though I think that was
18 addressed already on Friday. Because Mr. Baker, as a
19 management level person at CPS, has, in fact,
20 authenticated it as a final report, number one.

21 And, number two, the entries that I'm asking
22 about are not being reviewed for the purposes of the
23 truth of the assertions but just the fact that this
24 occurred and these contacts occurred and the subjects of
25 them. That's all.

1 THE MASTER: All right. Thank you. With
2 respect to the document being admitted, is there any
3 objection?

4 MS. WEINGARDEN: No objection.

5 THE MASTER: It is admitted.

6 (Exhibit 18 admitted.)

7 THE MASTER: And with respect to the hearsay
8 objection, Mr. Ashcraft has stated that the information
9 is not being -- is not reviewed for the truth of the
10 matter asserted, and I've heard the other arguments with
11 respect to bias and whatnot. Given all of that, I'm
12 going to overrule the objection. You may continue.

13 MR. ASHCRAFT: Thank you, Your Honor. If we
14 could, Ms. Jorgensen, if you'd be so kind as just to
15 reread my last question, with the Court's permission.

16 THE MASTER: Certainly.

17 (The question was read back as follows:

18 "QUESTION: And this information
19 specifically makes reference to -- this
20 report narrative here specifically makes
21 reference to concerns that Tracy Green
22 has with regard to Choree Bressler as
23 custodial parent; correct?")

24 THE WITNESS: Sorry. Waiting for my answer?

25 THE MASTER: Yes. Mr. Baker, you may

1 continue.

2 THE WITNESS: Yes, correct. It does state
3 that in there.

4 BY MR. ASHCRAFT:

5 Q. It specifically goes through a number of different
6 concerns that Tracy Green was expressing and
7 specifically asking that CPS do their due diligence
8 investigation with regard to each; correct?

9 A. Correct.

10 Q. Now, this entry, specifically these two entries, are not
11 found in Exhibits 16 and 42, the June 24, 2018,
12 complaint date; right?

13 A. The June 24th complaint?

14 Q. Yes.

15 A. No.

16 THE MASTER: And, Mr. Ashcraft, just indicate
17 which two entries you are speaking of again.

18 MR. ASHCRAFT: Yes. Thank you, Judge. The
19 August 9, 2018, at 11:25 a.m. entry and the August 9,
20 2018, at 11:35 a.m. entry.

21 THE MASTER: Thank you.

22 BY MR. ASHCRAFT:

23 Q. Those entries are not in Exhibit 16 and 42, the two
24 different versions of the June 24, 2018, report;
25 correct?

1 A. Yes. And it's probably because there's two different
2 modules. When you have two different separate
3 investigations in SACWIS, you work out of two different
4 modules without the same social work contacts, so you
5 have to make sure that you, you know, get them in both
6 cases.

7 Q. Is that your understanding because you know that's what
8 occurred?

9 A. No. I'm just stating that just so you know that there's
10 two different modules for two different investigations.

11 Q. Now, Ms. Apple indicated during her testimony that this
12 was information that was removed from her investigation
13 report. Is that true?

14 A. From this one, no. It's there.

15 Q. I'm sorry. Let me ask a better question.

16 Ms. Apple testified that this information,
17 these two entries that I just mentioned, 11:25 a.m. and
18 11:35 a.m., were removed from her June 24, 2018,
19 complaint date reports, they being Exhibits 16 and 42.

20 A. I wasn't aware of that.

21 Q. Was it true?

22 A. I'm not sure.

23 Q. You never did it; correct?

24 A. Correct.

25 Q. You're not aware of anyone ever doing that; correct?

1 A. Correct.

2 Q. And this would be a circumstance that would be
3 inappropriate if that occurred; correct?

4 A. Yes, if somebody else was going into the case to delete
5 things.

6 Q. Right. Thank you. And the June 24, 2018, complaint
7 date was investigating what?

8 A. Physical abuse.

9 Q. And as part of that, the placement of the boys was at
10 issue; correct?

11 A. There was a safety plan put in place and then, from my
12 recollection, a petition was filed and Ms. Bressler got
13 an emergency temporary order.

14 Q. And this is something we talked about earlier. And
15 these issues raised about Ms. Bressler having custody of
16 the boys, her two boys, these were issues that were
17 important to CPS to investigate with regard to that
18 placement; correct?

19 A. Yes, correct.

20 Q. And do you know when Ms. Bressler obtained her temporary
21 custody order?

22 A. I can't recall offhand.

23 Q. Do you remember the month?

24 A. It would have probably been August.

25 Q. And this contact of August 9, 2018, occurred before

1 that, did it not?

2 A. I can't answer without scrolling down and seeing the
3 rest of the page, but --

4 Q. I'm happy to do that. Where would you like me to go?

5 A. To where she got custody.

6 MS. WEINGARDEN: Your Honor, in order to speed
7 things along, I can tell you that the date she got
8 custody was June 27th, 2018. And we're looking in
9 August, we're not going to find it there.

10 MR. ASHCRAFT: Thank you.

11 BY MR. ASHCRAFT:

12 Q. Mr. Baker, assume she got custody the last week of June
13 of 2018. The information contained in these entries of
14 August 9, 2018, they being 11:25 and 11:35 a.m., were
15 certainly relevant to that; correct?

16 A. Correct.

17 Q. Thank you. You also talked about, Mr. Baker, the worker
18 disposition -- I'm sorry. Strike that.

19 You also talked about consolidation of reports
20 in the past, or maybe it was Ms. Ferguson that actually
21 did that. Do you recall whether or not there has been
22 policy changes within CPS with regard to the
23 consolidation of investigation reports?

24 A. Consolidation of the investigative reports.

25 Q. Yes.

1 A. Not offhand.

2 Q. Okay. Is Ms. Apple still under you in terms of
3 supervisor caseworker in your district?

4 A. Yes. She's still a North Central employee.

5 Q. I'd like to talk for a few minutes with regard to the
6 reason that Ms. Apple was removed from this
7 investigation. You testified that it was due to the
8 incompleteness of the report. Specifically what are you
9 talking about, please?

10 A. What stands out to me is the Kids-TALK interviews were
11 missing. I believe the risk assessments weren't two
12 different households; they were one.

13 Q. Anything else?

14 A. There was probably some additional supplemental
15 information missing from the report.

16 Q. Were you aware that the entries that we just reviewed,
17 August 9, 2018, at 11:25 a.m. and 11:35 a.m. were
18 missing from the June 24, 2018, complaint reports?

19 A. No, I never -- never saw that connection.

20 Q. In fact, Mr. Baker, the issues and concerns that were
21 raised by Tracy Green in these two August 9, 2018,
22 entries, they were not investigated until after
23 Ms. Apple was removed from the case; right?

24 A. Correct.

25 Q. They were ultimately investigated by Ms. Todd-Robinson

1 and her supervisor, not until November of 2018; is that
2 right?

3 A. Yes.

4 MR. ASHCRAFT: Your Honor, may I have a couple
5 of minutes here so I can review my notes?

6 THE MASTER: Yes.

7 MR. ASHCRAFT: Thank you. I'm going to take
8 the share screen off now.

9 THE MASTER: Thank you.

10 (At 1:06 p.m., pause in proceedings.)

11 (At 1:10 p.m., proceedings resume.)

12 THE MASTER: Mr. Ashcraft, are you ready to
13 continue?

14 MR. ASHCRAFT: Ready to proceed, Judge.

15 THE MASTER: Go ahead.

16 MR. ASHCRAFT: Thank you.

17 BY MR. ASHCRAFT:

18 Q. Mr. Baker, just a couple more questions.

19 You indicated that the incompleteness of the
20 investigation as for the reason that she was removed
21 from the case, one of the issues was not having done a
22 safety assessment or a risk assessment for two different
23 households; is that right?

24 A. No. I think I was saying the risk assessment, you're
25 technically supposed to have it on two households.

1 Q. Right. And do you know which household the risk or the
2 safety assessment was done on?

3 A. I believe it was -- well, it was the father's household,
4 but I think if I believe -- if I remember correctly, I
5 also think it incorporated some questions regarding
6 Ms. Green.

7 Q. Okay. You haven't seen anything in the investigative
8 reports for the work done by Ms. Apple that indicates
9 that she had done that assessment on Ms. Bressler's
10 household; correct?

11 A. I can't recall.

12 Q. And you haven't seen anything in these investigative
13 reports in terms of the work done by Ms. Apple, that she
14 investigated prior CPS history or involvement as related
15 to Ms. Bressler; correct?

16 A. Correct. I don't see that in the report. However, her
17 supervisor and her would have discussed PS history. I
18 mean, that's pretty basic in all of our cases, but I
19 don't see it documented.

20 Q. The point being that it's not in the report anywhere;
21 correct?

22 A. Correct.

23 Q. You would expect it to be there, would you not?

24 A. Yes.

25 Q. Thank you.

1 MR. ASHCRAFT: I have no further questions.

2 THE MASTER: Thank you. Questions on
3 redirect, if any?

4 MS. WEINGARDEN: Yes.

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

6 BY MS. WEINGARDEN:

7 Q. Mr. Baker, were you aware that the children were in a
8 safety plan for three nights before they moved into
9 their mother's house?

10 A. Yes.

11 Q. Was Choree Bressler, the mother, a parent considered for
12 placement?

13 A. Considered for the safety plan or placement? Sorry.

14 Q. Let me ask it both ways. Thank you.

15 Was she considered a parent for a potential
16 safety plan candidate?

17 A. From my review of the case, it looks like they held off
18 until she obtained an order from FOC.

19 Q. So she was not considered an option for the safety plan.
20 Was she considered an option for placement?

21 A. Yes.

22 Q. Was that before or after she got a court order from a
23 circuit court judge granting her temporary custody?

24 A. It was after she had the order.

25 Q. So you're aware that she did go into circuit court and

1 obtain an order granting custody; right?

2 A. I did see that documented, yes.

3 Q. Can CPS override a circuit court judge's custody order?

4 A. No, not without filing a petition.

5 Q. What if CPS disagrees with the circuit court judge's
6 decision?

7 A. If CPS disagrees with the decision?

8 Q. Yes.

9 A. If it's a risk -- an imminent risk to the children, they
10 would file a petition.

11 Q. Once Ms. Todd-Robinson and her supervisor were
12 reassigned to the case after Choree Bressler got
13 custody, did they file a petition to have the children
14 removed?

15 A. No.

16 Q. Did they file a petition against Choree Bressler for
17 abandonment?

18 A. No.

19 Q. Were the children removed from Choree Bressler's care?

20 A. No.

21 Q. Did CPS contact the circuit judge and ask that he amend
22 his custody order?

23 A. I don't recall seeing that.

24 Q. So can you conclude from all that that the subsequent
25 investigation by Ms. Todd-Robinson and her supervisor

1 revealed nothing of concern requiring the removal of the
2 boys?

3 MR. ASHCRAFT: Objection.

4 THE WITNESS: Correct.

5 THE MASTER: What's the objection?

6 MR. ASHCRAFT: Foundation, speculation. He
7 testified that that's not in the record.

8 THE MASTER: Response, if any?

9 MS. WEINGARDEN: I can lay a better
10 foundation.

11 THE MASTER: All right. Go ahead.

12 BY MS. WEINGARDEN:

13 Q. Mr. Baker, in spite of what's written in the record or
14 not written in the record, you remember this case, don't
15 you?

16 A. Yes.

17 Q. And you have sort of an independent recollection of some
18 of the facts of this case; right?

19 A. Yes, although it's been quite a while.

20 Q. When you reviewed the reports in preparation for your
21 testimony today, did that help refresh your memory?

22 A. Yes.

23 Q. Are you able to tell us whether or not the subsequent
24 investigation revealed anything of concern that required
25 removal of the boys from Choree Bressler's home?

1 A. No, it did not.

2 Q. Getting back to the award that Ms. Apple was given, you
3 told us that she was given awards for her involvement in
4 media cases; is that right?

5 A. Yes.

6 Q. And you said that I probably did approve the award, but
7 you're not certain?

8 A. Yes. It was a long time ago, and, you know, just about
9 every district meeting we try to hand out a couple
10 awards recognizing staff.

11 Q. Well, if Ms. Apple's conduct in this case or in general
12 was not competent and appropriate, you wouldn't have
13 allowed her to be rewarded, would you have?

14 A. No.

15 Q. So this case was a media case. Do you remember that?

16 A. Yes.

17 Q. And do you remember that she worked on another case that
18 was a media case that involved a baby who drowned in the
19 basement of her home?

20 A. Yes.

21 Q. And Ms. Apple was basically awarded for her work in both
22 of those cases; right?

23 A. Right, correct.

24 Q. Was Ms. Apple expected to do a safety assessment on
25 Ms. Bressler's home?

1 A. I don't recall. At the time I don't think she was
2 required to do one.

3 Q. So you told us that one of the reasons she was removed
4 from the case was because she was incomplete -- her work
5 was incomplete and that she failed to do a safety
6 assessment for two different households; right?

7 A. Risk assessment. A risk assessment.

8 Q. Is there a difference between a safety assessment and a
9 risk assessment?

10 A. Yes. The safety identifies the safety factor, and the
11 risk -- the risk level tells you what category the case
12 would be.

13 Q. Okay. So explain to us, those of us who don't know what
14 all this means. What is a safety factor?

15 A. So like if the parent left the children unsupervised or
16 if the parent is using inappropriate discipline and
17 causing harm to the children. I don't know -- I don't
18 have them all offhand, but basically it identifies the
19 specific issue that is a safety factor for the children.

20 Q. So was Ms. Apple expected to do that for Choree
21 Bressler's home?

22 A. No. Because she was not a perpetrator on the case. It
23 just had one safety factor identified in regards to the
24 father, and then it would require multiple risk
25 assessments of different households.

1 Q. So tell us what the risk assessment entails.

2 A. So it asks you like how many prior complaints that
3 they've had, how many were neglect, how many were abuse,
4 if they're taking the case less seriously, if they're a
5 domineering parent. Multiple categories. Again, if
6 they have substance abuse issues. And then that would
7 give you a point total which would tell you if the case
8 was low, moderate, high, or intensive risk. And,
9 obviously, if you're filing a petition, it would
10 automatically make it intensive case.

11 Q. So was Ms. Apple required to do a risk assessment on
12 Choree Bressler's home?

13 A. I believe she should have done them on all homes, yes.

14 Q. And she didn't do so; is that correct?

15 A. Correct.

16 Q. Is there a reason why you or her direct supervisor
17 didn't just suggest to her that she do it, rather than
18 remove her from the case?

19 A. No. But I do think it was, you know, the missing
20 contacts that were in the case as well that led us to
21 that decision, as well as the concerns.

22 Q. What missing contacts are you referring to?

23 A. So I know for sure the Kids-TALK, because there was no
24 interviews with kids in the second complaint.

25 Q. Any other things that she was missing?

1 A. I can't recall because it's been so long ago, but those
2 were the ones that stuck out.

3 Q. And is there a reason why you or her direct supervisor
4 didn't tell her to set up a Kids-TALK for that second
5 case, rather than remove her?

6 A. They did set up a Kids-TALK. It wasn't entered. From
7 my understanding and recollection, it wasn't entered
8 into the system.

9 Q. So is there a reason someone didn't tell her to enter
10 it, rather than remove her from the case?

11 A. No, not specifically. No, not that I can recall.

12 Q. Is it fair to say that had Tracy Green not complained to
13 you about the investigation, Ms. Apple would have just
14 been instructed to amend her report and include the
15 missing things and continue on as the investigator?

16 MR. ASHCRAFT: Speculation.

17 THE MASTER: Any response before I rule on
18 this?

19 MS. WEINGARDEN: Could I lay a foundation?

20 THE MASTER: Yes.

21 BY MS. WEINGARDEN:

22 Q. Mr. Baker, are you the person who makes the decision in
23 part whether a worker should be reassigned or removed?

24 A. Yes, in part.

25 Q. And are you also one of the people that decides whether

1 a worker should simply be instructed to do more work,
2 rather than be removed?

3 A. Yes. I mean, sometimes that could be handled at the
4 supervisory level, section manager level, and then
5 sometimes myself.

6 Q. Have you or the supervisor or the section manager ever
7 suggested to a worker that she do -- put more in her
8 report than what she has submitted?

9 A. Yes, probably.

10 Q. In fact, that's what supervisors do; right?

11 A. Yes.

12 Q. They supervise their underlings and tell them how to do
13 the job better --

14 A. Yes.

15 Q. -- if necessary; right?

16 A. Yes.

17 Q. Okay. So are you qualified to answer the question
18 whether had Judge Green not gotten involved in this
19 investigation, whether Ms. Apple simply would have been
20 instructed by a supervisor of what she missed and told
21 to correct it?

22 MR. ASHCRAFT: Foundation, speculation.

23 THE MASTER: One moment, Mr. Baker. Anything
24 further before I rule?

25 MS. WEINGARDEN: Judge, that's why I'm asking

1 him if he's in a position to answer that question.

2 MR. ASHCRAFT: But he has already indicated
3 three times now that he is one of at least more than one
4 person and that he has that ability in part, but it's
5 connected clearly to additional individuals. He doesn't
6 have the ability to speculate for them as to whether or
7 not they would agree with what he will say. There's no
8 foundation and it's speculative.

9 THE MASTER: To the form in which the question
10 was asked. And, Ms. Jorgensen, please reread that
11 question.

12 (The question was read back as follows:

13 "QUESTION: So are you qualified to
14 answer the question whether had
15 Judge Green not gotten involved in this
16 investigation, whether Ms. Apple simply
17 would have been instructed by a
18 supervisor of what she missed and told
19 to correct it?")

20 THE MASTER: All right. To that question
21 stated that way, I will overrule the objection. You may
22 answer the question that was just last asked.

23 THE WITNESS: It is a difficult decision, I
24 mean, for me to speculate, I think, on that. I think it
25 would depend specifically if it was another case and

1 another grandmother, it may have had the same -- may
2 have had the same decision to reassign another worker.
3 I don't know that I wouldn't have reassigned somebody
4 new if it was any grandparent that was in that
5 situation. I don't know if that answers the question or
6 not, but --

7 BY MS. WEINGARDEN:

8 Q. I don't think it did.

9 A. Okay. One more time if you can ask me.

10 Q. If a grandmother in general complains to you and you
11 decide to remove the worker rather than have the
12 supervisor instruct her of what she missed and what she
13 should correct, are you qualified to say that had that
14 grandmother not reported this, the worker would have
15 simply been instructed to correct her report?

16 MR. ASHCRAFT: Same objection.

17 THE WITNESS: Yes, that's possible.

18 THE MASTER: So the question at this time, as
19 I understand it, is are you qualified to say that, which
20 your answer would be yes or no if I allow the question.
21 There might be follow-up question after that.
22 Mr. Ashcraft, I think I heard you saying same objection;
23 is that correct?

24 MR. ASHCRAFT: That's correct, Judge. It
25 still hasn't changed in terms of whether he's qualified

1 to do that.

2 THE MASTER: All right. With respect to the
3 question of whether or not you're qualified, which I
4 believe is calling for a yes or a no answer, then I will
5 take your response. The objection is overruled.

6 THE WITNESS: Yes, I believe I'm qualified.

7 BY MS. WEINGARDEN:

8 Q. So can you tell us had Judge Green not gotten involved
9 in this investigation, would the worker simply have been
10 instructed to complete -- do a more complete report and
11 add the things that were missing?

12 THE MASTER: And before you answer that
13 question, Mr. Ashcraft, is there an objection?

14 MR. ASHCRAFT: Yes. It's the same objections
15 as before. Mr. Baker has already testified three times
16 in part he would have that ability. That hasn't
17 changed, nor has Ms. Weingarden established who else
18 would have to be involved in that decision-making
19 process.

20 THE MASTER: All right. Thank you.
21 Ms. Weingarden, anything further?

22 MS. WEINGARDEN: Judge, these words are coming
23 from Mr. Ashcraft, not from the witness. The witness
24 said he's qualified to answer that question.

25 THE MASTER: All right. Thank you. The

1 objection is overruled. You may answer.

2 THE WITNESS: Yes. I believe in certain
3 situations the supervisor may just correct the worker
4 and continue with the case.

5 BY MS. WEINGARDEN:

6 Q. So in this case why was the worker removed?

7 A. I think it was the totality of the situation. So we had
8 the stuff or the content that was not in the report, and
9 then we had a grandparent who was complaining about the
10 worker. And so we just thought it would be better to
11 have a different set of eyes on that.

12 Q. When you initially testified on my questions on direct
13 examination, you told us that Tracy Green complained to
14 you that Ms. Apple was biased in favor of Choree
15 Bressler; is that correct?

16 A. I believe that was the bias that she was talking about.

17 Q. Did you see any bias in favor of Choree Bressler in your
18 review of the case?

19 A. No.

20 Q. Are there times in your office where reasonable minds
21 can differ about whether someone belongs on the Central
22 Registry or not?

23 A. Yes.

24 Q. Is it unusual for people to disagree?

25 A. No, it's not unusual.

1 Q. Were you aware that the FBI was investigating
2 Judge Green's involvement in this investigation?

3 A. No.

4 MR. ASHCRAFT: Foundation.

5 THE MASTER: Response to the objection to
6 foundation?

7 MS. WEINGARDEN: Well, he said no, so that's
8 the end of it, I think.

9 THE MASTER: I could strike his answer if I
10 don't allow it. Do you have a response to Mr. Ashcraft?

11 MS. WEINGARDEN: Can I lay a foundation?

12 THE MASTER: Certainly.

13 BY MS. WEINGARDEN:

14 Q. Mr. Baker, if the FBI was investigating a case that your
15 office was investigating involving children, would you
16 be aware of it as the district manager?

17 A. Yes, I believe so. I mean, I don't -- maybe not,
18 depending on what it is. But usually when the FBI has a
19 case that they're working with us, we're aware of it.

20 Q. Does -- I'm sorry. Go ahead.

21 THE MASTER: No. I'll let you finish. Ask
22 your next question.

23 BY MS. WEINGARDEN:

24 Q. Were you ever interviewed by the FBI in relation to this
25 case?

1 A. No.

2 Q. Do you know if any of the people working under you were
3 interviewed by the FBI?

4 A. No.

5 Q. Now you --

6 THE MASTER: Your answer is, no, they were not
7 or, no, you don't know?

8 THE WITNESS: No, I'm not aware of it.

9 THE MASTER: Thank you.

10 BY MS. WEINGARDEN:

11 Q. You told us that CPS got Choree Bressler's psychological
12 evaluation; is that correct?

13 A. Correct.

14 Q. Do you know how CPS got that?

15 A. If I recall correctly, I believe Ms. Bressler -- I can't
16 remember offhand if she sent it or the psychiatrist or
17 psychologist sent that.

18 THE MASTER: One moment. One moment, please.
19 Thank you. You may continue, Ms. Weingarden.

20 BY MS. WEINGARDEN:

21 Q. Mr. Baker, you told us that you are not certain how CPS
22 got Choree Bressler's psychological records, you
23 couldn't remember if she gave them to you or the
24 psychologist did?

25 A. Yes. That's what I -- yeah.

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1 Q. If a psychologist gives up psychological records, does
2 that require the patient to release the information?

3 A. Yes. Typically, yes.

4 Q. So from that, can you assume that Ms. Bressler give her
5 permission for you to get those psychological records?

6 A. Yes.

7 MR. ASHCRAFT: Foundation, speculation. We
8 have to have a second or two for me to object,
9 Mr. Baker.

10 THE MASTER: Respond, please?

11 MS. WEINGARDEN: Judge, I can withdraw the
12 question. I'll present this a different way.

13 THE MASTER: All right. So the question is
14 withdrawn and the answer is stricken from the record.

15 BY MS. WEINGARDEN:

16 Q. Mr. Baker, if a mother was hospitalized for a short time
17 eight years earlier, would that be records that CPS
18 would seek to get?

19 A. Not necessarily.

20 Q. And do you say "not necessarily" because of the age of
21 how long ago it was?

22 A. Yes. And if they currently have a recent evaluation or
23 some kind of involvement. Obviously, that -- the more
24 recent information might be more relevant.

25 Q. When Mr. Ashcraft was going over with you the CPS

1 reports, I have a few questions about that. Okay?

2 A. Okay.

3 Q. If there are two ongoing investigations regarding the
4 same children but different allegations of abuse or
5 neglect, would you expect all the reports of both
6 investigations to mimic each other?

7 A. Yes. For all the crossover social work contacts, we
8 like to see them in both cases.

9 Q. What determines what a crossover CPS contact is?

10 A. So if you look at the disposition date of -- let's use
11 the first report, the June 24th report, 9/13, and then
12 the second complaint date is 8/6. So that 8/6
13 investigation will be in a different module, so
14 everything from 8/6 on will typically be in that new
15 report. But if that first report's not dispositioned
16 until after it, likewise, you would assume that both the
17 contacts would be in both cases.

18 Q. Does the investigating worker on each case know that
19 there is another pending investigation on a different
20 issue?

21 A. Yes, they know. If they have multiple investigations,
22 they're aware.

23 Q. So if there's two complaints about two different issues
24 involving the same children, will one worker be assigned
25 to both investigations?

1 A. Yes. But there are situations where you may have two.
2 I would have to go back and look at our county protocol.
3 Like when two different offices with two different
4 parents living in two different locations and complaints
5 come on both parents, there's been times in the past
6 where we've had a worker at North and South both
7 investigating complaints on the same family. But
8 typically nowadays, we try to keep it one worker on all
9 complaints.

10 Q. But in this particular case you didn't have that issue
11 of different jurisdictions and different workers. Is
12 that fair to say?

13 A. Yes, it's fair to say.

14 MS. WEINGARDEN: Thank you. I have no other
15 questions.

16 THE MASTER: Thank you. Do we need a break
17 before we go to recross, if any?

18 MR. ASHCRAFT: Judge, my recross will be
19 brief.

20 THE MASTER: All right. Let's continue -- go
21 ahead.

22 MR. ASHCRAFT: If we could just have
23 30 seconds, that would be great.

24 THE MASTER: Thirty seconds are fine.

25 MR. ASHCRAFT: Thank you.

1 THE MASTER: Let's take a five-minute break.
2 MR. ASHCRAFT: Judge, I'm prepared to proceed.
3 THE MASTER: Let's take a five-minute break at
4 this time.
5 MR. ASHCRAFT: Sorry about that.
6 (At 1:38 p.m., off the record.)
7 (At 1:42 p.m., on the record.)
8 THE MASTER: All right. Are we ready to
9 continue?
10 MS. WEINGARDEN: Yes.
11 MR. ASHCRAFT: Ready to proceed.
12 THE MASTER: Proceed.
13 MR. ASHCRAFT: Thank you.

14 R E C R O S S - E X A M I N A T I O N

15 BY MR. ASHCRAFT:

16 Q. Mr. Baker, there is no reference in any of the CPS
17 reports that we're talking about here, Exhibits 16, 17,
18 18, and 42, to the age of any psychiatric or
19 psychological records; right?

20 A. Are you speaking of the ones that were obtained?

21 Q. Yes.

22 A. I don't believe it's in that report.

23 Q. It's in none of the reports; right?

24 A. It's not in the investigative report.

25 Q. Is it in some other report that governs that CPS

1 investigation that we don't know about?

2 A. It's possible. I haven't looked, but it's possible we
3 could have that specific document uploaded to our
4 system.

5 Q. But you haven't seen it; is that right?

6 A. No.

7 Q. That's right?

8 THE MASTER: You just answered no, and it's
9 unclear whether you were saying, no, that's not right
10 or, no, you haven't seen it. So if you could --

11 THE WITNESS: Oh. No, I haven't. Sorry,
12 Your Honor.

13 THE MASTER: All right. So answer that once
14 more.

15 THE WITNESS: No, I haven't seen it.

16 THE MASTER: Thank you.

17 MR. ASHCRAFT: Thank you.

18 BY MR. ASHCRAFT:

19 Q. Mr. Baker just two more things.

20 One, you talked about this idea of crossover
21 report. And here we looked at Exhibits 16 and 42, the
22 June 2018 complaint date, and Ms. Apple did not sign off
23 on that report until September 13 of '18; right?

24 A. Correct.

25 Q. But by that time she had had her August 9, 2018,

1 interviews with Judge Green; right?

2 A. Correct.

3 Q. And that information is not found in the June 2018
4 reports; right?

5 A. Correct.

6 Q. And because there was a crossover, because the crossover
7 postdated that, you would have expected to see the
8 August 9, 2018, information in the investigative reports
9 from June of '18; right?

10 A. Yes.

11 Q. And when you testified earlier, sir, that she was --
12 Ms. Apple was removed from the underlying case because
13 of incompleteness of the report, one of the reasons of
14 the incompleteness was that there was no investigative
15 work done by Ms. Apple following up on the August 9,
16 2018, complaints made by Tracy Green until after she was
17 replaced; right?

18 A. Yes. Yeah, there was things missing.

19 Q. Well, that didn't answer my questions. Things missing.
20 I want to be very specific.

21 There was nothing in her record about doing an
22 investigation about the complaints made by Judge Green
23 on August 9 of 2018 until after she was replaced on the
24 case and then somebody else did it; right?

25 A. Yes.

1 Q. Thank you, sir.

2 MR. ASHCRAFT: I have no further questions.

3 THE MASTER: Thank you. Is there any
4 objection to this witness being excused?

5 MS. WEINGARDEN: No.

6 MR. ASHCRAFT: No, Your Honor. Thank you.

7 THE MASTER: Thank you. And thank you,
8 Mr. Baker, you are excused.

9 THE WITNESS: Thank you, Your Honor.

10 THE MASTER: So you may leave the meeting now.

11 THE WITNESS: Have a good day.

12 THE MASTER: Thank you.

13 (At 1:46 p.m., witness excused.)

14 MS. DRYSDALE-CROWN: And shall I be excused as
15 well, Your Honor?

16 THE MASTER: Yes, certainly, you may. I'm
17 sorry. You may. Thank you.

18 MS. DRYSDALE-CROWN: That's all right. Thank
19 you.

20 MR. ASHCRAFT: Thank you.

21 (At 1:46 p.m., Ms. Drysdale-Crown leaves the
22 proceedings.)

23 THE MASTER: All right. No additional
24 witnesses today, is that correct, Counsel?

25 MS. WEINGARDEN: Correct, or ever in my

1 case-in-chief. But I do have exhibits I need to move to
2 admit.

3 THE MASTER: All right. Why don't you move to
4 admit them at this time.

5 MS. WEINGARDEN: I can do that, but
6 Mr. Ashcraft asked me earlier today if he and I could
7 talk before we do that.

8 THE MASTER: Certainly. I will send you to a
9 room, and Ms. Jorgensen and I will go back into the main
10 room. When you are -- well, let me see. No. How much
11 time do you need to talk approximately?

12 MS. WEINGARDEN: I don't need any time.
13 Mr. Ashcraft needs time.

14 THE MASTER: Would ten minutes suffice, do you
15 think, Mr. Ashcraft?

16 MR. ASHCRAFT: Yes, Judge, ten minutes will
17 suffice.

18 THE MASTER: Okay. So after ten minutes I'll
19 bring you back into this room. I didn't want to go back
20 into the main room in case there was something else we
21 needed to discuss before we go back to the
22 livestreaming. All right. So I'm going to send you
23 into a room, you and Judge Green. Let's see which room
24 I will use, and that is just going to be Extra One, the
25 extra room.

1 (At 1:49 p.m., off the record.)

2 (At 1:59 p.m., on the record)

3 THE MASTER: Counsel, did you have enough time
4 to finish your discussion?

5 MS. WEINGARDEN: Yes.

6 MR. ASHCRAFT: Yes, Judge. There is just one
7 issue to raise. We have agreed that all of the
8 different things that Ms. Weingarden is going to move
9 for admission today, we've cleared all of those. And
10 just a couple of things. One, when the case is over, we
11 are going to provide Your Honor a --

12 THE MASTER: One moment, Mr. Ashcraft. I'm
13 going to ask you to start that over, because I didn't
14 start the recording. Actually, the recording was still
15 going. Not a problem. So go ahead. Sorry to
16 interrupt.

17 MR. ASHCRAFT: Thank you. Don't be sorry,
18 Judge. Thank you.

19 So two things. First, when the case concludes
20 we will be submitting to Your Honor a joint exhibit book
21 that has everything contained in it. We've agreed to do
22 that, and we're holding off until the conclusion of the
23 case before we do. So just to clarify that for you.

24 And then second, Ms. Weingarden is going to
25 move to strike a sentence from one of the e-mails that

1 have already been admitted in the case.

2 And I just want to indicate for the record
3 that in the event this is something Your Honor sees fit
4 to do, then I am respectfully going to request an
5 opportunity to take the time necessary so I can look up
6 the transcript and actually give Your Honor and the
7 record a citation to the examination exchanges between
8 disciplinary counsel and the boys, and myself and the
9 boys, with regard to that attempt to have one sentence
10 stricken.

11 THE MASTER: All right. I'm not exactly clear
12 on what you just said with respect to the one sentence
13 and when that was going to be requested and what your
14 response is going to be. When is it, Ms. Weingarden,
15 that you are planning to request that one sentence be
16 stricken from some exhibit?

17 MS. WEINGARDEN: Right now.

18 THE MASTER: All right. And, Mr. Ashcraft,
19 you're saying that before I make a ruling on that, if
20 I'm hearing you correctly, you would like an opportunity
21 to -- what is that?

22 MR. ASHCRAFT: Judge, if you are inclined to
23 grant that oral motion to strike a sentence from an
24 already admitted exhibit, then I'm going to ask that you
25 refrain from doing so, respectfully, until I have had an

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1 opportunity to look at the record and then provide
2 Your Honor, and perfect the record, with specific
3 citations to the testimony of Max and Russell that
4 address those e-mails so that I can lay a foundation for
5 why they should not -- in particular, that the single
6 sentence should not be stricken from that e-mail.

7 THE MASTER: All right. Thank you.

8 Ms. Weingarden, response, or Mr. Helland?

9 MS. WEINGARDEN: I have no objection to that.

10 THE MASTER: All right. Thank you.

11 Mr. Helland, is there anything you want to put on the
12 record?

13 MR. HELLAND: Nothing with respect to that,
14 Your Honor. However, you're probably going to go back
15 to the other record for the purpose of admitting the
16 exhibits?

17 THE MASTER: Yes.

18 MR. HELLAND: And if it's all right with you,
19 I don't think I have anything to contribute to that, so
20 I will absent myself at that point.

21 THE MASTER: All right. Thank you. We are
22 going to go back to the other record, and so you will
23 need to state that as far as what you would like to do
24 with respect to that on the main record.

25 But before we do, my understanding is that we

1 will be coming back on the 13th and then we have a final
2 day on the 29th. But still, Mr. Ashcraft and
3 Ms. Weingarden, Mr. Helland, you need to discuss at some
4 point the order of the witnesses. And if you cannot
5 agree to that, then you will be bringing that before me.
6 Are we correct?

7 MR. HELLAND: Correct.

8 MR. ASHCRAFT: That's correct.

9 MS. WEINGARDEN: Yes.

10 THE MASTER: All right. Thank you. So at
11 this time I think it is time to go back into the main
12 record. And, Mr. Helland, we understand that you will
13 take your leave of us sometime between now and when we
14 go back into the main room; correct?

15 MR. HELLAND: I'll disappear now, then. I
16 don't know if you wanted me to do that on the record,
17 but I'll just disappear now.

18 THE MASTER: If you feel that you want it on
19 the main record, that's fine.

20 MR. HELLAND: No. I just didn't want to be
21 rude.

22 THE MASTER: It's just going to take
23 30 seconds, so why don't we go ahead and do that.

24 MR. HELLAND: Okay.

25 THE MASTER: Thank you. I'm just going to

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close all the room and we should appear back right away.

- - -

(At 2:04 p.m., end of separate record.)