

EXHIBIT 8

From: Betterson, Carl
Sent: Thursday, October 15, 2020 3:06 PM
To: Benton, Brooks
Subject: Fw: new PREA
Attachments: PREA Initial Notification Form diamond 10-10.docx

Carl E. Betterson Jr.
Deputy Warden of Care and Treatment
Georgia Department of Corrections
Coastal State Prison
200 Gulf Stream Rd.
Garden City, GA 31418
Office: (912)965-6287
Cell: (912) 666-7151
Fax:(912)966-6799
Carl.Betterson@gdc.ga.gov

"The Georgia Department of Corrections protects the public by operating safe and secure facilities through the development of professional staff and effective offender management."

Courage-Determination-Team Work

From: Cantera, Tamara <tcantera@TeamCenturion.com>
Sent: Thursday, October 15, 2020 10:54 AM
To: tfletcher1@teamcenturion.com <tfletcher1@teamcenturion.com>; Betterson, Carl <carl.betterson@gdc.ga.gov>; Sawyer, Florine <florine.sawyer@gdc.ga.gov>; Bryant, Sandra <sandra.bryant@gdc.ga.gov>; Moody, Porshe <porshe.moody@gdc.ga.gov>; Nettles, Constance <constance.nettles@gdc.ga.gov>; sgregory@augusta.edu <sgregory@augusta.edu>; Hofer, Chester <Chester.Hofer@gdc.ga.gov>; PREA <prea.report@gdc.ga.gov>
Subject: new PREA

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Attached is the initial notification for a new PREA allegation that was made on 10/14/2020. If you have any questions or concerns, please let me know.

*Tamara Cantera LAPC, NCC
Coastal State Prison
200 Gulfstream Rd.
Garden City, GA 31418
Telephone: (912)966-6774
E-mail: TCantera@teamcenturion.com*

"Building PRIDE in ourselves and our Agency"

"The Georgia Department of Corrections protects the public by operating safe and secure facilities through the development of professional staff and effective offender management."

CONFIDENTIALITY NOTICE: This communication contains information intended for the use of the individuals to whom it is addressed and may contain information that is privileged, confidential or exempt from other disclosure under applicable law. If you are not the intended recipient, you are notified that any disclosure, printing, copying, distribution or use of the contents is prohibited. If you have received this in error, please notify the sender immediately by telephone or by returning it by return mail and then permanently delete the communication from your system. Thank you.

PREA Initial Notification

Facility: Coastal State Prison Date of Incident: 10/10/2020
 Location: N-Building Time of Incident: 0200 hrs
 Incident Report #: _____

Type of Allegation (Select one):	Offender Diamond(s)		Alleged Aggressor(s)	
	Name	ID#	Name	ID#
<u> </u> S/I Abuse				
<u> </u> S/I Harassment	Diamond, Ashley	1000290565	Unknown	unknown
<u> x </u> I/I Abuse				
<u> </u> I/I Harassment				

Summary of Incident:

MHC and SART member Tamara Cantera LAPC, NCC met with Offender Diamond, Ashley #1000290565 on 10/14/2020 following the report of a PREA incident. Offender Diamond had initially reported the incident to her MHC Ms. Pepin but had declined to discuss it at that time. Offender Diamond reported that on the morning of 10/11/2020 she was informed by another Offender (Thigpen, Earl #560373) that on the night of 10/10/2020 an unnamed aggressor was observed by Offender Thigpen inside of Offender Diamonds room while she was sleeping on her stomach. While in the Offender Diamond's room, the alleged aggressor was seen touching the buttocks of Offender Diamond. Offender Thigpen then verbally chastised the alleged aggressor causing the alleged aggressor to leave the Offender Diamond's room. Offender Diamond stated that she did not wake due to mental health medication.

How were you notified of this incident? (Grievance, Hotline, Staff, Ombudsman, 3 rd party, etc.)	Victim
---	--------

Y/N

SART notified? y _____

Name Tia Fletcher
 MHUM

By whom victim

Y/N Date/Time 10/13/2020

SANE notified? N _____

1400hrs

If yes, name N/a

By whom _____

Y/N Date/Time n/a

Criminal Investigations notified? N _____

If yes, name _____

By whom n/a

Date/Time _____

Y/N _____

Internal Affairs notified? n _____

If yes, name _____

By whom n/a

Y/N Date/Time _____

PREA Coordinator notified? y _____

If yes, name C. Hoffer



Upon completion this form is to be placed in the PREA case file as well as emailed to the PREA Unit.

PREA Initial Notification

By whom	Tamara Cantera LAPC, NCC
<input type="checkbox"/> Date/Time	10/15/20 1050 hrs

Tamara S. Cantera LAPC, NCC

Name/Title of person submitting report

Signature



Upon completion this form is to be placed in the PREA case file as well as emailed to the PREA Unit.

EXHIBIT 9

PREA Initial Notification

Facility: Coastal State Prison Date of Incident: 10.30.2020
 Location: N-B Time of Incident: Unknown
 Incident Report #: _____

Type of Allegation (Select one):	Alleged Victim(s)	Alleged Aggressor(s)		
	Name	ID#	Name	ID#
<input type="checkbox"/> S/I Abuse	DIAMOND, ASHLEY ALTON	1000290565	THIGPEN, EARL	560373
<input type="checkbox"/> S/I Harassment				
<input checked="" type="checkbox"/> I/I Abuse				
<input type="checkbox"/> I/I Harassment				

Summary of Incident:

I would like to speak with someone about several PREA incidents on 29,30,31st. These incidents were reported to a GDC staff member and dorm reps. I would also like to be tested for DNA on the most recent allegation as would the offender involved. Testing us will disprove any acts of penetration as this was alleged.

How were you notified of this incident? (Grievance, Hotline, Staff, Ombudsman, 3rd party, etc.) staff

SART notified?

Yes
 Name Carl Betterson DWCT
 By whom _____
 Y/N Date/Time _____

SANE notified?

No
 If yes, name _____
 By whom _____
 Y/N Date/Time _____

Criminal Investigations notified?

No
 If yes, name _____
 By whom _____
 Date/Time _____

Internal Affairs notified?

No
 If yes, name _____
 By whom _____
 Y/N Date/Time _____

PREA Coordinator notified?

Yes
 If yes, name Carl Betterson DWCT
 By whom _____
 Date/Time 11/1/2020-1025AM



Upon completion this form is to be placed in the PREA case file as well as emailed to the PREA Unit.

PREA Initial Notification

Name/Title of person submitting report

Signature



Upon completion this form is to be placed in the PREA case file as well as emailed to the PREA Unit.

EXHIBIT 10

WITNESS STATEMENT		
PLACE <i>Crystal State Prison</i>	DATE <i>10-30-2021</i>	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME <i>Diamond, Ashley</i>	EMPLOYEE NUMBER <i>1000290565</i>	STATE ID NO.
INSTITUTION OR ADDRESS		
SWORN STATEMENT		
I, <u><i>Ashley Diamond</i></u> , WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: <i>on 10/30/2021</i>		
<p><i>In a dorm meeting with Big, Tom Tom, and Logan Earl Thigpen admitted to exposing himself, and inappropriate touching of me.</i></p> <p><i>end of statement</i></p>		
EXHIBIT	INITIALS OF PERSON MAKING STATEMENT <i>AD</i>	PAGE 1 OF 1 PAGES
<small>ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____ CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE ____ OF ____ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.</small>		

(Reproduced locally)

Retention Schedule: Upon completion, this form shall be maintained locally for three (3) years, with the Incident Report, and then destroyed.

STATEMENT (Continued)

AP AP AP AP

AFFIDAVIT

I, Ashley Diamond HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 1. I FULLY UNDERSTAND THE CONDITIONS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THIS STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Ashley Diamond
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, 20____.

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority to Administer Oath)

WITNESS _____

INSTITUTION OR ADDRESS _____

INSTITUTION OR ADDRESS _____

INITIALS OF PERSON MAKING STATEMENT _____

PAGE _____ OF _____ PAGES

Retention Schedule: Upon completion, this form shall be maintained locally for three (3) years with the Incident Report, and then destroyed.

EXHIBIT 11



GEORGIA DEPARTMENT OF CORRECTIONS

COASTAL STATE PRISON
PO BOX 7150
GARDEN CITY, GEORGIA 31418-7150
PHONE 912-965-6330
FAX 912-966-6799



Brian P. Kemp
Governor

Timothy C. Ward
Commissioner

TO: Brooks L. Benton – Warden

FROM: Carl Belterson – Deputy Warden of Care and Treatment

DATE: 11.5.2020

RE: Prison Rape Elimination Act
(Alleged Victim- DIAMOND, ASHLEY ALTON -1000290565)
(Alleged Aggressor - THIGPEN, EARL -560373)

On 11.3.2020 offender Ashley Diamond GDC#1000290565 reported the following PREA allegation. Offender Diamond stated that on 10.30.2020 offender Earl Thigpen GDC#560373 stated in the presence of another offender that he walked into Diamonds cell, exposed himself and touched her while she was asleep.

On 11.3.2020 an interview was conducted with offender Diamond regarding the alleged incident. Offender Diamond stated that during a meeting in the dorm in the presence of offender (Tom Tom) offender Earl Thigpen stated that he walked into her cell while she was asleep, exposed himself and touched her while she was asleep. Offender Diamond was asked to provide information to help identify offender Tom Tom but she could only provide a generalized description indicating that Tom Tom was white with a medium build. Offender Diamond was asked what she did when the offender touched her and who did she report it to. Diamond stated that she did not know the incident took place, likely due to being under heavy medication.

On 11.3.2020 an interview was conducted with offender Earl Thigpen; Thigpen was asked about the incident; Thigpen stated that at no time did he touch anyone in the building including Ashley Diamond.

On 11.4.2020 an interview was conducted with offender Christopher Conley regarding any interaction between offender Diamond and Thigpen. Offender Conley is a dorm representative and an evidence-based mentor. Offender Conley was asked if anything was reported to him regarding offender Diamond and Thigpen. Conley stated that he spoke with Thigpen about interacting with Diamond and going into Diamonds room prior to the PREA allegation. Conley stated that Thigpen stated to him that he did go to Diamonds room and expose himself. However, Thigpen did not provide any details regarding offenders Diamond state of mind or if he was possibly under the influence of a prescription drug.

Thigpen never indicated to Conley that there was physical contact between himself and Diamond, only that he exposed himself to Diamond.

Offender Diamond was seen by Mental Health and Medical regarding the above allegations.

An investigation was completed regarding the above allegations. Offender Tom Tom was not able to be identified for further questioning. However, i was able to contact a dorm representative that was familiar with the incident. Based on the evidence it was determined that the incident likely occurred. After meeting with

the SART team and evaluating the evidence presented. It was determined that the above allegations are substantiated. Offender Diamond is currently being housed in a separate dormitory than offender [redacted].

SEE, BELIEVE, LEAD

EXHIBIT 12

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ASHLEY DIAMOND,
Plaintiff,

v.

TIMOTHY WARD, et al.,
Defendants.

CASE NO. 5:20-CV-00453-MTT

**PLAINTIFF’S SECOND EXPEDITED REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS TO CERTAIN GEORGIA DEPARTMENT OF
CORRECTION DEFENDANTS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Rule 26(c) of the United States District Court for the Middle District of Georgia (“Local Rules”), Plaintiff Ashley Diamond, by her undersigned attorneys, hereby requests that Defendants Ward, Lewis, J. Jackson, Holt, Toole, Ford, Sauls, Benton, and Atchison (“GDC Defendants”) produce for examination, inspection and copying, copies of all documents responsive to the following Expedited Request for Production of Documents (“Requests”) within ten (10) days¹ of service of this Request. Plaintiff reserves the right to propound additional discovery requests.

DEFINITIONS

1. “Video recording” means any recording containing sound and/or images.

¹ Concurrent with service of expedited discovery, Plaintiff has requested that Defendant agree to respond within the 15-day window in consideration of a May 12, 2021 evidentiary hearing.

2. Device means any machine or electronic item capable of recording sound and/or images and includes, without limitation, stationary surveillance cameras, handheld video cameras and smartphones.
3. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun, and vice versa; and the past tense shall include the present tense where the clear meaning is not distorted. The term “or” shall mean “and” and vice-versa, as necessary to bring within the scope of the following document request all information or documents that would be excluded absent this definition.

INSTRUCTIONS

1. This Request for Production of Documents shall be deemed a continuing request requiring the filing of additional or supplemental answers and production by Defendant when additional, supplemental, further, or different information responsive to this request becomes known or available either directly or indirectly to Defendant and/or his counsel.
2. In responding to this request for production you should furnish all non- privileged documents (unless such privilege has been waived) that are within the possession, custody or control, of the Georgia Department of Corrections and GDC Defendants or are within the possession, custody or control of your/their agents, employees, representatives or investigators, or the possession, custody or control of your/their attorneys, agents, employees, representatives, or investigators.
3. If any or all recordings identified herein are no longer in your possession, custody, or control as defined in Instruction 2 hereof, because of destruction, loss or any other reason, with respect to each and every such document or thing: (1) state the date when you believe such recording to have been created; and (2) state the manner and date of the disposition.

4. To the extent GDC Defendants object based on privacy or security, those issues shall not be the basis for an objection because Plaintiff agrees that the production shall be treated confidentially and will be subject to the Protective Order once finalized and executed by the Parties.

REQUEST FOR PRODUCTION

6. All video and/or audio recordings from the surveillance camera positioned in a way that captured Rodney Jackson's dormitory meeting June 16-19, and from the surveillance camera outside Ashley Diamond's cell, and any handheld video cameras used to capture images or sound of Ashley Diamond, including the handheld video camera held by Capt. Judkins on April 26, 2021, on the following days:
 - a. November 1-3, 2019 (GDGP)
 - b. November 8-10 (GDGP)
 - c. July 15-16, 2020
 - d. September 12-13, 2020
 - e. September 18-20, 2020
 - f. October 9, 2020
 - g. October 29, 2020
 - h. October 30-31, 2020
 - i. October 7, 2020
 - j. October 31, 2020
 - k. December 3, 2020
 - l. December 23, 2020
 - m. January 3, 2021

- n. Feb 18, 2021
- o. Feb 22, 2021
- p. March 17, 2021
- q. April 25-26, 2021

Served this, the 30th day of April, 2021

/s/ Beth Littrell

Elizabeth Littrell, Ga. Bar No. 454949

Maya G. Rajaratnam*

Southern Poverty Law Center

P.O. Box 1287

Decatur, GA 30031

Phone: (404) 221-5876

Fax: (404) 221-5857

Email: beth.littrell@splcenter.org

Email: maya.rajaratnam@splcenter.org

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Southern Poverty Law Center

201 St. Charles Avenue, Suite 2000

New Orleans, LA 70170

Phone: (504) 526-1530

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A. Chinyere Ezie*

Center for Constitutional Rights

666 Broadway, 7th Floor

New York, NY 10012

Phone/Fax: (212) 614-6467

Email: cezie@ccrjustice.org

Counsel for Plaintiff Ashley Diamond

* Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2021, a true and correct copy of the foregoing document was served on counsel of record for GDC via electronic mail:

Dated: April 30, 2021

/s/ Elizabeth Littrell
Elizabeth Littrell, Ga. Bar No. 454949
Southern Poverty Law Center
P.O. Box 1287
Decatur, GA 30031
Phone: (404) 221-5876
Fax: (404) 221-5857
Email: beth.littrell@splcenter.org

EXHIBIT 13

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

ASHLEY DIAMOND,	:	
	:	
Plaintiff,	:	
	:	Civil Action No.
v.	:	5:20-cv-00453-MTT
	:	
TIMOTHY WARD, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**RESPONSES AND OBJECTIONS TO PLAINTIFF’S
THIRD REQUESTS FOR PRODUCTION OF DOCUMENTS TO CERTAIN
GEORGIA DEPARTMENT OF CORRECTIONS DEFENDANTS**

Defendants Timothy Ward, Sharon Lewis, Javel Jackson, Ahmed Holt, Robert Toole, Benjamin Ford, Jack Sauls, Brooks Benton, Grace Atchison, Lachesha Smith, and Rodney Jackson (collectively, “Defendants”), through counsel and pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, submit the following responses and objections to Plaintiff’s Third Requests for Production of Documents to Certain Georgia Department of Corrections Defendants. Defendants respond as follows:

1. Defendants object to each request for production to the extent that it attempts to impose obligations upon Defendants beyond the requirements of the Federal Rules of Civil Procedure and the applicable Local Rules and Orders of the Court.

2. Defendants object to each request for production to the extent that it seeks material subject to attorney-client privilege, protected as work product, or that constitutes mental impressions, conclusions, opinions, or legal theories of any attorney or other representative of a party concerning the litigation, pursuant to Rule 26(b)(3) of the Federal Rules of Civil Procedure.

3. Defendants object to each request for production to the extent that it seeks information or material that is not relevant to a claim or defense in this case, that is not proportional to the needs of the case, and/or that is overly broad, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.

4. Defendants object to each request for production to the extent that it seeks information or documents not in Defendants' possession, custody, or control.

5. Defendants object to each request for production to the extent that it is not limited to a time period relevant to this case.

6. Defendants object to each request for production to the extent that it seeks information or material which implicates prison security concerns and/or poses a risk to the safe and secure operation of the GDC prison system.

7. Defendants' investigation and development of the facts and circumstances relating to this action is ongoing. The responses and objections herein are made without prejudice to, and are not a waiver of, Defendants' right to supplement, clarify, revise, or correct any of the responses and objections herein based on information or documents obtained or made available in discovery and to use and rely on such other facts or documents in discovery and at trial.

RESPONSES AND OBJECTIONS

Subject to the foregoing General Objections, Defendants respond to Plaintiffs' Third Requests for Production as follows:

REQUEST FOR PRODUCTION NO. 1 (DIRECTED TO DEFENDANT ATCHISON)

All documents concerning the policies, practices and procedures that govern or otherwise guide GDC officials with respect to the Third Party PREA Report process, including, without

limitation, documents that support the alleged bar on contacting third-party reporters referenced by Grace Atchison during her testimony in this case on May 13, 2021.

RESPONSE

Responsive documents have been produced to Plaintiff as DEF 1362–1412. Defendants are not aware of any additional responsive documents at this time.

REQUEST FOR PRODUCTION NO. 2 (DIRECTED TO DEFENDANT BENTON)

All audio and/or video recordings of Ashley Diamond from June 1, 2019 to present (“Recordings of Ms. Diamond”) and documents relating to Recordings of Ms. Diamond. Please include, without limitation, all Recordings of Ms. Diamond whether taken on phones, surveillance video, or hand held recorders, including from Ms. Diamond’s disciplinary hearings, as well as documents that refer, reflect or relate to Recordings of Ms. Diamond to include, without limitation, directions to staff regarding Recordings of Ms. Diamond; memos concerning Recordings of Ms. Diamond; service requests and work reports for the video camera outside Ashley Diamond’s cell in N-building, or elsewhere in the dormitory; and correspondence and communications of any kind concerning Recordings of Ms. Diamond.

RESPONSE

Defendants object to this request for production to the extent that it seeks information or documents not in Defendants’ possession, custody, or control. Subject to and without waiving the foregoing objection, responsive documents have been produced to Plaintiff as DEF 1437–1447 and DEF 1489–1495. Additional responsive documents are produced herewith as DEF 1903–1921. Defendants are conducting a search for potentially responsive email communications and will supplement these responses once responsive documents are received.

REQUEST FOR PRODUCTION NO. 3 (DIRECTED TO DEFENDANT JACKSON)

All documents, including communications, from October 29, 2019 to present concerning Ashley Diamond's mental health classification level, including but not limited to documents concerning the decision(s) to override healthcare providers suggestions to elevate her mental health classification in August 2020.

RESPONSE

Defendants object to this request for production to the extent that it seeks material subject to attorney-client privilege. Subject to and without waiving the foregoing objection, responsive documents have been produced to Plaintiff as DEF 1–10, DEF 252–527, and DEF 1486–1488. Additional responsive documents are produced herewith as DEF 1628–1858. Defendants are conducting a search for potentially responsive email communications and will supplement these responses once responsive documents are received. Psychotherapy notes responsive to this request have been withheld and are protected from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"). 45 C.F.R. § 164.524.

Respectfully submitted this 30th day of July, 2021.

PLEASE ADDRESS ALL
COMMUNICATIONS TO:
Robert B. Shapiro
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
Tel: (470) 355-2765
Fax: (404) 651-5304
Email: rshapiro@law.ga.gov

Christopher M. Carr 112505
Attorney General

Kathleen M. Pacious 558555
Deputy Attorney General

Roger A. Chalmers 118720
Senior Assistant Attorney General

/s/ Robert B. Shapiro 932554
Robert B. Shapiro
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2021, I served the foregoing upon all attorneys of record

as follows:

Elizabeth Littrell
Southern Poverty Law Center
P.O. Box 1287
Decatur, Georgia 30031

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666 Broadway, 7th Floor
New York, New York 10012

Maya G. Rajaratnam
Scott Daniel McCoy
Southern Poverty Law Center
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/s/ Robert B. Shapiro
Robert B. Shapiro
Georgia Bar No. 932554
*Attorney for Defendants Ward,
Lewis, Jackson, Holt, Toole, Ford,
Sauls, Benton, Atchison, Smith, and
Jackson*

State Law Department
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Atlanta, Georgia 30334-1300
Tel: (470) 355-2765
Fax: (404) 651-5304
Email: rshapiro@law.ga.gov

EXHIBIT 14



Planet Depos[®]
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Transcript of Grace Atchison, 30(b) (6)

Date: July 27, 2022

Case: Diamond -v- Ward, et al.

Planet Depos

Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF GEORGIA
3 MACON DIVISION

4 -----x
5 ASHLEY DIAMOND, :
6 Plaintiff :
7 vs : Case No.
8 TIMOTHY WARD, et al., : 5:20-CV-00453
9 Defendants :

10 -----x
11 V I D E O D E P O S I T I O N

12 o f

13 GRACE ATCHISON,
14 (30(b)(6) Georgia Department of Corrections)
15 taken on behalf of Plaintiff

16 DATE: July 27, 2022
17 TIME: 10:01 a.m to 6:08 p.m. EDT
18 PLACE: - REMOTE -
19 BEFORE: Dawn A. Hillier, RMR, CRR
20 Stenographic Reporter
21 Notary Public - State of
Maryland, at Large
22 JOB NO: 456420
23
24
25

1 APPEARANCES: ALL PARTIES ATTENDING REMOTELY

2
3 ON BEHALF OF PLAINTIFF:

4 ELIZABETH "BETH" LITTRELL, ESQUIRE
5 SOUTHERN POVERTY LAW CENTER
6 150 E. Ponce de Leon Ave., Suite 340
7 Decatur, GA 30030
8 404.221.5876
9 beth.littrell@splcenter.org

10 ON BEHALF OF DEFENDANTS TIMOTHY WARD, SHARON LEWIS,
11 AHMED HOLT, ROBERT TOOLE, BENJAMIN FORD, JACK SAULS,
12 BROOKS BENTON, GRACE ATCHISON, LACHESHA SMITH,
13 RODNEY JACKSON AND THE WITNESS:

14 ROGER CHALMERS, ESQUIRE
15 OFFICE OF THE ATTORNEY GENERAL OF GEORGIA
16 40 Capital Square SW
17 Atlanta, GA 30334
18 404.458.3500
19 rchalmers@law.ga.gov

20 ON BEHALF OF DEFENDANT JAVEL JACKSON:

21 PAUL HENEFELD, ESQUIRE
22 HENEFELD & GREEN
23 3017 Bolling Way, NE, Suite 129
24 Atlanta, GA 30305
25 404.841.1275
pah@aps-law.com

ALSO PRESENT:

Jen Vail, Esq., SPLC
Rebecca Barrett, SPLC summer intern
Charles Jones, intern with Mr. Chalmers
Kyle Brockway, Planet Depos technician
Jean-Louis Ziesch, Planet Depos videographer

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PAGE

REPORTER'S KEY TO PUNCTUATION:

-- At end of question or answer references
interruption.

... References a trail-off by the speaker.

No testimony omitted.

"Uh-huh" "Um-hum" References affirmative sound.

"Huh-uh" "Um-um" References negative sound.

Transcript of Grace Atchison, 30(b)(6)

Conducted on July 27, 2022

4

1	VIDEOGRAPHER: It is the beginning of	10:01:42
2	media number one of the videotaped 30(b)(6)	10:01:44
3	deposition of Grace Atchison in the matter of	10:01:48
4	Ashley Diamond, et al. vs. Timothy Ward, et al.	10:01:51
5	in the U.S. District Court for the Middle	10:01:58
6	District of Georgia, Case No.	10:01:59
7	5:20-CV-00453-MTT.	10:02:02
8	Today's date is July 27, 2022. The time	10:02:12
9	on the video monitor is 10:02 a.m. Eastern	10:02:15
10	Standard Time.	10:02:20
11	The certified videographer today is	10:02:22
12	Jean-Louis Zeisch representing Planet Depo.	10:02:24
13	This video deposition is taking place remotely.	10:02:29
14	Would counsel please identify yourself and	10:02:32
15	state whom you represent?	10:02:34
16	MS. LITTRELL: Beth Littrell representing	10:02:37
17	the plaintiff, Ashley Diamond.	10:02:38
18	MR. HENEFELD: Paul Henefeld defending	10:02:42
19	defendant Jackson.	10:02:44
20	MR. CHALMERS: Roger Chalmers representing	10:02:48
21	the other named defendants in the case. I also	10:02:49
22	represent GDC's 30(b)(6) witness, Ms. Atchison	10:02:52
23	today.	10:02:56
24	VIDEOGRAPHER: The court reporter today is	10:02:57
25	Dawn Hillier representing Planet Depo.	10:02:58

Transcript of Grace Atchison, 30(b)(6)

Conducted on July 27, 2022

5

1	Would the court reporter please swear in	10:03:00
2	the witness?	10:03:02
3	GRACE ATCHISON,	10:03:02
4	was called as a witness and, having first been duly	10:03:02
5	sworn, was examined and testified as follows:	10:03:02
6	THE WITNESS: Yes.	10:03:25
7	STENOGRAPHIC REPORTER: Thank you.	10:03:26
8	VIDEOGRAPHER: You may proceed.	10:03:26
9	DIRECT EXAMINATION	10:03:27
10	BY MS. LITTRELL:	10:03:28
11	Q Good morning, Ms. Atchison. Thank you for	10:03:28
12	joining us today.	10:03:30
13	A Yes. Thank you.	10:03:31
14	Q My name is Beth Littrell. I represent	10:03:31
15	Ms. Ashley Diamond.	10:03:35
16	Could you please start -- state your name	10:03:38
17	and spell it for the court reporter?	10:03:39
18	A It's Grace Atchison, G-r-a-c-e, and then	10:03:42
19	A-t-c-h-i-s-o-n.	10:03:49
20	Q And in what city and state do you live in?	10:03:57
21	A Milledgeville, Georgia.	10:03:59
22	Q Thank you.	10:04:02
23	Have you been deposed before?	10:04:03
24	A No.	10:04:04
25	Q Okay. So even more important, that I	10:04:06

1 rundown just sort of the rules of the deposition and 10:04:10
2 some particular rules because we're doing this by 10:04:16
3 video. 10:04:18

4 First, and most importantly, because the 10:04:18
5 court reporter is taking down everything we say, 10:04:20
6 it's really important that your answers are verbal. 10:04:23
7 So as hard as it is to remember not to head shake or 10:04:29
8 huh-uhs or uh-huhs, all of those are very difficult 10:04:33
9 for her to capture. And so we agree to answer 10:04:37
10 verbally. 10:04:39

11 A Yes, ma'am. 10:04:44

12 Q See. There you go. 10:04:44

13 And it's also very important that we don't 10:04:46
14 speak over one another because, even more so in a 10:04:49
15 video recording, when one of us speaks, all the 10:04:54
16 other microphones sort of get cut off. And so we 10:04:56
17 have to be very mindful not to talk over each other. 10:04:59
18 So will you agree to let me finish my question 10:05:03
19 before you start your answer? 10:05:05

20 A Yes. 10:05:07

21 Q Wonderful. 10:05:08

22 And if you don't understand my question, 10:05:09
23 will you tell me? 10:05:10

24 A Yes. 10:05:13

25 Q Thank you. 10:05:14

Transcript of Grace Atchison, 30(b)(6)

Conducted on July 27, 2022

7

1 If you want to take a break, also not a 10:05:16
2 problem. Just let me know. And if there's a 10:05:18
3 question, I would ask that you answer that and then 10:05:26
4 we'll be able to take a break. Does that sound 10:05:28
5 right? 10:05:32

6 A Yes. 10:05:32

7 Q Okay. Do you agree to keep your camera 10:05:33
8 and audio and video on while we're on the record? 10:05:36

9 A Yes. 10:05:39

10 Q And do you understand that this deposition 10:05:39
11 is being recorded? 10:05:41

12 A Yes. 10:05:42

13 Q Do you know that this -- that your 10:05:44
14 testimony today can be used in this case and at 10:05:46
15 trial? 10:05:48

16 A Yes. 10:05:49

17 Q Okay. Will you agree to keep your camera 10:05:50
18 at this angle and view throughout the deposition? 10:05:54

19 A Yes. 10:05:57

20 Q Will you agree not to communicate with 10:05:59
21 anyone else by any means while we're on the record? 10:06:01

22 A Yes. 10:06:04

23 Q Okay. Do you have any programs open on 10:06:06
24 your computer right now other than the Zoom? 10:06:09

25 A Yes. Do I need to clear those out? 10:06:14

Transcript of Grace Atchison, 30(b)(6)

Conducted on July 27, 2022

8

1	Q	Yes. Please close those.	10:06:16
2	A	Okay.	10:06:18
3	Q	Thank you.	10:06:19
4	A	Okay. I believe that's it.	10:06:35
5	Q	Great. And if for some reason something	10:06:37
6		pops up on your screen, some gremlin you didn't know	10:06:39
7		was still open, will you tell me?	10:06:42
8	A	I will.	10:06:43
9	Q	Thank you. And where are you testifying	10:06:44
10		from?	10:06:48
11	A	Milledgeville, at my home.	10:06:48
12	Q	Okay. And is there anyone else in the	10:06:51
13		room with you?	10:06:56
14	A	No.	10:06:57
15	Q	Okay. If someone enters the room at any	10:06:57
16		point while we're on the record, will you tell me?	10:06:59
17	A	I will.	10:07:01
18	Q	Do you have any electronic devices other	10:07:02
19		than your computer in the room with you right now?	10:07:03
20	A	Just my State cell phone, but it is on	10:07:05
21		mute.	10:07:08
22	Q	It's on mute. Okay. Will you agree to	10:07:08
23		turn it face down?	10:07:11
24	A	Oh, sure.	10:07:12
25	Q	Thank you.	10:07:13

Transcript of Grace Atchison, 30(b)(6)

Conducted on July 27, 2022

9

1	A	Okay.	10:07:16
2	Q	Now, if you have any connection issues,	10:07:17
3		like an audio lag or a video freeze, do you know how	10:07:18
4		to get in touch with your attorney so that he can	10:07:22
5		help you reconnect?	10:07:24
6	A	Yes.	10:07:26
7	Q	Okay. And you'll agree to do that if for	10:07:27
8		some reason we lose you?	10:07:32
9	A	Yes, ma'am.	10:07:34
10	Q	Okay. Great.	10:07:34
11		MS. LITTRELL: At this point, Kyle, I	10:07:36
12		would like to ask you to pull up the first	10:07:37
13		exhibit which is going say third notice of	10:07:40
14		30(b)(6) deposition.	10:07:45
15		(Exhibit 1 was marked.)	10:07:46
16		THE WITNESS: You need me to pull that up?	10:07:49
17		MS. LITTRELL: No, ma'am. I was talking	10:07:51
18		to Kyle. He's our tech.	10:07:52
19		THE WITNESS: Okay.	10:07:55
20		MS. LITTRELL: And, Kyle, when you do pull	10:08:01
21		up a document, if you could drop it in the	10:08:03
22		Chat, a link in the Chat so that Mr. Chalmers	10:08:04
23		has access to it, and Mr. Henefeld as well.	10:08:07
24		TECHNICIAN: Yep. It should already be	10:08:10
25		dropped in Chat.	10:08:11

Transcript of Grace Atchison, 30(b)(6)

Conducted on July 27, 2022

10

1 MS. LITTRELL: Okay. Great. 10:08:13

2 MR. CHALMERS: Thank you. 10:08:15

3 BY MS. LITTRELL: 10:08:20

4 Q Ms. Atchison, have you seen this document 10:08:20

5 before? 10:08:21

6 A I do not recall seeing this one. 10:08:30

7 Q Okay. Well, this is the notice of 10:08:36

8 deposition. And, you know, the date, July 27th is 10:08:38

9 on here. And that's because you've been identified 10:08:44

10 as a 30(b)(6) witness. Do you understand that 10:08:47

11 you're testifying as a 30(b)(6) witness? 10:08:56

12 A Yes. That was explained to me. 10:08:58

13 Q Great. I'm going to ask the tech to 10:08:59

14 scroll down to, I think it's page -- top of page 6 10:09:07

15 which should say Attachment B. 10:09:09

16 There you go. If you need something to be 10:09:14

17 bigger, will you please just let us know? 10:09:16

18 A Yes. 10:09:18

19 Q Okay. Great. Do you see topic number 10:09:19

20 four on this screen? 10:09:20

21 A I do. It's on the bottom. 10:09:22

22 Q On the bottom. 10:09:23

23 A We need to -- yeah. 10:09:24

24 Q Just scroll up so we can see that. Will 10:09:26

25 you take a moment? Have you seen this attachment 10:09:29

1 before? 10:09:34

2 A Honestly, they're all kind of running 10:09:34

3 together for me so I'm not quite sure. But let me 10:09:37

4 read it real quick. 10:09:41

5 Yes. I believe I have. 10:09:48

6 Q Okay. Will you scroll up so that she can 10:09:49

7 see the entire -- all the subsections under four? 10:09:52

8 Subsections start with (h) for some reason. 10:09:59

9 Will you read all of those and let me know 10:10:03

10 when you're finished? 10:10:05

11 A Okay. Can we go back to (h)? 10:10:07

12 TECHNICIAN: Give me one -- you want me to 10:10:11

13 put them all on the screen? 10:10:14

14 THE WITNESS: Yes. I can't see that one. 10:10:17

15 It just says -- all I see is the last piece of 10:10:18

16 that. Okay. Origins of the transgender 10:10:22

17 policies... 10:10:25

18 Okay. One at a time I need to answer 10:10:33

19 these? 10:10:35

20 BY MS. LITTRELL: 10:10:36

21 Q No. I just -- your attorney has 10:10:36

22 identified -- has actually identified two policies 10:10:37

23 that pertain to this topic. One of those is SOP 10:10:41

24 220.09. And he has identified you as being the 10:10:47

25 person most knowledgeable or the most prepared to 10:10:54

1 provide testimony on behalf of GDC on this topic. 10:10:58

2 A Yes. 10:11:03

3 Q Okay. 10:11:04

4 MR. CHALMERS: Objection to form. Your 10:11:06

5 notice identifies the policies, Counsel, but 10:11:07

6 yes, she is identified on the topic you're 10:11:10

7 referring to for that policy. 10:11:12

8 MS. LITTRELL: Well, your answer to me, 10:11:17

9 Mr. Chalmers, limited or clarified that there 10:11:19

10 were two policies that were at play, 220.09 and 10:11:22

11 507.04.68. 10:11:25

12 You identified Ms. Atchison to testify on 10:11:30

13 behalf of the 220.09 policy, and Dr. Lewis on 10:11:33

14 the other policy. Did I misunderstand that? 10:11:39

15 MR. CHALMERS: You did not. That is -- 10:11:42

16 the designation is correct. But the 10:11:44

17 transgender policies is a defined term and you 10:11:46

18 noticed the deposition. So you identified the 10:11:48

19 policies you wanted someone to discuss and we 10:11:50

20 designated the witness. Ms. Atchison is 10:11:52

21 designated here on the policy 220.09. 10:11:55

22 BY MS. LITTRELL: 10:11:59

23 Q Ms. Atchison, do you understand that 10:12:00

24 you've been identified as the person most 10:12:01

25 knowledgeable or most prepared to speak on behalf of 10:12:02

1 GDC with respect to this topic, topic number four 10:12:06
2 that you have just reviewed as it concerns 10:12:09
3 SOP 220.09? 10:12:13
4 A Yes. 10:12:15
5 Q Okay. Do you agree that you're the person 10:12:16
6 at GDC with the most knowledge or who's the most 10:12:18
7 prepared to address this topic? 10:12:20
8 A Yes. 10:12:22
9 Q Okay. Are there any areas regarding this 10:12:23
10 topic on which you are not knowledgeable? 10:12:26
11 A I'm knowledgeable for the most part but 10:12:33
12 there are specific areas that are subject-matter 10:12:35
13 expert related that would have to be answered by 10:12:38
14 that subject-matter expert. 10:12:43
15 Q Okay. Offhand, can you identify what 10:12:46
16 those subject matters would be? 10:12:49
17 A I would say primarily anything dealing 10:12:51
18 with medical, hormone treatments, any mental health 10:12:55
19 concerns would have to be addressed by those 10:13:02
20 subject-matter experts. 10:13:03
21 Q Okay. Do you understand the answers you 10:13:05
22 will give on this topic to my questions will be on 10:13:10
23 behalf of GDC? 10:13:14
24 A Yes. 10:13:15
25 Q And are you aware the answers you'll give 10:13:17

1 on this topic would be binding on GDC? 10:13:18

2 A Yes. 10:13:21

3 Q And do you understand when I say GDC, I'm 10:13:22

4 referencing the Georgia Department of Corrections? 10:13:25

5 A Correct. 10:13:26

6 Q Are you fully prepared to speak with 10:13:29

7 respect to this topic? 10:13:30

8 A Yes. 10:13:32

9 Q Let's scroll down to topic number five, 10:13:34

10 please. Do you see topic number five [as read]: 10:13:37

11 Requests made by transgender inmates seeking to be 10:13:45

12 housed in facilities in accordance with their gender 10:13:48

13 identity from 2019 to the present and the 10:13:53

14 disposition of those requests, along with the 10:13:55

15 decision makers and rationale. 10:13:57

16 Do you see that? 10:14:00

17 A Yes. 10:14:00

18 Q Do you understand that you've been 10:14:01

19 identified as the person most knowledgeable to speak 10:14:02

20 on this topic? 10:14:03

21 A Yes. 10:14:07

22 Q Do you agree that you are the person at 10:14:08

23 GDC with the most knowledge or who's the most 10:14:09

24 prepared to address this topic? 10:14:11

25 A Yes. 10:14:13

1 Q Okay. Are there any areas regarding this 10:14:13
2 topic on which you are not knowledgeable? 10:14:17

3 A I am knowledgeable but I do not make the 10:14:20
4 final disposition. So in some particular cases, I 10:14:23
5 would not be able to fully testify on how executive 10:14:27
6 leadership made housing decisions. 10:14:33

7 Q Okay. Who would be the proper person to 10:14:36
8 be able to answer those questions? 10:14:40

9 A That would be a designee from the 10:14:42
10 facilities operations division. 10:14:45

11 Q That department is a little foreign to me. 10:14:54
12 Can you help me understand what the facilities 10:14:57
13 operations division -- where in the organization of 10:15:01
14 GDC that department falls? 10:15:08

15 A They oversee all of the facility 10:15:10
16 decisions, housing. They make the final 10:15:13
17 determination on housing for all offenders in GDC 10:15:19
18 through the offender administration department -- 10:15:25

19 Q Do you -- 10:15:29

20 A -- that follows -- 10:15:30

21 Q I'm sorry. I broke my own rule. 10:15:30

22 A That, I think, Ashley Hansen is the 10:15:35
23 director of operation -- the offender operation -- 10:15:39
24 excuse me. The offender administration division. 10:15:44

25 Q All right. And that person would be 10:15:47

1 knowledgeable about final decisions on housing 10:15:51

2 transgender and intersex offenders? 10:15:54

3 A I assume, yes. 10:15:56

4 Q Do you understand that the answers you 10:16:05

5 will give to my questions on topic five will be on 10:16:06

6 behalf of GDC? 10:16:10

7 A Yes. 10:16:14

8 Q All right. Are you aware the answers you 10:16:15

9 will give to my questions on topic five will be 10:16:17

10 binding to GDC? 10:16:20

11 A Yes. 10:16:21

12 Q And are you fully prepared to speak with 10:16:21

13 respect to topic number five? 10:16:23

14 A Yes. 10:16:25

15 Q All right. Do you see topic number eight 10:16:25

16 on your screen? 10:16:33

17 A I do. It is on the bottom. 10:16:34

18 MS. LITTRELL: And if you'll scroll up, 10:16:43

19 Kyle, we'll knock these two out at the same 10:16:45

20 time if you'll read both eight and nine, 10:16:48

21 please. 10:16:50

22 I spoke prematurely because you can't see 10:16:51

23 all of it. 10:16:53

24 BY MS. LITTRELL: 10:16:59

25 Q Let's stick with number eight, 10:16:59

1 Ms. Atchison. 10:17:00

2 A Yes. I'm reading through that and I am 10:17:01

3 fully prepared to answer questions of the prevention 10:17:03

4 of the sexual harassment, abuse, sexual assault. 10:17:05

5 Physical assaults, unless they have a sexual 10:17:10

6 component, I would not be able to speak on those. 10:17:14

7 Intimidation and gang activity, and response 10:17:19

8 thereto, those particular policies are also not my 10:17:22

9 jurisdiction, per se. 10:17:30

10 MR. CHALMERS: Let me just say -- let me 10:17:33

11 just say, Counsel, you're aware we objected to 10:17:34

12 the intimidation and gang activity portion of 10:17:37

13 this request. 10:17:39

14 BY MS. LITTRELL: 10:17:40

15 Q Yeah. I was going to also clarify, 10:17:40

16 Ms. Atchison, that you have been identified to speak 10:17:48

17 on this topic, absent physical assaults, 10:17:50

18 intimidation, and gang activity. So if you'll take 10:17:55

19 those words out -- 10:17:58

20 A Yes. 10:17:59

21 Q -- would you agree that you are the person 10:18:00

22 most knowledgeable to speak on this topic? 10:18:02

23 A Yes. Correct. 10:18:03

24 Q And are you fully prepared to speak on 10:18:04

25 this topic? 10:18:06

1 A Yes. 10:18:07
2 Q Are there any areas within this topic on 10:18:08
3 which you are not knowledgeable? 10:18:11
4 A Other than those previously mentioned. 10:18:13
5 Q Thank you. 10:18:16
6 And you understand the answers you give 10:18:17
7 will be on behalf of GDC on this topic as well? 10:18:20
8 A Yes. 10:18:22
9 Q And that the answers you give will be 10:18:23
10 binding upon GDC with respect to this topic? 10:18:25
11 A Yes. 10:18:28
12 Q Let's scroll up and look at number -- 10:18:30
13 topic number nine of the full -- all of the 10:18:34
14 subtopics. There we go. 10:18:37
15 MS. LITTRELL: A little bit smaller or 10:18:43
16 some way where she can see the entire nine and 10:18:46
17 all its subtopics. 10:18:48
18 BY MS. LITTRELL: 10:18:51
19 Q I'll give you a chance, Ms. Atchison -- 10:18:51
20 A Okay. 10:18:53
21 Q -- when all of that is up to read that 10:18:54
22 portion. 10:18:56
23 A And I'm on (g). 10:18:57
24 Q Okay. 10:19:01
25 A Can you scroll up a little bit, please? 10:19:02

1 Yes. 10:19:21

2 Q Okay. You understand that your attorneys 10:19:21

3 identified you as the person most knowledgeable and 10:19:22

4 most prepared to speak on behalf of GDC with respect 10:19:25

5 to topic number nine? 10:19:27

6 A Yes. 10:19:28

7 Q And all of its subtopics? 10:19:30

8 A Yes. 10:19:32

9 Q Do you agree that you're the person at GDC 10:19:33

10 with the most knowledge or who's the most prepared 10:19:35

11 to address this topic? 10:19:36

12 A Yes. 10:19:38

13 Q Are there any areas regarding this topic 10:19:38

14 on which you are not knowledgeable? 10:19:41

15 A Not that I'm aware of. 10:19:47

16 Q Okay. And you understand, the answers you 10:19:48

17 will give to my questions on this topic will be on 10:19:49

18 behalf of GDC? 10:19:51

19 A Yes. 10:19:53

20 Q And the answers you will give to my 10:19:54

21 questions will be binding upon GDC? 10:19:56

22 A Yes. 10:20:00

23 Q Are you fully prepared to speak with 10:20:01

24 respect to this topic? 10:20:03

25 A Yes. 10:20:04

1 Q What did you do to prepare yourself for 10:20:05
2 this 30(b)(6) deposition? 10:20:08

3 MR. CHALMERS: Counsel, let me just step 10:20:12
4 in just for a second. I just want our record 10:20:13
5 to be clear -- and I'll refer to my April 20th 10:20:16
6 correspondence because we've identified other 10:20:20
7 witnesses on some of the topics you've covered 10:20:23
8 today. So you may go on. I just wanted to 10:20:25
9 make that clear for the record. 10:20:29

10 BY MS. LITTRELL: 10:20:31

11 Q Ms. Atchison, what did you do -- 10:20:33

12 MS. LITTRELL: And I'm sorry, Kyle, you 10:20:34
13 can take this exhibit down. And this will be 10:20:36
14 marked Exhibit 1. 10:20:38

15 BY MS. LITTRELL: 10:20:43

16 Q Ms. Atchison, what did you do to prepare 10:20:43
17 for this deposition? 10:20:45

18 A I have reread the 220.09 policy and the 10:20:48
19 208.06 policy, which is the PREA policy, in 10:20:52
20 preparation. 10:20:57

21 Q Did you bring any documents with you 10:21:00
22 today? 10:21:02

23 A I did not. 10:21:02

24 Q And how many hours would you estimate that 10:21:06
25 you spent in preparation for today's deposition? 10:21:08

1 A That's hard to say because it's an 10:21:13
2 ongoing -- I would say maybe 30 percent of my time 10:21:15
3 as the PREA coordinator since this case has 10:21:24
4 occurred. 10:21:30

5 Q Okay. Specifically preparing for this 10:21:31
6 deposition or do you mean sort of -- well, let me 10:21:33
7 stop there. 10:21:35

8 Has 30 percent of your time been spent 10:21:41
9 preparing for this deposition? 10:21:42

10 A Since the inception of it, yes. I would 10:21:46
11 say that's accurate. 10:21:48

12 Q Since you received notice of this 10:21:50
13 deposition? Is that what you mean? 10:21:55

14 A I would say since the whole litigation 10:22:03
15 began, I spent quite a bit of time on it. Not 10:22:08
16 necessarily just for this deposition, but for 10:22:14
17 understanding the case and the concerns that have 10:22:16
18 been brought in the litigation. So since the file 10:22:21
19 date, I would say. 10:22:27

20 Q Okay. Thank you for that. 10:22:28

21 Did anybody from GDC help you prepare for 10:22:31
22 this testimony? 10:22:34

23 A No. 10:22:36

24 Q Okay. 10:22:37

25 A Now, I do have a question on that. Does 10:22:43

1 that count my legal counsel? 10:22:45

2 Q You can identify legal counsel but don't 10:22:48

3 tell me anything that was said. 10:22:50

4 A Okay. So legal counsel. 10:22:52

5 Q Okay. 10:22:56

6 A Yes. 10:22:57

7 Q So what is your -- what is your current 10:22:59

8 role at GDC, Ms. Atchison? 10:23:02

9 A I'm the statewide PREA coordinator. 10:23:04

10 Q And what role in the administration of the 10:23:09

11 GDC PREA policies does the statewide PREA 10:23:15

12 coordinator have? 10:23:19

13 A I would be responsible for any revisions 10:23:24

14 to the policy and overseeing all facility efforts to 10:23:26

15 comply with the GDC PREA policy and the federal PREA 10:23:32

16 standards. 10:23:38

17 Q And what role does your position have over 10:23:40

18 the transgender classification and management 10:23:43

19 policy? 10:23:49

20 A Initially, we -- the PREA team was given 10:23:50

21 the instruction to develop a policy for transgender 10:23:56

22 assignment. When we had our PREA audits, that was 10:24:03

23 something that we didn't necessarily -- because we 10:24:08

24 had a procedure, but we didn't necessarily get 10:24:12

25 marked uncompliant -- incompliant. We were just 10:24:15

1 told that it would probably be better to come up 10:24:20

2 with a policy specifically addressing that issue. 10:24:22

3 So what my role was in that was to seek a 10:24:26

4 grant and to have a third-party experienced PREA 10:24:35

5 team come in and assist us with drafting the initial 10:24:41

6 policy. 10:24:44

7 Q Okay. What role does your position hold 10:24:47

8 with respect to overseeing the implementation of the 10:24:50

9 policy? 10:24:57

10 A The implementation, my unit would have 10:24:58

11 done the majority of the collaboration with the Moss 10:25:05

12 Group and developing the policy. 10:25:14

13 Q And what role does your position have over 10:25:17

14 ensuring compliance with the policy? 10:25:24

15 A That changes hands a little bit because 10:25:27

16 the policy is actually assigned as a facilities 10:25:30

17 operations policy because in terms of PREA, we 10:25:34

18 determine based on their risk screening for their 10:25:41

19 sexual safety, as far as housing for their sexual 10:25:46

20 safety. 10:25:51

21 The reason facilities operations has the 10:25:51

22 whole policy is because there are other issues such 10:25:55

23 as care and treatment, security, gang, et cetera, et 10:25:59

24 cetera, other factors that the PREA unit is not 10:26:06

25 privy to. 10:26:10

1 Q Okay. Let me ask you some more questions 10:26:11
2 about that as we go along to -- 10:26:13
3 A Okay. 10:26:15
4 Q -- understand. But that is helpful. I 10:26:15
5 appreciate that. 10:26:17
6 Who does your position supervise? 10:26:18
7 A I supervise an assistant statewide PREA 10:26:25
8 coordinator and a PREA analyst. 10:26:29
9 Q Do you have any supervisory role over any 10:26:38
10 other GDC employees? 10:26:43
11 A No. Just those two. 10:26:48
12 Q Okay. And who are the names of the people 10:26:54
13 who are in those positions currently? 10:26:56
14 A Okay. The assistant PREA coordinator is 10:27:01
15 Bennett Kight, K-i-g-h-t, and Chester Hofer, 10:27:03
16 H-o-f-e-r, is the PREA analyst. 10:27:11
17 Q I've seen those names in correspondence 10:27:19
18 relating to this case so I think I know the answer. 10:27:22
19 But were those two individuals in the same positions 10:27:24
20 in 2019 until now? 10:27:27
21 A Yes. 10:27:31
22 Q Is the statewide PREA coordinator 10:27:39
23 responsible to provide guidance to SART members at 10:27:41
24 facilities? 10:27:45
25 A Yes. 10:27:46

1 Q Is the statewide PREA coordinator 10:27:53
2 responsible to oversee SART members, generally? 10:27:55

3 A To oversee, yes. Not directly supervise. 10:28:03

4 Q Okay. Is the statewide PREA coordinator 10:28:06
5 responsible to review PREA investigations? 10:28:11

6 A Yes. 10:28:13

7 Q Okay. And whose role is it to ensure that 10:28:14
8 investigations are properly conducted? 10:28:19

9 A It is -- it goes through a Workflow 10:28:25
10 through the facility. And ultimately, the facility 10:28:28
11 warden is responsible for the SART investigation. 10:28:32
12 But it does come through the PREA office for review. 10:28:36
13 So if there are any issues that we see with the 10:28:41
14 investigation, we will either process that or we'll 10:28:46
15 return it for revision, depending on the case, on an 10:28:50
16 individual basis. 10:28:57

17 Q To the extent that a review at the 10:29:02
18 statewide PREA unit level identifies deficiencies, 10:29:06
19 who has authority to discipline personnel for those 10:29:15
20 deficiencies? 10:29:26

21 A The facility is responsible for that. 10:29:27

22 Q Is there a position within the facility 10:29:31
23 that would be responsible for that? 10:29:33

24 A I believe it's the appointing authority 10:29:36
25 which is typically the warden but I can't be for 10:29:38

1 sure on that statement. 10:29:40

2 Q And whose responsibility is it to ensure 10:29:44

3 that the required forms associated with either 10:29:46

4 220.09 or the PREA policy are properly completed? 10:29:56

5 A The facility would take on the majority of 10:30:06

6 that responsibility. 10:30:09

7 Q Okay. And what portion of the 10:30:11

8 responsibility falls on the PREA unit? 10:30:16

9 A The oversight piece. 10:30:20

10 Q So you spoke a little bit about the 10:30:32

11 origins of this policy. I want to ask you, first, 10:30:34

12 are there any written documents of any kind that 10:30:40

13 provide guidance on how to interpret or apply 10:30:44

14 SOP 220.09? 10:30:50

15 A That's general. Can you be a little more 10:30:56

16 specific? 10:30:58

17 Q Beyond what is in the policy itself, is 10:31:02

18 there any written documents that provide guidance on 10:31:05

19 how to interpret or apply the policy? 10:31:08

20 A Other than the policy, no. 10:31:12

21 Q No regulations? 10:31:14

22 A Nothing other than SART trainings. We 10:31:18

23 have trainings where we go over that process. And 10:31:22

24 then of course we have it written, the procedure, in 10:31:27

25 the 220.09 policy. 10:31:31

1 Q Okay. Are there any memos that went out 10:31:33
2 that assist in interpreting the policy? 10:31:36
3 A Not that I'm aware of. 10:31:44
4 Q Okay. On what date did 220.09 go into 10:31:51
5 effect? Is there a way we can shorthand this so I'm 10:31:55
6 not talking in numbers? How would you reference 10:31:58
7 SOP 220.09 in words? 10:32:02
8 A It has a quite lengthy name. I believe 10:32:05
9 it's the classification and stratification of 10:32:11
10 transgender classification and management. 10:32:16
11 Something -- 10:32:22
12 Q Can we agree on a shorthand for that 10:32:23
13 that's not numbers? 10:32:25
14 A Gender policy. 10:32:27
15 Q Gender policy? 10:32:28
16 A Um-hum. 10:32:29
17 Q Okay. Thank you. On what date did the 10:32:30
18 transgender policy go into effect? 10:32:31
19 A July of 2019. 10:32:37
20 Q Okay. And at the time it went into 10:32:39
21 effect, what guidance was provided to people -- GDC 10:32:43
22 personnel in the facilities on how to implement the 10:32:50
23 transgender policy? 10:32:54
24 A When the policy -- when any policy is -- 10:32:55
25 has been revised and completed and gone through the 10:33:00

1 legal process, it is sent to all the wardens as a 10:33:03
2 policy update for them to say -- for them to 10:33:12
3 realize, okay, there's a new policy or new 10:33:16
4 revisions. And they are expected to share that with 10:33:18
5 their staff. 10:33:21

6 As far as PREA is concerned, we did go 10:33:24
7 over that with the facility SART members for their 10:33:27
8 roles in the transgender policy. 10:33:33

9 Q Was there -- beyond sending the policy to 10:33:46
10 the warden, was there any efforts to ensure that the 10:33:48
11 wardens provided training to their staff to ensure 10:33:58
12 compliance with this policy? 10:34:06

13 A I know that I wrote a curricula for the 10:34:08
14 BCOT and the annual in-service -- well, pertaining 10:34:14
15 to how to communicate effectively with LGBTI 10:34:27
16 offenders. That is part of the PREA standard. 10:34:31

17 So that is what, as far as the transgender 10:34:36
18 policy goes, I have done training on. For others, I 10:34:38
19 can't speak to that. 10:34:41

20 Q Okay. When the policy was implemented, it 10:34:42
21 sounds to me like your testimony would be that there 10:34:47
22 was no mandatory training that was provided 10:34:49
23 facility-wide to ensure compliance. Is that 10:34:56
24 accurate? 10:35:01

25 A I can't -- I'm not sure because I cannot 10:35:05

1 speak on behalf of the wardens and how they relayed 10:35:08

2 that to their staff. 10:35:10

3 Q Um-hum. 10:35:12

4 A But that is the expectation when we send 10:35:12

5 that policy to the wardens, any policy to the 10:35:14

6 wardens. 10:35:17

7 Q Okay. But was it sent with any guidance 10:35:17

8 or instructions? 10:35:23

9 A No. 10:35:28

10 Q Okay. You mentioned BCOT. Can you just 10:35:29

11 define that? 10:35:31

12 A BCOT is basic correctional officer 10:35:32

13 training. It's the training that all officers are 10:35:37

14 required to successfully pass in order to become a 10:35:45

15 POST certified officer. 10:35:50

16 Q And who provides that training? 10:35:51

17 A Our training division. GDC's training 10:35:56

18 division. 10:35:59

19 Q Thank you. And is it your testimony that 10:35:59

20 there is a portion of the BCOT training that 10:36:04

21 specifically includes information about the 10:36:09

22 transgender policy? 10:36:14

23 A Yes. 10:36:15

24 Q Okay. Is it comprehensive regarding the 10:36:16

25 policy or is it limited to a subset? And I ask that 10:36:21

1	question because you mentioned how to deal with	10:36:29
2	LGBTQI offenders which I think is part of the	10:36:32
3	policy, but there are other parts of it; right?	10:36:37
4	A Right. There's other parts of it for	10:36:40
5	facilities, the piece of it. I can testify that	10:36:42
6	I've written the curriculum for the PREA	10:36:47
7	requirements which are to ensure that all staff have	10:36:50
8	training on effective communication with LGBTI	10:36:54
9	offenders.	10:36:59
10	Q Who is the authority to interpret	10:37:15
11	application of the transgender policy to individual	10:37:17
12	circumstances?	10:37:20
13	A There's a process. It begins -- are you	10:37:23
14	referring to housing?	10:37:26
15	Q Any part of the policy in which a GDC	10:37:30
16	staff member or anyone else can interpret and apply	10:37:36
17	the policy.	10:37:42
18	A I would say that I have oversight of that.	10:37:46
19	If anybody has questions in the field, I'm typically	10:37:52
20	the one that they contact for that. I don't make	10:37:54
21	housing decisions. My unit does not get involved	10:38:00
22	with that simply because there are other factors	10:38:02
23	that we don't have the information to make an	10:38:06
24	overall big picture assignment for.	10:38:09
25	Anything addressing the ability for an	10:38:15

1 offender to, for example, to shower separately, 10:38:18
2 those -- anything specifically written in the PREA 10:38:25
3 standards regarding transgender is what I have 10:38:28
4 authority over. Anything beyond that is not -- does 10:38:32
5 not fall on the PREA unit. 10:38:38

6 Q And who does that -- who does the rest of 10:38:40
7 the policy fall on? 10:38:42

8 A It's a facilities operations assigned 10:38:44
9 policy. 10:38:49

10 Q Is the policy, the transgender policy, 10:38:53
11 mandatory? 10:38:55

12 A Yes. 10:38:57

13 Q Are there parts of it that are not 10:38:59
14 mandatory? 10:39:02

15 A Not that I'm aware of. 10:39:04

16 MR. CHALMERS: Objection to form. 10:39:07

17 BY MS. LITTRELL: 10:39:08

18 Q Okay. And who's required to adhere to the 10:39:09
19 policy? 10:39:11

20 A All staff. 10:39:12

21 Q Okay. You mentioned that there was some 10:39:15
22 this policy's origins in some way derived from PREA 10:39:24
23 audits. Can you tell me more about the reason this 10:39:34
24 policy was enacted? 10:39:36

25 A There's a portion of the PREA standards 10:39:37

1 that say that we need to make sound decisions on 10:39:39
2 where we will house transgender offenders, whether 10:39:45
3 that would be at a facility according to their 10:39:51
4 gender identity or whether that would be a facility 10:39:58
5 placement according to their sex. 10:40:04

6 Q Okay. Was this -- was the creation of 10:40:10
7 this policy the results of grievances received from 10:40:17
8 transgender or intersex offenders? 10:40:27

9 A No. I would say the initial purpose of 10:40:33
10 that was to make sure we were following the PREA 10:40:35
11 standard as far as male or female housing. And 10:40:43
12 there were other topics such as strip searches that 10:40:50
13 because we did not have a policy in place, 10:40:54
14 facilities were not consistent with how they 10:40:57
15 followed that so we needed to make sure we put 10:41:00
16 something in there consistently regarding searches. 10:41:03

17 Q Prior to the implementation of this 10:41:11
18 policy, were transgender intersex offenders placed 10:41:12
19 in facilities in accordance with their gender 10:41:20
20 identity? 10:41:25

21 A Not that I'm aware of. 10:41:26

22 Q Beyond compliance with PREA, are there 10:41:34
23 other objectives with respect to the policy? 10:41:37

24 A I'm not sure I understand that question. 10:41:45

25 Q Is one of the objectives to ensure the 10:41:47

1 safety of transgender people in GDC? 10:41:49

2 A Absolutely, yes. 10:41:52

3 Q And the policy itself recognizes the 10:41:53

4 heightened vulnerability to sexual and physical 10:41:55

5 abuse that transgender offenders face; isn't that 10:41:58

6 right? 10:42:01

7 A Yes. 10:42:02

8 MR. CHALMERS: Form. 10:42:02

9 BY MS. LITTRELL: 10:42:07

10 Q And federal PREA policy also recognizes an 10:42:07

11 increased risk that transgender offenders have; 10:42:07

12 isn't that right? 10:42:09

13 A I don't know that it is specific worded 10:42:11

14 that way but it's an underlying understanding, I 10:42:14

15 guess. 10:42:17

16 Q Okay. Is another purpose to ensure that 10:42:18

17 transgender and intersex offenders are aware of 10:42:27

18 their rights regarding, for example, showering? 10:42:31

19 A Yes. We do have a pamphlet that is part 10:42:39

20 of the policy attachment. And it is just an 10:42:41

21 information sheet on what their rights are 10:42:44

22 concerning -- and it includes PREA and 10:42:50

23 transgender -- 10:42:54

24 Q Okay. 10:43:05

25 A -- information. 10:43:05

1 Q And is it also a method for tracking the 10:43:06
2 well-being of transgender and intersex offenders in 10:43:08
3 GDC custody? 10:43:11

4 A It is through our analyst. Um-hum. 10:43:16

5 Q And is the policy specifically -- does one 10:43:29
6 of the objectives of the policy specifically include 10:43:34
7 to ensure that there's a process to determine 10:43:38
8 whether a transgender intersex offender is placed in 10:43:40
9 either a male or female facility? 10:43:45

10 A The procedure laid out in the transgender 10:43:49
11 policy. 10:43:51

12 Q Okay. So the policy allows for 10:43:57
13 transgender women to be placed in female facilities? 10:43:58

14 A No. The policy allows for recommendations 10:44:02
15 to be made for that purpose. 10:44:04

16 Q Is there a prohibition on placing 10:44:13
17 transgender women in female facilities? 10:44:15

18 A No. 10:44:17

19 Q Okay. So the policy provides for 10:44:17
20 recommendations. What policy allows for placement 10:44:21
21 of transgender women in female facilities? 10:44:28

22 MR. CHALMERS: Objection, form. 10:44:32

23 You can answer. 10:44:33

24 THE WITNESS: I don't know that there is 10:44:37
25 one that says we definitely -- I know there's 10:44:38

1 not one that says we definitely place them 10:44:42
2 based on their gender identity. But the 10:44:45
3 closest thing to that would be our transgender 10:44:49
4 policy because that's the process where we 10:44:51
5 determine factors not only for the transgender 10:44:53
6 person, but also for the remaining populations. 10:44:59

7 BY MS. LITTRELL: 10:45:07

8 Q Okay. So we talked about some of the 10:45:07
9 goals. How do you monitor to determine whether the 10:45:08
10 policy is effective in achieving these goals? 10:45:11

11 A To be perfectly transparent, this policy 10:45:18
12 was developed. This is the first time we've ever 10:45:21
13 developed this policy. And there were some 10:45:27
14 obstacles that didn't flow as we expected them to 10:45:32
15 when we drafted the policy. 10:45:38

16 So I just want to be clear on that, that 10:45:42
17 adjustments had to be made. 10:45:46

18 Q Okay. What obstacles can you identify? 10:45:52

19 A The biggest one is the Statewide 10:45:58
20 Classification Committee and getting everyone on the 10:46:01
21 same page with when we're going to review it, the 10:46:08
22 Workflow piece of it. It just needed to be refined, 10:46:14
23 as with any other policy that's initially developed. 10:46:20
24 You have to work out those kinks in them. 10:46:24

25 Q Describe when the obstacles were first 10:46:28

1 Q Were experts in the field of treating 10:48:27
2 transgender intersex people involved in the creation 10:48:30
3 of the policy? 10:48:33

4 A They were on a -- what we call on a PAT 10:48:39
5 team, process action team, prior to policy 10:48:41
6 development. 10:48:43

7 Q And who are those experts? 10:48:45

8 A Do you need specific names or -- 10:48:48

9 Q Do you have specific -- do you have 10:48:50
10 specific names? 10:48:51

11 A Well, at the time, it was -- at the time 10:48:53
12 it was developed to be the PREA unit, a mental 10:48:56
13 health expert, a medical expert, and a facilities 10:49:01
14 operations which is where that -- it finally went 10:49:10
15 for decision. 10:49:15

16 Q Do you know whether the mental health 10:49:21
17 expert was an expert in the field of transgender 10:49:22
18 health? 10:49:30

19 A I'm not aware of that. I'm not sure. 10:49:36

20 Q Are there documents that would reflect the 10:49:37
21 names of the people who were involved in the 10:49:39
22 creation of the policy? 10:49:44

23 A There were designees selected. It's not 10:49:48
24 listed in the policy, specifically, the titles. But 10:49:51
25 there were designees selected at the time. 10:49:57

1 Q My question goes to the creation of the 10:50:04
2 policy. I'm not sure if your answer goes to the 10:50:07
3 policy itself. Can you help distinguish between 10:50:10
4 those two? 10:50:14

5 A It was both. They were involved in the 10:50:15
6 process action team prior to policy development and 10:50:19
7 implementation. And also, they had a piece in there 10:50:25
8 for being on the Statewide Classification Committee 10:50:34
9 to make their housing recommendation. 10:50:37

10 Q Okay. And who are those people? 10:50:39

11 A At the time, it was Sharon Lewis from 10:50:41
12 medical. 10:50:44

13 Q Okay. 10:50:46

14 A Javel Jackson for mental health. 10:50:48

15 Q Okay. 10:50:52

16 A And when the policy -- we had an assistant 10:51:01
17 commissioner changeover during that same time, but 10:51:01
18 when it was implemented, it was Ricky Myrick and 10:51:04
19 he's no longer with our department. 10:51:07

20 Q And those were the individuals who were 10:51:10
21 part of the experts who helped create the policy; is 10:51:15
22 that right? 10:51:21

23 A Yes. 10:51:21

24 Q Okay. Are you aware of any other experts 10:51:22
25 who were involved in the creation of the policy? 10:51:29

1 A Involved in the creation? There was an 10:51:33
2 offender administration person which was, I believe, 10:51:37
3 Ashley Hansen at the time. I'd have to go back and 10:51:42
4 look at records to give you every -- all of them 10:51:54
5 that sat in on those PAT teams. 10:51:56

6 I know a diagnostics representative was 10:51:59
7 there. But beyond that, I would have to go back and 10:52:00
8 search my records for that. 10:52:07

9 Q All right. And those are all GDC 10:52:09
10 employees? 10:52:11

11 A Yes. 10:52:12

12 Q Okay. And are you aware if whether any of 10:52:14
13 them had expertise in the field of transgender 10:52:18
14 health? 10:52:22

15 A Not -- I'm not clear on that. I'm not 10:52:26
16 sure what their qualifications were for that. 10:52:28

17 Q Okay. There's no mention of gender 10:52:33
18 dysphoria in the policy. Do you recall that, that 10:52:39
19 gender dysphoria is not in the policy? 10:52:46

20 A I want to say that we excluded that from 10:52:47
21 the policy because it was already in medical 10:52:52
22 policies. And we did not want to have any 10:52:54
23 inconsistencies between those policies. 10:53:00

24 Q With respect to this policy and your 10:53:04
25 knowledge, are you aware of whether personnel, GDC 10:53:07

1 personnel who will be in contact with transgender 10:53:14
2 and intersex people remain aware of the signs or the 10:53:19
3 symptoms of gender dysphoria as part of this policy? 10:53:23
4 A I can't attest to that with -- that would 10:53:29
5 have to be a question for mental health. 10:53:34
6 Q Okay. But you're not aware of any 10:53:36
7 information that was provided to COs or wardens with 10:53:42
8 respect to becoming aware of the signs of -- or 10:53:45
9 symptoms of gender dysphoria? 10:53:50
10 A No. 10:53:52
11 Q Okay. So the transgender policy, as the 10:53:52
12 name reflects, concerns only transgender and 10:54:04
13 intersex offenders; is that right? 10:54:07
14 A Yes. 10:54:10
15 Q Okay. Does the policy apply to people who 10:54:12
16 identify as non-binary? 10:54:17
17 A No. 10:54:21
18 Q And is the policy implemented uniformly 10:54:24
19 across facilities? 10:54:28
20 A Yes. 10:54:30
21 Q And if I understand the policy accurately, 10:54:31
22 and please, you know, correct me if I'm getting it 10:54:44
23 wrong, but it appears to be two procedures involved. 10:54:44
24 One procedure is required to be followed 10:54:50
25 when the offender arrives at a diagnostic facility; 10:54:52

1 is that right? 10:54:55

2 A Correct. 10:54:55

3 MR. CHALMERS: Objection, form. 10:54:56

4 Counsel, you said policy. Are you 10:54:57

5 referring to transgender policy, as you defined 10:54:59

6 it for this deposition? 10:55:03

7 MS. LITTRELL: Correct. 10:55:05

8 MR. CHALMERS: Okay. And just let me -- 10:55:07

9 so I don't interrupt you again. We've settled 10:55:09

10 on "transgender policy" for this deposition and 10:55:13

11 I believe you and the witness understand you're 10:55:15

12 referring to 220.09. I just want to make sure 10:55:17

13 that there's no confusion on the record because 10:55:21

14 you used the term "transgender policy" as a 10:55:23

15 defined term in your notice of deposition. So 10:55:26

16 if we can keep to "transgender policy," if what 10:55:29

17 you're referring to is 220.09, I think that 10:55:34

18 will help minimize the confusion. 10:55:37

19 MS. LITTRELL: I think that we're all on 10:55:46

20 the same page. 10:55:48

21 BY MS. LITTRELL: 10:55:49

22 Q Ms. Atchison, you agree when I reference 10:55:49

23 transgender policy, we're talking about 220.09? 10:55:51

24 A Yes. That's my understanding. 10:55:54

25 MR. CHALMERS: Okay. Thanks very much. 10:55:56

1 And then if we cannot shorthand it to 10:55:57
2 "policy" because I understand you're going to 10:55:59
3 get to the PREA policy later in the deposition. 10:56:01
4 MS. LITTRELL: Okay. 10:56:05
5 BY MS. LITTRELL: 10:56:05
6 Q Ms. Atchison, understanding the 10:56:07
7 application of the transgender policy, my 10:56:13
8 understanding that there are procedures required to 10:56:17
9 be followed when transgender offenders -- or when 10:56:20
10 any offender arrives at non-diagnostic facilities; 10:56:24
11 correct? 10:56:30
12 A Yes. 10:56:31
13 Q What other facilities are there within GDC 10:56:33
14 besides a diagnostic facility and a non-diagnostic 10:56:37
15 facility? 10:56:40
16 A There aren't. It's either/or. 10:56:42
17 Q So, again, this is my layperson's 10:56:47
18 understanding from reading the policy so I'm asking 10:56:51
19 you to correct me if what I'm about to say is wrong. 10:56:54
20 Will you agree to do that? 10:56:58
21 A Yes. 10:57:00
22 Q For transfers within facilities, there's 10:57:01
23 the non-diagnostic procedure that is undertaken to 10:57:09
24 determine whether someone is transgender or 10:57:14
25 intersex; correct? 10:57:17

1 A Yes. 10:57:19

2 Q And then that procedure laid out in the 10:57:19

3 transgender policy is followed as to non-diagnostic? 10:57:22

4 A Yes. 10:57:26

5 Q If someone arrives at a diagnostic 10:57:29

6 facility, there's another procedure that's laid out 10:57:31

7 in the transgender policy; right? 10:57:38

8 A Yes. 10:57:43

9 Q And then when they get transferred to 10:57:44

10 their permanent facility, does the procedure for the 10:57:45

11 non-diagnostic facility kick in? 10:57:47

12 A Yes. I think I need to clarify here. 10:57:56

13 Sometimes transgender offenders are not -- 10:58:02

14 especially if it's their first incarceration, they 10:58:06

15 are not comfortable releasing that information when 10:58:09

16 they come to the diagnostics facility. So they may 10:58:11

17 not report it until they get to a different 10:58:17

18 facility. So that's why there's a difference 10:58:19

19 between diagnostics and then non-diagnostics 10:58:21

20 facilities because it just -- it's determined based 10:58:24

21 on when that offender has released that information 10:58:27

22 or reported that information. 10:58:33

23 Q As part of the transgender policy, there 10:58:40

24 is a process that allows the offender to identify 10:58:45

25 themselves at intake for purposes of strip searches; 10:58:54

1 isn't that right? 10:58:57

2 A Yes. 10:58:58

3 Q And so if they have identified themselves 10:59:01

4 and they've gone through the process at the 10:59:04

5 diagnostic facility, how does the receiving facility 10:59:07

6 intake personnel know to allow the offender to make 10:59:10

7 that identification? 10:59:18

8 A Okay. 10:59:20

9 Q Or do they have documents that they should 10:59:21

10 know that already? 10:59:23

11 A Yes. If they have made their gender 10:59:25

12 identity known in the diagnostics process, there is 10:59:31

13 a piece of that where the facility classification 10:59:33

14 person is required to place them on a profile list 10:59:39

15 in our SCRIBE database which is referenced as TIOL, 10:59:44

16 it's transgender intersex offender list. So when 10:59:50

17 that offender transfers to any facility, even if 10:59:54

18 it's multiple ones, that list is always a profile. 11:00:03

19 We never close that out unless it is requested by 11:00:05

20 the offender to do so and they go through a process 11:00:08

21 to determine they can be taken off of the list. But 11:00:14

22 it is self-reported. We enter what they have 11:00:18

23 reported to us. And it follows them from facility 11:00:20

24 to facility. 11:00:23

25 Q In classifying someone who self-identifies 11:00:33

1 in a way that puts them on the transgender/intersex 11:00:40
2 offender list, the TIOL, does that classification 11:00:43
3 show up in their institutional file or the SCRIBE 11:00:52
4 file? 11:00:57

5 A Just the SCRIBE file. We don't put that 11:00:58
6 in the institutional file. And the reason why we 11:00:59
7 track that is because the PREA standards say that we 11:01:03
8 must conduct a risk screening on all transgender 11:01:07
9 offenders every -- well, it says twice yearly. But 11:01:12
10 our policy says once every six months so it meets 11:01:17
11 that twice yearly requirement. So that's the reason 11:01:21
12 why we track them so that we know when to conduct 11:01:24
13 that risk screening. 11:01:27

14 Q Just kind of -- just to understand kind of 11:01:30
15 practically how it works. When someone's -- so is 11:01:33
16 in diagnostics, they self-identify, they go on the 11:01:36
17 TIOL, then they're transferred to their, let's not 11:01:42
18 say permanent facility, but their next 11:01:46
19 placement -- right? -- because they can be 11:01:48
20 transferred again -- 11:01:51

21 A Yes. 11:01:52

22 Q -- does the facility personnel need to go 11:01:53
23 and look at the transgender list to see if anybody 11:01:56
24 is on it or is there some other means that they 11:01:58
25 become aware that someone who has arrived at the 11:02:01

1 facility is transgender or intersex? 11:02:04

2 A They are supposed to -- the policy is 11:02:13

3 written to where if they're on that SCRIBE TIOL 11:02:16

4 list, then it's understood they have gone through 11:02:19

5 the process for the statewide classification, 11:02:21

6 whether they're going to be assigned to a male or 11:02:30

7 female facility. 11:02:35

8 The list determines whether or not they -- 11:02:37

9 the new facility is required to go through the 11:02:37

10 initial process as laid out or if they're just to 11:02:40

11 continue any -- any classification procedures. 11:02:45

12 Q Okay. So just sort of a hypothetical to 11:02:54

13 make sure it's clear. Let's say on one day 10 11:02:57

14 offenders arrive at a facility and one of them has 11:03:04

15 been classified as transgender, how does the intake 11:03:10

16 personnel become aware that one of those 10 is 11:03:16

17 transgender and needs to be separately searched or 11:03:22

18 separately treated? 11:03:26

19 A It's self-reported by the offender. 11:03:27

20 Q At the new facility? 11:03:34

21 A Yes. 11:03:36

22 Q Okay. And does someone at intake give the 11:03:38

23 information that they need to self-identify for 11:03:47

24 purposes of searches or otherwise? 11:03:52

25 A I will have to refer back to the policy 11:03:55

1 but I believe the non-diagnostics procedure, when 11:03:58
2 they come in, is the same, as far as that goes about 11:04:04
3 if you have any questions or you need to tell us 11:04:07
4 something before we strip search you, please raise 11:04:12
5 your hand and then they're taken to the side to 11:04:14
6 discuss that. And then at that point that procedure 11:04:17
7 follows through the remaining procedure. 11:04:19

8 Q That was my understanding, that there was 11:04:23
9 kind of a two-step process. If you enter 11:04:25
10 diagnostics and then you go to -- you're 11:04:28
11 transferred, the process starts over, to some extent 11:04:35
12 in the policy. 11:04:39

13 A Yes and no. The process, as far as 11:04:44
14 searching and all of that goes, yes. But if they're 11:04:46
15 already on that TIOL list, then they have already 11:04:49
16 been -- they have gone through the process as far as 11:04:55
17 the facility classification, and the diagnostics 11:04:57
18 facility has completed the policy paperwork, the 11:05:02
19 attachments and forwarded that up to the Workflow. 11:05:05
20 So that process does not need to be repeated if 11:05:11
21 they're already on that list. 11:05:14

22 But if they are identifying as for the 11:05:15
23 first time at their new facility, then they have to 11:05:18
24 go through that process, the whole process. 11:05:22

25 Q Okay. You mentioned safety reassessments. 11:05:25

1 Safety reassessments are periodically required to be 11:05:30
2 performed; right? 11:05:33

3 A Yes. 11:05:34

4 Q Okay. And that required reassessment is 11:05:35
5 within 30 days; right? 11:05:43

6 A It's the initial, when they first come in. 11:05:45
7 And then when they get acclimate to their 11:05:51
8 environment, we do another one just to see if any 11:05:54
9 information has changed, such as, have they been a 11:05:56
10 victim since their arrival, how are they fitting in. 11:06:02
11 So that is within the 30 days. 11:06:05

12 Q Okay. 11:06:07

13 A That's for every inmate. 11:06:08

14 Q Every inmate on the -- that's subject to 11:06:10
15 the transgender policy? 11:06:14

16 A That's all inmates have to go through the 11:06:16
17 24-hour and the 70 -- the 24-hour and the 30-day for 11:06:22
18 every offender. 11:06:27

19 The only difference between a GP, a 11:06:31
20 general population offender or someone who is 11:06:34
21 non-transgender is that transgender offenders have 11:06:38
22 to be rescreened twice per year just because. The 11:06:41
23 understanding is that they are more vulnerable. So 11:06:50
24 we check on them a little more often. 11:06:52

25 Q What policy requires all offenders or what 11:06:56

1 you're referencing as GP offenders to be screened 11:07:01

2 within 30 days? 11:07:06

3 A That would be 208.06, the PREA policy. 11:07:07

4 Q Okay. And whose responsibility is it to 11:07:11

5 conduct that 30-day assessment? 11:07:18

6 A There's not a specific designee. It is a 11:07:21

7 care and treatment person. I prefer it, and most of 11:07:26

8 our facilities have a mental health counselor to 11:07:31

9 conduct those but it is not a standard person 11:07:34

10 responsible for that. It's based on the warden's 11:07:41

11 designee. 11:07:43

12 Q Okay. And with respect to the transgender 11:07:44

13 policy, the reassessment that's required within 30 11:07:49

14 days, is it different in any way? 11:07:54

15 A It's the same questions. It's the exact 11:08:01

16 same process as the original one. 11:08:04

17 Q As the original process when they arrive? 11:08:07

18 A Yes. It's the same question. It's the 11:08:10

19 same form for initial and the 30-day. We ask them 11:08:13

20 the exact same questions. 11:08:17

21 Q And where is the form that is filled out 11:08:19

22 in asking those questions? 11:08:25

23 A It's in the -- not transgender, excuse me. 11:08:27

24 It's in the PREA policy, 208.06 as an attachment. 11:08:31

25 Q Okay. And we'll look at that later 11:08:37

1 because that's helpful. But the 30-day policy for 11:08:38
2 trans and intersex people, the questions that are 11:08:45
3 asked of them are not the same five questions that's 11:08:48
4 on the transgender questionnaire that's originally 11:08:52
5 conducted; is that right? 11:08:56

6 A Some of them may be the same but it's a 11:09:02
7 different set. Like, this one, that particular 11:09:04
8 questionnaire asks for their preference, how they 11:09:09
9 would feel safer. So it dials down into a little 11:09:12
10 more information. But some of the questions are the 11:09:17
11 same. 11:09:21

12 Q Is the safety reassessment for transgender 11:09:24
13 and intersex people, does it include a question 11:09:26
14 about whether they prefer to -- now that they've 11:09:29
15 been in a whatever facility they're in, if they 11:09:32
16 prefer a different facility with respect to their 11:09:34
17 gender identity? 11:09:38

18 A I do not believe the risk assessment has 11:09:39
19 that on there. But I know that the questions we ask 11:09:42
20 them in the transgender classification part does ask 11:09:47
21 that question. 11:09:55

22 Q Okay. And then special to transgender and 11:10:00
23 intersex folks, there is a twice-yearly requirement 11:10:03
24 for a reassessment; right? 11:10:07

25 A Yes. 11:10:09

1 Q And does that track the original 11:10:09
2 questioning with respect to placement in a facility 11:10:14
3 that aligns with their gender identity or not? 11:10:19
4 A I do not believe so. I'll have to re 11:10:25
5 -- have to look at that form, but I would say no. 11:10:27
6 Q Is there a separate form for the 11:10:31
7 twice-yearly that is specific to transgender and 11:10:33
8 intersex individuals? 11:10:36
9 A No. It's all the same screening 11:10:38
10 questions. 11:10:44
11 Q And the transgender policy also requires a 11:10:45
12 safety reassessment after any information that bears 11:10:49
13 on their sexual safety; right? 11:10:54
14 A Yes. 11:10:59
15 Q Okay. Who is responsible to ensure that 11:11:00
16 the reassessments occur at the right intervals for 11:11:11
17 transgender and intersex individuals? 11:11:13
18 A I can't tell you exactly but I'm 11:11:18
19 assuming -- well, I don't want to assume. The case 11:11:22
20 managers or the counselors at the facilities. And 11:11:25
21 like I said, it's different in all facilities but I 11:11:28
22 prefer it to be a mental health counselor. And I 11:11:32
23 would say the majority of them are mental health 11:11:34
24 counselors. 11:11:37
25 Q Who ensures that whoever it is within the 11:11:43

1 facility is doing their job with respect to the 11:11:46

2 safety reassessments? 11:11:50

3 A The PREA compliance manager. We have one 11:11:53

4 at every facility so they would be responsible to 11:11:56

5 oversee that. 11:12:04

6 Q And where are the reassessments, safety 11:12:05

7 reassessments documented? 11:12:08

8 A In our SCRIBE database. 11:12:11

9 Q Okay. And how are they reflected? 11:12:13

10 A I mean, if you have access to that, which 11:12:19

11 we don't give everybody access because that's 11:12:23

12 confidential information. So if you have access, 11:12:26

13 you go -- you can go in there and check, do periodic 11:12:30

14 checks, search an offender and look at every -- 11:12:34

15 every risk screening that's ever been completed on 11:12:38

16 that offender. 11:12:43

17 Q And what does it look like in SCRIBE, the 11:12:44

18 safety reassessment? Is it just a check box or does 11:12:46

19 it have information? 11:12:50

20 A It doesn't have, like, a detailed 11:12:51

21 description. It's just basically yes-or-no 11:12:55

22 questions. And before my time, when it was 11:12:57

23 developed, they had a consultant come in and factor 11:13:03

24 in all the variables and how they would score out 11:13:09

25 and that determines whether or not they're 11:13:13

1 potentially at risk or they're potentially 11:13:17

2 aggressive. 11:13:19

3 So it's just a set of yes-or-no questions. 11:13:21

4 Q Is this the -- is the reassessment the 11:13:26

5 same questions as the PREA victim or aggressor 11:13:29

6 designation form? 11:13:35

7 A I would have to see the form. 11:13:45

8 Q Okay. 11:13:47

9 A Are you talking about the policy 11:13:51

10 attachment is the same as the SCRIBE questions? 11:13:52

11 Q Yes. I'm trying to understand if the 11:13:56

12 safety reassessment questions and analysis to 11:14:00

13 determine whether the offender is safe in the 11:14:07

14 facility in which they've been placed. If it's a 11:14:12

15 different form or the same form as the PREA risk 11:14:14

16 assessment. 11:14:18

17 A Yes. It's the same. 11:14:20

18 Q It's the same form as the PREA risk 11:14:21

19 assessment? 11:14:23

20 A Yes. 11:14:24

21 Q Okay. And is it filled in at each of 11:14:24

22 these safety reassessment intervals separately? 11:14:32

23 A It's just computerized. They can print 11:14:37

24 out a copy of it and answer the questions with the 11:14:41

25 offender in there. But it's all ultimately placed 11:14:46

1 electronically. 11:14:50

2 Q Okay. There's no additional questions 11:14:52

3 that is asked at the reassessment than what is asked 11:14:54

4 at the initial PREA screening? 11:15:02

5 A No. They're the same. 11:15:05

6 Q Okay. Is there an opportunity for the 11:15:07

7 offender to provide information about their feelings 11:15:12

8 with respect to safety? 11:15:21

9 A Yes. There is a question -- I'm trying to 11:15:24

10 figure out how it's worded without seeing it. But, 11:15:35

11 yes, it does take into consideration the offender's 11:15:38

12 own perception of their safety. 11:15:41

13 Q And is there a place in the form in which 11:15:43

14 the person who's conducting the reassessment 11:15:47

15 provides the answer to that question? 11:15:52

16 A I know that it's on the transgender policy 11:15:57

17 attachment questionnaire that we ask the offender. 11:16:02

18 The facility classification asks that question 11:16:08

19 before they classify them. And we also re-ask them 11:16:11

20 that question when the PREA unit talks with the 11:16:16

21 offender. But as far as it being on the risk 11:16:21

22 assessment, I'll have to look at that because I may 11:16:26

23 be getting my two forms confused. But I definitely 11:16:32

24 know that it is on the statewide forms for the 11:16:35

25 transgender policy, the attachments for those. 11:16:41

1 Q All right. We'll look at the policies and 11:16:44
2 the forms at some point today. So we'll clarify 11:16:47
3 and, you know, some of these questions might be 11:16:53
4 better asked with the form in front of you. So -- 11:16:56
5 but thank you for that kind of overview. 11:16:59

6 The reassessments that are required under 11:17:05
7 the transgender policy, is there a requirement that 11:17:08
8 those reassessments be documented? 11:17:15

9 A Yes. 11:17:19

10 Q Okay. And dated? 11:17:20

11 A Yes. 11:17:26

12 Q Okay. And is the person who performs the 11:17:27
13 reassessment identified? 11:17:29

14 A Yes. 11:17:33

15 Q Okay. And where is that documentation 11:17:34
16 kept? 11:17:39

17 A It's in our SCRIBE database module under 11:17:40
18 the classification tab. 11:17:45

19 Q Okay. Are you aware of any process or 11:17:48
20 procedure that the person in the facility who 11:17:56
21 conducts the safety reassessment goes through? 11:17:59

22 A Is there any process? 11:18:08

23 Q Yeah. Is it recorded? Do they bring them 11:18:11
24 into a room? Do they ask them particular questions? 11:18:14

25 A Oh, okay. 11:18:17

1 Q Is there any set way of doing the 11:18:17
2 assessment? 11:18:20

3 A Yes. They are required to have the inmate 11:18:24
4 brought in. And those questions are reviewed with 11:18:26
5 the offender. 11:18:33

6 Q Okay. 11:18:34

7 A We don't just guess or we're not -- you 11:18:34
8 know, that's not -- well, we're not supposed to just 11:18:37
9 do it on our own. We're supposed to call the 11:18:41
10 offender back and say, have you had any major 11:18:44
11 changes, do you feel any -- do you have any more 11:18:46
12 vulnerabilities that we didn't know about during 11:18:49
13 your initial. So, yes, they're supposed to bring 11:18:52
14 them in to speak to them but it isn't recorded, like 11:18:56
15 audio recording or anything. 11:19:02

16 Q And is that information also shared for 11:19:05
17 transgender and intersex offenders on the TIOL? 11:19:08

18 A No. The TIOL is just a list of offenders 11:19:13
19 that are on that list so that we can keep up with 11:19:18
20 their risk screening, twice-yearly screenings. 11:19:21

21 Q So if -- my understanding would be that if 11:19:28
22 that's the part of the reason for the TIOL, that the 11:19:32
23 information that it's been done would be on the 11:19:36
24 TIOL; is that right or wrong? 11:19:40

25 A The TIOL and the risk screening processes 11:19:44

1 are different. They're not the same form. 11:19:50

2 The list, the TIOL just lets us know who 11:19:54

3 we need to rescreen and the screening form is 11:19:58

4 independent of that list. 11:20:03

5 Q Okay. So on the list, it doesn't say, you 11:20:08

6 know, six-month reassessment for this particular 11:20:10

7 offender, check? 11:20:16

8 A Correct. It does not. 11:20:17

9 Q What is the role of -- well, I'm sorry. 11:20:26

10 Last question on the safety reassessments for now is 11:20:30

11 with respect to transgender and intersex offenders, 11:20:36

12 after their safety reassessment, is there any 11:20:41

13 consideration as to whether their placement in a 11:20:46

14 facility that does not align with their gender 11:20:51

15 identity, is that decision revisited as a result of 11:20:57

16 the safety reassessments? 11:21:02

17 A No. Not that I'm aware of, no. 11:21:07

18 Q Is the Statewide Classification Committee 11:21:12

19 involved in any way in the safety reassessment? 11:21:15

20 A No. 11:21:23

21 Q What is the role of the Statewide 11:21:24

22 Classification Committee? 11:21:26

23 A It's just the initial -- it was a -- it 11:21:28

24 was a separate committee that looked at the 11:21:32

25 offenders when they arrived at the facility 11:21:35

1 initially. And the initial determination would be 11:21:40
2 more advanced than the facility classification. 11:21:46
3 Facility classification assigns people to housing 11:21:51
4 units, to GED, vocational, all of the facility 11:21:55
5 stuff. 11:22:01

6 The Statewide Classification Committee was 11:22:02
7 implemented just for transgender and intersex 11:22:05
8 offenders to see what facility type would best suit 11:22:08
9 them. Whether that be a male facility or a female 11:22:15
10 facility. 11:22:19

11 Q And so it's a decision that is made 11:22:23
12 initially and not revisited; is that right? 11:22:25

13 A Right. That's correct. 11:22:28

14 MS. LITTRELL: Okay. We need to take just 11:22:34
15 a very short break so the videographer can 11:22:35
16 change the tape. Now it's -- oh, a fine time 11:22:37
17 to take a five-minute break? Do you need -- 11:22:43
18 let's do that. Let's just go off the record 11:22:47
19 and come back at 11 -- 11:22:49

20 MR. CHALMERS: Can we take 10 minutes, 11:22:54
21 Counsel? 11:22:56

22 MS. LITTRELL: Sure. So it's 11:23 right 11:22:57
23 now. 11:22:59

24 VIDEOGRAPHER: It's 11:23 and we are going 11:23:00
25 off the record. 11:23:03

1 (A brief recess is had from 11:23 a.m. to 11:23:24
2 11:35 a.m.) 11:23:24

3 VIDEOGRAPHER: It is the beginning of 11:35:37
4 media number two of the testimony of Grace 11:35:39
5 Atchison. It is 11:35 a.m. We are back on the 11:35:40
6 record. 11:35:45

7 BY MS. LITTRELL: 11:35:51

8 Q Ms. Atchison, we were talking about the 11:35:52
9 Statewide Classification Committee. How many 11:35:54
10 members does the committee have? 11:35:58

11 A Five. 11:36:05

12 Q Okay. And who are those? Are they 11:36:05
13 designated by title or some other means? 11:36:09

14 A They designate for the title, yes. So it 11:36:18
15 would be PREA coordinator, which is me, mental 11:36:21
16 health, medical, facilities operations. And then at 11:36:24
17 one point, it was a legal representative, but that 11:36:41
18 is one of the early things that we determined was 11:36:44
19 not -- because they would have to defend any 11:36:49
20 decisions, so we determined that they would not be 11:36:53
21 ones to look at that. 11:36:55

22 Q During what time period was there a legal 11:36:57
23 representative on the classification committee? 11:37:00

24 A Well, early on -- it was designed to have 11:37:03
25 one from the very beginning. But early on, at the 11:37:08

1 time the assistant commissioner Ricky Myrick stated 11:37:11
2 that he did not want legal to be a part of that 11:37:15
3 decision-making process. 11:37:21

4 Q And was that representative -- legal 11:37:24
5 representative removed from the committee before 11:37:28
6 Ms. Diamond arrived in October of 2019? 11:37:34

7 A I can't say. I'm not sure. But it was 11:37:39
8 early on so from my recollection, legal never did 11:37:42
9 provide an input on any of them. So I would -- I 11:37:49
10 would say yes. 11:37:53

11 Q Okay. And who fills in that fifth slot 11:37:55
12 now? 11:38:01

13 A It would just go to four at that point. 11:38:04

14 Q Okay. So right now, the statewide 11:38:07
15 classification is made up of four committee members? 11:38:09

16 A Yes, with the current published policy, 11:38:14
17 yes. But that will be changing. 11:38:17

18 Q Okay. So there's four pursuant to the 11:38:20
19 policy now. Are there four members in reality? 11:38:26

20 A There are four designated in the policy. 11:38:37

21 Q Okay. Okay. Someone from mental health. 11:38:42
22 I think you said a designee from mental health? 11:38:47

23 A Yes. 11:38:50

24 Q And who is that? Is it a rotating person 11:38:50
25 or is it the same person from each of these 11:38:55

1 departments? 11:38:58

2 A It's the same person. 11:38:58

3 Q Okay. And who from mental health? 11:39:00

4 A Javel Jackson was but she retired. And I 11:39:04

5 do not have the name of the replacement for her at 11:39:10

6 this time. 11:39:15

7 Q Okay. But it would be the person who was 11:39:17

8 hired for her position? 11:39:20

9 A Ideally, yes. 11:39:24

10 Q And if not, how is that member determined? 11:39:27

11 A That person would be their OHS, office of 11:39:34

12 health services director, would make that 11:39:39

13 determination. 11:39:42

14 Q Okay. Who from medical is on the 11:39:51

15 Statewide Classification Committee? 11:39:53

16 A Sharon. Sharon Lewis. 11:39:56

17 Q Okay. Who from the facilities operations 11:39:57

18 department? 11:40:01

19 A The initial was Ricky Myrick, through the 11:40:06

20 transition. It is now Ahmed Holt who is our 11:40:09

21 assistant commissioner for the facilities division. 11:40:11

22 As it pertains to Ashley Diamond, he was 11:40:15

23 not in the position at the time the decision was 11:40:18

24 made for Diamond's housing. 11:40:22

25 Q Who was in that position at the time of 11:40:29

1 Ms. Diamond's initial decision? 11:40:31

2 A Ricky Myrick. 11:40:34

3 Q Can you spell that last name? 11:40:35

4 A M-y-r-i-c-k. 11:40:37

5 Q Okay. And what was Mr. Myrick's title at 11:40:41

6 the time? 11:40:48

7 A He was the assistant commissioner of 11:40:49

8 facilities operations. 11:40:50

9 Q Okay. And then there's a designee from 11:40:52

10 the PREA unit; is that right? 11:40:55

11 A Yes. That would be -- 11:40:57

12 Q And is -- 11:40:58

13 A Me. 11:40:59

14 Q Okay. And so you're, I guess, a permanent 11:41:04

15 member of the Statewide Classification Committee for 11:41:07

16 as long as you're in this title, this role? 11:41:09

17 A Yes. 11:41:12

18 Q So in October 29 [sic], with respect to 11:41:20

19 Ms. Diamond, were the Statewide Classification 11:41:24

20 Committee members yourself, Mr. Myrick? Yes? 11:41:26

21 A Yes. 11:41:35

22 Q Sharon Lewis? 11:41:36

23 A Yes. 11:41:37

24 Q And Javel Jackson? 11:41:38

25 A Yeah. Javel, J-a-v-e-l. Jackson. 11:41:41

1 Q Javel Jackson. Anyone else on the 11:41:45
2 committee at the time? 11:41:47

3 A No. 11:41:48

4 Q Are the decisions made by sort of majority 11:41:49
5 rule or is there some other process where four 11:41:54
6 members of a committee can arrive at a decision? 11:41:59

7 A We do not vote on it. It is not our 11:42:03
8 decision. As far as the PREA coordinator, medical, 11:42:06
9 mental health, we just give recommendations based on 11:42:13
10 our area of expertise. 11:42:16

11 The final and only decision maker would be 11:42:22
12 a designee from the facilities operations division, 11:42:24
13 which at that time would have been Mr. Myrick. 11:42:29

14 Q So Mr. Myrick both served on the committee 11:42:34
15 and is the final decision maker? 11:42:37

16 A Yes. 11:42:39

17 Q Okay. Is that true for Mr. Holt 11:42:40
18 currently? 11:42:43

19 A Currently, yes. They are the final 11:42:44
20 decision. 11:42:47

21 Q And so is the process that each statewide 11:42:53
22 classification member makes their individual 11:43:02
23 recommendation and then that gets passed along to 11:43:06
24 the decision maker from the facilities operations 11:43:12
25 department? 11:43:17

1 A Correct. 11:43:18

2 Q Okay. And do the Statewide Classification 11:43:19

3 members meet to discuss the individual under 11:43:25

4 consideration? 11:43:32

5 A No. It is passed through a Workflow. We 11:43:33

6 do not meet on it. We just give our recommendation 11:43:41

7 and it goes on to the next person and to the next 11:43:44

8 person. 11:43:48

9 Q Okay. Is it sequential or is it -- can it 11:43:50

10 happen concurrently? 11:43:54

11 A It was set up that it would go from me to 11:43:58

12 medical. And then they make their recommendation. 11:44:03

13 And then they -- when they're done with it -- it was 11:44:08

14 in the PowerDMS system. And each person was 11:44:13

15 required to complete their Workflow. And then it 11:44:17

16 was passed on to the next person in line. 11:44:20

17 Q Okay. And is there a place for each 11:44:23

18 member to provide the basis for their recommendation 11:44:31

19 in the PowerDMS system? 11:44:36

20 A Yes. In the initial process, yes. 11:44:40

21 Q So that each person who, in the sequence, 11:44:44

22 has the benefit of the reasoning of the person who 11:44:48

23 made the recommendation before them? 11:44:52

24 A Not necessarily, because mine would be the 11:44:56

25 PREA information such as how the risk screening 11:45:01

1 factored out. And the perception of their own 11:45:10
2 safety, that would be the PREA part. And then the 11:45:18
3 medical part would be, of course, anything like 11:45:20
4 hormone treatments or any other medical related. 11:45:22
5 And then mental health, of course, with gender 11:45:28
6 dysphoria. So it's different for each offender. 11:45:30
7 But we would only make our recommendations based on 11:45:33
8 our subject. 11:45:36

9 Q Okay. And as to each of the subjects, the 11:45:40
10 basis for the recommendation is required to be 11:45:44
11 provided; is that right? 11:45:48

12 A Yes. 11:45:50

13 Q And do each of those statewide 11:45:53
14 classification members meet with the transgender 11:45:56
15 offender on whom they're making the decision? 11:46:03

16 A My group, if I'm not available -- I guess 11:46:07
17 I need to say this -- then my assistant coordinator 11:46:11
18 would handle that for me in my absence, but, yes. 11:46:15

19 I, or someone from my team does meet with the 11:46:18
20 offender, whether it is a teleconference or in 11:46:22
21 person. 11:46:27

22 COVID kind of made that to be more of an 11:46:29
23 electronic, like a GoTo Meeting or a teams meeting 11:46:33
24 at the time. I cannot speak on whether or not 11:46:37
25 medical or mental health does speak with the 11:46:42

1 offender. 11:46:44

2 Q Is it -- was it -- is there any -- hang 11:46:44

3 on. Give me a minute. 11:46:55

4 Is it contemplated, to your knowledge, 11:47:00

5 that the statewide classification members would meet 11:47:04

6 with the offenders before making their 11:47:09

7 determination? 11:47:13

8 A I vaguely remember Javel Jackson wanting, 11:47:16

9 on her piece, with the mental health portion, she 11:47:22

10 wanted to meet with the offenders. Whether she did, 11:47:26

11 I'm not sure, but I do know that she preferred that. 11:47:34

12 Q Okay. But it's not a requirement that 11:47:36

13 those statewide classification members meet the 11:47:39

14 offenders? 11:47:42

15 A No. 11:47:43

16 Q Okay. 11:47:43

17 A Other than PREA. The PREA is. 11:47:44

18 Q And where in the -- is that based on the 11:47:49

19 transgender policy itself that creates that 11:47:52

20 requirement? 11:47:55

21 A Yes. 11:47:56

22 Q Are you aware of whether mental health, 11:47:59

23 the mental health Statewide Classification Committee 11:48:05

24 member reviews the offender's medical file? 11:48:09

25 A I'm not. 11:48:17

1	Q	Okay. Do transgender offenders who	11:48:19
2		identify themselves meet with a mental health	11:48:24
3		provider who has expertise in gender dysphoria?	11:48:30
4	A	I'm not sure.	11:48:34
5	Q	Can you testify as to whether or not	11:48:44
6		Dr. Lewis reviews the medical file prior to making	11:48:47
7		her determination?	11:48:52
8	A	Yeah. I can't speculate on what her	11:48:54
9		procedure -- or their procedure is.	11:48:57
10	Q	Okay. On what basis does the facility	11:49:00
11		operations member make their determination?	11:49:09
12	A	Through the risk screening portion, like I	11:49:19
13		said, that would be usually a mental health	11:49:25
14		counselor that conducts that risk screening, or it	11:49:27
15		really could just be their case manager, which is	11:49:33
16		their regular counselor. But beyond that, I'm not	11:49:37
17		sure what the mental health procedures are for that.	11:49:41
18	Q	The facility -- I'm specifically wondering	11:49:47
19		with the facility operations member, so either	11:49:54
20		Mr. Myrick or Mr. Holt, what information they review	11:49:56
21		in order to arrive at their recommendation.	11:50:01
22	A	Oh, okay. Yeah. That, I'm not -- the	11:50:08
23		purpose of the Statewide Classification Committee	11:50:11
24		was for them to review all of our, the other	11:50:13
25		committee members' recommendations. But any other	11:50:17

1 additional information I believe is laid out in the 11:50:20
2 transgender policy. They have to factor in 11:50:27
3 disciplinaries. But as far as what they have done, 11:50:29
4 I can't testify to that. 11:50:35

5 Q Okay. The language -- the criteria that's 11:50:40
6 listed in the transgender policy itself, are all of 11:50:43
7 the statewide classification members required to 11:50:47
8 apply that criteria? 11:50:50

9 A No. 11:50:52

10 Q Okay. Who is? 11:50:53

11 A The facilities operations division -- 11:50:55
12 designee. 11:51:00

13 Q Okay. Are there any experts on gender 11:51:02
14 dysphoria or issues specific to the transgender and 11:51:10
15 intersex community that are members of the Statewide 11:51:17
16 Classification Committee? 11:51:20

17 A I'm not sure if the mental health 11:51:24
18 representative has that background so I can't speak 11:51:26
19 to that. 11:51:31

20 Q Are there any experts on gender dysphoria 11:51:33
21 or transgender and intersex issues available as 11:51:35
22 consultants through the Statewide Classification 11:51:41
23 Committee to reach out to? 11:51:42

24 A Again, I would have to answer the same 11:51:50
25 with that. I'm not sure if the mental health 11:51:51

1 designee has that criteria. So that would be 11:51:54
2 something I think they would have to give you. 11:51:57
3 Q But you're not aware of any experts that 11:52:01
4 are consulted? 11:52:04
5 A No. 11:52:05
6 Q Okay. Is there an additional sort of 11:52:06
7 stipend that the committee members receive as a 11:52:14
8 result of being on the classification committee? 11:52:17
9 A Can you clarify what you mean by that? 11:52:24
10 Q Yeah. Is it -- do you get extra money as 11:52:26
11 a result of being on the committee? 11:52:28
12 A Oh. No, ma'am. No. 11:52:30
13 Q Okay. It's an extra responsibility but 11:52:33
14 with no pay? 11:52:37
15 A Exactly. 11:52:38
16 Q I'm familiar. I'm familiar. 11:52:38
17 How are the statewide classification 11:52:45
18 members trained by GDC to determine the appropriate 11:52:47
19 placement for each transgender and intersex person 11:52:53
20 with respect to placement in either a male or a 11:52:56
21 female facility? 11:53:02
22 A The policy lays out what each member is 11:53:04
23 responsible for and what each member is required to 11:53:11
24 do. So the policy is pretty much the guiding 11:53:13
25 procedure for that. 11:53:20

1 Q Okay. Was there a training that 11:53:21
2 specifically addressed that criteria for the 11:53:25
3 Statewide Classification Committee when the policy 11:53:32
4 was enacted? 11:53:35

5 A The PAT team, process action team did 11:53:38
6 weigh in on different areas of how we would 11:53:41
7 determine recommendations. But specifically, I 11:53:49
8 cannot recall what those were. 11:53:52

9 Q When did that process take place? 11:53:56

10 A I would have to go back and look at 11:54:01
11 records to see when we met on my calendar, but I 11:54:03
12 can't give you a date right now. 11:54:07

13 Q Okay. Was it before the policy was 11:54:09
14 enacted? 11:54:11

15 A Yes. 11:54:12

16 Q Okay. And how long did that process of 11:54:14
17 communicating about -- or providing feedback on the 11:54:19
18 criteria, how long did that process take? 11:54:24

19 A It took us about two years to finalize it. 11:54:28
20 It was a two-year grant as well. So it was quite a 11:54:33
21 lengthy process. 11:54:44

22 Q Sounds like that's the process to create 11:54:45
23 the policy. I'm wondering if after the policy was 11:54:47
24 created, if there was a specific training or 11:54:50
25 conversation in which the process action team -- is 11:54:55

1 that what you referenced? Did I get that right? 11:55:01

2 A Yes. 11:55:05

3 Q Okay. 11:55:05

4 A After the policy implementation, there 11:55:06

5 were some concerns after the fact about medical and 11:55:10

6 mental health making housing decisions. 11:55:19

7 Q Um-hum. 11:55:24

8 A So those were some of the things we had to 11:55:25

9 iron out, which is why those revisions, when we 11:55:29

10 looked at those to revise the policy, that's why 11:55:32

11 that had taken place. But those changes have not 11:55:36

12 been implemented at this time. 11:55:41

13 Q And so in the interim, the transgender 11:55:47

14 policy is being applied as it's currently written 11:55:49

15 and enacted; correct? 11:55:52

16 A It is supposed to be, yes. 11:55:57

17 Q Okay. Applying the criteria or the 11:55:59

18 considerations that are laid out in the policy, can 11:56:06

19 you provide an example of the constellation of 11:56:10

20 factors that would support the placement of a 11:56:14

21 transgender woman in a female facility? 11:56:17

22 MR. CHALMERS: Objection to form. 11:56:20

23 You can answer. 11:56:22

24 THE WITNESS: I can answer? 11:56:24

25 MR. CHALMERS: Yes. 11:56:25

1 BY MS. LITTRELL: 11:56:26

2 Q And just going forward, if your lawyer 11:56:26

3 objects and tells you not to answer the question, 11:56:31

4 follow his direction. If he objects, it's for the 11:56:37

5 record and he'll object to form. 11:56:41

6 THE WITNESS: Okay. 11:56:44

7 BY MS. LITTRELL: 11:56:45

8 Q Generally. You can answer. 11:56:46

9 A So now I've forgotten the question. 11:56:46

10 Q Yes. Great. Applying those -- applying 11:56:48

11 the criteria or considerations that are listed in 11:56:51

12 the transgender policy, can you provide an example 11:56:56

13 of the constellation of factors that would support 11:57:01

14 the placement of a trans woman in a woman's 11:57:04

15 facility? 11:57:07

16 A Okay. 11:57:08

17 MR. CHALMERS: Objection, form. 11:57:09

18 You can answer. 11:57:10

19 THE WITNESS: Okay. It is really 11:57:11

20 determined on an individual basis, based on the 11:57:15

21 factors of the transgender person that we're 11:57:21

22 reviewing. And it also determines the factors 11:57:23

23 of the sexual safety of other offenders in 11:57:28

24 either/or population. 11:57:32

25 BY MS. LITTRELL: 11:57:36

1 Q Um-hum. This isn't factors, but how would 11:57:36
2 they apply in a way that allowed placement of a 11:57:39
3 trans woman in a woman's facility? 11:57:46

4 A We look at things such as sexual history, 11:57:48
5 whether consensual or if they're -- if they scored 11:57:53
6 out as a potential victim or an aggressor on the 11:57:58
7 risk screening. We'd look at the potential for the 11:58:02
8 other offenders and whether their sexual safety 11:58:11
9 would be compromised for placement. There are 11:58:17
10 security levels we look at, disciplinary reports, if 11:58:24
11 they're violent offenders. We'd look at all the 11:58:28
12 classification pieces to make that determination. 11:58:34

13 Q Okay. 11:58:39

14 A But they're not a set -- there's not a 11:58:40
15 set, okay, well, this criteria means they can go to 11:58:42
16 a female facility and this criteria means they 11:58:45
17 can't. It's just determined on an individual basis. 11:58:47

18 Q So if a transgender woman was identified 11:58:53
19 as a PREA victim, had no violent offenses in their 11:58:56
20 history, no disciplinary record that was of concern, 11:59:05
21 would that transgender woman be eligible to be 11:59:13
22 placed in a women's facility, according to the 11:59:18
23 criteria? 11:59:22

24 A Eligible may not be the correct term but I 11:59:25
25 would say it's a good possibility that I would 11:59:27

1 recommend that. So in particular, if you look at 11:59:33
2 Diamond's case, it was a neutral decision -- not 11:59:37
3 decision -- a neutral recommendation that I made for 11:59:43
4 the placement of Diamond. 11:59:45

5 Q Um-hum. The only other criteria that you 11:59:49
6 mentioned off the top of your head -- we'll look at 11:59:51
7 the criteria later -- it was other offenders' 11:59:55
8 security. 11:59:58

9 A Um-hum. 11:59:59

10 MR. CHALMERS: Objection. 12:00:00

11 BY MS. LITTRELL: 12:00:00

12 Q How was that taken into account? 12:00:00

13 MR. CHALMERS: Objection. 12:00:02

14 BY MS. LITTRELL: 12:00:09

15 Q Go ahead. You can answer the question. 12:00:09

16 Do you understand the question? 12:00:10

17 A Yes. How are other offenders 12:00:11

18 determined -- their sexual safety. 12:00:13

19 If we have an offender that we know has 12:00:17

20 participated in consensual sexual activity, we weigh 12:00:25

21 that in as well. And, for example, if we felt that 12:00:33

22 that offender was not safe to place in a female 12:00:43

23 facility, we also have to look at pregnancies or 12:00:46

24 other PREA-related possibilities. 12:00:52

25 Q Does that mean that a trans woman who has 12:01:00

1 the possibility of impregnating a cisgender woman 12:01:08
2 would not be eligible to be placed in a female 12:01:17
3 facility? 12:01:20

4 A No, it doesn't necessarily mean they won't 12:01:22
5 be. That's just a factor that -- one of the factors 12:01:24
6 with that individual case. Again, it would all 12:01:27
7 depend on the individual offender, on their 12:01:30
8 background, their violent history, things like that. 12:01:34
9 So it doesn't automatically rule that out but it is 12:01:39
10 a factor that we do put in there, just to ensure the 12:01:42
11 safety of other female facility -- female offenders. 12:01:47

12 Q And how do you determine whether a 12:01:53
13 transgender or intersex person is capable of 12:01:56
14 impregnating a woman? 12:02:02

15 A We don't. Specifically for the Diamond 12:02:07
16 case, she has made statements that her genitalia 12:02:10
17 does not work, things like that. And PREA tells us 12:02:13
18 that we cannot make a sole determination on 12:02:21
19 placement based on genital status. 12:02:25

20 So that's not the only factor we look at, 12:02:32
21 but that doesn't really necessarily play a big part 12:02:37
22 in the decision-making process. 12:02:43

23 Q But you don't ask whether the offender's 12:02:48
24 been chemically castrated as part of the process, 12:02:51
25 do you? 12:02:55

1 A No. 12:02:56

2 MR. CHALMERS: Objection. Objection. 12:02:56

3 Hold on a second. Objection, form. You can 12:02:57

4 answer. 12:03:00

5 THE WITNESS: Okay. No. We don't base 12:03:03

6 that solely on their genital status. And we 12:03:04

7 don't ask them those questions unless it's 12:03:08

8 part -- we don't ask those questions based 12:03:12

9 solely on determining genital status. That's 12:03:14

10 what the standards say. But if it is made 12:03:19

11 available through other means such as medical 12:03:21

12 examination or the offender volunteers, that 12:03:26

13 information, then we know it at that point but 12:03:30

14 we don't ask that question for specific genital 12:03:33

15 status. 12:03:39

16 BY MS. LITTRELL: 12:03:40

17 Q Okay. But just specifically with the 12:03:41

18 concern about the potential to impregnate women or 12:03:43

19 other people in a female facility, you don't ask if 12:03:49

20 the offender is sterile or not; right? 12:03:52

21 A No. 12:03:56

22 Q Or if they've had a vasectomy or not? 12:03:57

23 A No. 12:04:00

24 Q Okay. And then you mentioned consensual 12:04:00

25 activity. Does that indicate that any trans woman 12:04:05

1 who has, in the past had a sex life, is not able to 12:04:14
 2 be placed in a women's facility? 12:04:21

3 A It's the degree. Again, that's one of 12:04:24
 4 those broad answers, I guess. But it all depends on 12:04:29
 5 the individual. If they have received several DRs 12:04:33
 6 for consensual sexual activity with offenders, that 12:04:40
 7 still is a violation of GDC policy. It wouldn't 12:04:45
 8 necessarily be PREA, but it is factored into, okay, 12:04:49
 9 they are actively -- sexually active. And that is 12:04:52
 10 potentially a risk for other offenders. 12:04:59

11 Q But is that consideration limited to while 12:05:06
 12 they're incarcerated? 12:05:08

13 A Oh, yes. Their incarceration history. 12:05:12

14 Q Okay. And is it factored in whether the 12:05:15
 15 consensual sex they're having is with men or women? 12:05:20

16 A No. 12:05:26

17 Q But you ask their sexual orientation as 12:05:30
 18 part of the intake process or consideration process? 12:05:33

19 A We ask that information on the statewide 12:05:36
 20 classification form. It's bunched in as LGBTI, so 12:05:39
 21 they don't necessarily tell us which one they 12:05:43
 22 identify as. 12:05:52

23 So it's just one of those bunched up. And 12:05:56
 24 that question is only asked because of the risk 12:05:58
 25 assessment algorithm that LGBTI tends to be more of 12:06:01

1 a risk for victimization. 12:06:10

2 Q Okay. Does that information -- 12:06:13

3 information as to a trans or intersex person's 12:06:19

4 sexual orientation factor into whether they will be 12:06:22

5 safer in a male or female facility? 12:06:26

6 A No, not for that individual. But it is 12:06:36

7 factored in -- I wouldn't say it's a big priority 12:06:38

8 but we do look at would that affect the population 12:06:41

9 of the opposite gender facility. For example, a 12:06:47

10 trans woman in a female facility, what would that 12:06:55

11 look like for the other female offenders. 12:06:57

12 Q Would it look differently for some trans 12:07:02

13 or intersex offenders than others? 12:07:04

14 A Again, it would determine -- it would be 12:07:10

15 determined on their set of factors, whether they're, 12:07:11

16 you know, aggressive or violent or they have the -- 12:07:16

17 or they score out to be a potential aggressor on the 12:07:20

18 risk screening. Again, it's all an individual 12:07:23

19 basis -- on an individual basis. 12:07:27

20 Q All of those factors seem to be separate, 12:07:30

21 and then there's this catchall of other offenders' 12:07:33

22 security. So if you have a trans or intersex 12:07:37

23 offender who is a sexual assault victim, has no 12:07:39

24 violent history, has no sexual offenses in their 12:07:43

25 history, has a clean DR record and has never, you 12:07:50

1 know, had a DR or consensual sex in an institution, 12:07:54
2 then we go over to the other offenders' security 12:08:02
3 concern and how -- is there any additional factor 12:08:05
4 that is included in making that determination? 12:08:09
5 MR. CHALMERS: Objection, form. 12:08:14
6 You can answer. 12:08:18
7 THE WITNESS: I have to just keep saying 12:08:19
8 it goes back to the individual. But if all of 12:08:20
9 those criteria that you just mentioned, if 12:08:23
10 everything was clear, then they -- I don't have 12:08:27
11 any objections into recommending a female 12:08:32
12 facility for a transgender woman or vice versa, 12:08:38
13 a male facility for a transgender man. But 12:08:44
14 there is that possibility of consensual sexual 12:08:46
15 activity. I mean, that's just putting that out 12:08:53
16 there that a pregnancy could occur if a 12:08:55
17 relationship did take place. So that we do 12:08:59
18 look at that as a risk. But we don't factor 12:09:01
19 that in as the only reason. 12:09:04
20 BY MS. LITTRELL: 12:09:11
21 Q And a trans woman who is attracted to 12:09:14
22 men -- oh, did somebody just come into the room? 12:09:19
23 A Yes, they did. I'm sorry. My daughter 12:09:26
24 brought me lunch. Sorry. 12:09:28
25 Q Okay. Is she in the room now? 12:09:30

1	A	No. She's leaving. She's left. She's	12:09:32
2		gone.	12:09:34
3	Q	And we'll certainly take a break so you	12:09:39
4		can enjoy your lunch off screen.	12:09:40
5	A	It will be fine. I can go a little	12:09:42
6		longer.	12:09:44
7	Q	Okay. Would you agree that a transgender	12:09:45
8		woman who is attracted to men is less of a threat if	12:09:48
9		placed in a women's facility in terms of consensual	12:09:53
10		sexual activity?	12:09:58
11	A	It's hard to answer because you don't -- I	12:10:02
12		mean, there's the bisexual piece of it, whether	12:10:04
13		they're attracted to males or females. I would say	12:10:08
14		they're less of a risk if their sexual orientation	12:10:11
15		lent to that, but again, without looking at all the	12:10:21
16		person's factors and variables, I couldn't say that	12:10:27
17		for sure.	12:10:34
18	Q	Does the length of time a trans woman has	12:10:35
19		been on feminizing hormones play a factor in terms	12:10:38
20		of the individualized assessment?	12:10:46
21	A	That would be a recommendation I would	12:10:50
22		lean to the subject-matter expert on which would be	12:10:54
23		the medical and the mental health piece, as far as	12:10:59
24		hormones and stuff go.	12:11:03
25	Q	And what about in terms of physical	12:11:04

1 appearance? Is a consideration, for example, a 12:11:06
2 trans woman with large breasts? Would that be a 12:11:11
3 consideration in the placement decision? 12:11:15

4 A Large breasts, no. But physical stature 12:11:18
5 is listed on that questionnaire as far as height, 12:11:20
6 weight factors on whether or not they would be able 12:11:28
7 to defend themselves. So, yes, that piece of it is. 12:11:32
8 But as far as the size of genitalia, no, we do not 12:11:38
9 factor that. 12:11:43

10 Q Okay. Are there -- in terms of the 12:11:45
11 physical appearance criteria, can a trans or 12:11:49
12 intersex person be too tall to be placed in a 12:11:56
13 transgender -- I mean, a female facility? 12:12:01

14 A No. 12:12:04

15 Q Can they be too large in any way to be 12:12:05
16 placed in a women's facility? 12:12:08

17 A No. I mean, we look at physical stature 12:12:11
18 more so on a victim's perspective, whether or not 12:12:13
19 they're vulnerable and they cannot protect 12:12:20
20 themselves. So it may be, as far as that category 12:12:25
21 goes, better for that offender to be placed in a 12:12:31
22 female facility where they were -- would be able to 12:12:35
23 defend themselves a little more. 12:12:39

24 MS. LITTRELL: So I think at this time I 12:12:49
25 would like to ask the tech to pull up the 12:12:49

1 transgender policy that we've been talking 12:12:53
2 about. Let me go through it and ask some 12:12:54
3 questions. 12:12:56

4 If you could pull up what should be marked 12:13:00
5 as ECF 78-9, ECF 78-9. And let's mark that as 12:13:07
6 Exhibit 2. 12:13:15

7 (Exhibit 2 was marked.) 12:13:16

8 BY MS. LITTRELL: 12:13:37

9 Q Okay. Can you see the screen, 12:13:37
10 Ms. Atchison? 12:13:41

11 A I can. It would help if it was enlarged 12:13:41
12 just a tad, though. 12:13:44

13 Q And have you seen this document before? 12:13:56

14 A Yes. 12:13:58

15 Q And what is it? 12:13:58

16 A This is the transgender policy we were 12:13:59
17 discussing, 220.09. 12:14:03

18 MS. LITTRELL: And, Kyle, if you can give 12:14:09
19 me control, and Mr. Chalmers, I'm presuming if 12:14:10
20 you don't say anything that you are getting the 12:14:13
21 links to be able to pull it up yourself. Thank 12:14:16
22 you. 12:14:20

23 And I'm going to just scroll through here. 12:14:25

24 BY MS. LITTRELL: 12:14:37

25 Q See on page three of this document -- 12:14:37

1 whoops. Here we go. Subsection IV. You see it on 12:14:48

2 your screen? 12:14:57

3 A Yes. 12:14:58

4 Q So this is the process we talked about 12:14:59

5 earlier that is employed when an offender arrives in 12:15:01

6 a diagnostic facility; correct? 12:15:04

7 A Correct. 12:15:07

8 Q And how many diagnostic facilities are 12:15:13

9 there within GDC? 12:15:15

10 A We have GDCP, Arrendale, I believe 12:15:16

11 Coastal. I believe four. 12:15:19

12 Q Is Coastal a diagnostic facility? 12:15:27

13 A It was a fast track, what was known as a 12:15:33

14 fast track, so they did do diagnostics. 12:15:36

15 Q Okay. What's the documentation process to 12:15:38

16 ensure that intake officers comply with the 12:15:46

17 provisions of this procedure as part of the policy? 12:15:54

18 A I'm not quite sure if they document that 12:16:00

19 they make this statement. This is just telling them 12:16:05

20 they have to make that statement. 12:16:09

21 Q Okay. You're not aware of any 12:16:11

22 documentation that goes with it? 12:16:13

23 A No. 12:16:14

24 Q So number two, we're looking at, that is 12:16:17

25 the notification process that allows the trans-- or 12:16:24

1 intersex offender to privately identify themselves; 12:16:27

2 right? 12:16:31

3 A Yes. 12:16:31

4 Q And then looking at this, my understanding 12:16:32

5 would be that steps three through five are steps 12:16:37

6 that are employed for all offenders, not necessarily 12:16:41

7 only transgender and intersex offenders? Is that 12:16:46

8 accurate? 12:16:50

9 A The 24-hour screening is for all 12:16:51

10 offenders, the mental health reception screening 12:16:53

11 form for all offenders, and [as read]: screen will 12:16:58

12 assess for mental health problems and gender 12:17:02

13 identity, including transgender. 12:17:04

14 Number five would be specific. 12:17:07

15 Q Okay. Makes sense. 12:17:09

16 And then on number seven here of 12:17:20

17 Subsection IV, help me understand. It says, 12:17:23

18 "Transgender offenders shall be notified that if 12:17:27

19 they want hygiene or undergarment items that are not 12:17:31

20 stored in diagnostics that they will receive what 12:17:34

21 all other offenders receive and may receive those 12:17:37

22 gender-specific property needs upon being housed in 12:17:39

23 their permanent facility." I have some questions 12:17:42

24 about that. 12:17:45

25 What is meant by "hygiene"? 12:17:46

1 A That would be, like, feminine deodorant, 12:17:51
 2 maybe soap. That's what comes to mind when I see 12:17:57
 3 "hygiene." 12:18:06

4 Q Do you recall, in the conversations that 12:18:07
 5 you were part of in the creation of this policy, if 12:18:10
 6 there was a discussion about hygiene items that a 12:18:16
 7 transgender person who was in a facility that does 12:18:20
 8 not align with their gender identity would need? 12:18:24

9 A As far as how they would get that? 12:18:33

10 Q As far as the need to begin with so that 12:18:34
 11 it was, you know, baked into the policy. 12:18:36

12 A Yes. The offender would notify the staff 12:18:41
 13 member. 12:18:46

14 The reason this says for "not stored in 12:18:47
 15 diagnostics" is because sometimes their diagnostics 12:18:50
 16 phase can last a month or it can last six months. 12:18:55
 17 So we really put that on their permanent facility 12:19:02
 18 when they get reassigned so that they would most 12:19:05
 19 likely be there at that facility for a while because 12:19:11
 20 it takes some time to get those items that are not 12:19:14
 21 stored in diagnostics. 12:19:20

22 Sometimes we'll order them and the 12:19:22
 23 offender will already be assigned to their permanent 12:19:24
 24 facility before those items are received by the 12:19:27
 25 facility. 12:19:29

1 Q Could you give me some other hygiene items 12:19:32
 2 that might be requested by a transgender or intersex 12:19:39
 3 offender, either based on conversations before the 12:19:44
 4 policy was enacted or since? 12:19:49

5 A I know that we had a transgender female 12:19:57
 6 that requested tampons at one point. And we denied 12:19:59
 7 that request. And, again, this should be documented 12:20:03
 8 through facilities operations just because property 12:20:08
 9 is a facilities operations function and not a PREA 12:20:11
 10 function. But there was not a reason that 12:20:14
 11 particular hygiene item would have been given to a 12:20:28
 12 transgender female. 12:20:31

13 And really, hygiene is just deodorant, 12:20:37
 14 maybe feminine products, soaps. That's really all I 12:20:41
 15 can think of that's not gender neutral, like a 12:20:48
 16 toothbrush, toothpaste, things like that. 12:20:53

17 Q And how are deodorants or soaps different 12:20:58
 18 in a female facility from a male facility? 12:21:02

19 A Again, I'm not sure that they are because 12:21:05
 20 that would be the property. That would go in line 12:21:07
 21 with the property policy that's referenced above in 12:21:09
 22 this policy. And facilities ops would have to speak 12:21:14
 23 on the specifics of the property policy. 12:21:20

24 Q Does this reference hygiene items that 12:21:25
 25 would ordinarily be provided in the facility that 12:21:28

1 aligns with the trans person's gender identity? 12:21:33

2 A The hygiene items that are available on 12:21:43

3 site would be those that go with the general 12:21:48

4 population, which if it's a male facility, they're 12:21:52

5 probably going to store a male-related deodorant 12:21:59

6 unless they are special requested. 12:22:09

7 Q Okay. So just to get a better 12:22:11

8 understanding. 12:22:13

9 For a trans woman who arrives in a 12:22:13

10 diagnostic facility that is designated as a male 12:22:17

11 facility, the hygiene items that they would -- that 12:22:25

12 are not stored in diagnostic, would those hygiene 12:22:29

13 items ordinarily be available in a female facility? 12:22:33

14 A Yes. 12:22:40

15 Q Okay. And would it include, for example, 12:22:42

16 hair removal products? 12:22:48

17 A That, I'm not sure about because I don't 12:22:51

18 know what the security parameters are with those 12:22:52

19 products. So the facilities operation division is 12:22:58

20 also the authority on the property policy. So I 12:23:05

21 would have to direct those questions to them. 12:23:10

22 Q And so would that be Ahmed Holt? 12:23:14

23 A Yes. 12:23:18

24 Q Okay. Is there a list of the hygiene 12:23:19

25 items that can be requested from -- by a trans woman 12:23:22

1 in a men's facility? 12:23:31

2 A This policy refers to the property policy 12:23:32

3 as far as that's concerned. I do know -- I know 12:23:35

4 it's not relevant to this published policy, but 12:23:43

5 there was a recommendation I received just this week 12:23:45

6 that we add language in there to have these hygiene 12:23:49

7 and under -- well, I don't know if it says hygiene, 12:23:53

8 but I know definitely it asks for undergarments to 12:23:55

9 be on site in a variety of sizes for the opposite 12:23:58

10 gender from the facility. So for a trans woman, we 12:24:10

11 want a male facility to have a certain amount of 12:24:16

12 panties available in a variety of sizes so that it's 12:24:19

13 already there and they don't have to go through the 12:24:24

14 lengthy process of waiting. 12:24:26

15 Q If I understand your testimony just now, 12:24:33

16 that's an aspirational goal? It's not a current 12:24:35

17 procedure; is that right? 12:24:38

18 A That's correct. 12:24:39

19 Q Okay. So according to this policy under 12:24:40

20 number seven, if there are no let's say 12:24:45

21 undergarments in the diagnostic facility, not stored 12:24:48

22 in a diagnostic facility, this indicates that that 12:24:52

23 transgender intersex offender would not have access 12:24:57

24 to undergarments that align with their gender 12:25:00

25 identity until they're placed in their permanent 12:25:05

1 facility. Am I reading that right? 12:25:08

2 A Yes. 12:25:09

3 Q Okay. Which would mean that transgender 12:25:10

4 men would be required to wear female panties in the 12:25:13

5 interim? 12:25:17

6 A Yes. 12:25:18

7 Q And trans women with breasts would not be 12:25:21

8 provided brassieres; is that right? 12:25:23

9 A Yeah. According to what this policy says, 12:25:27

10 yes. But I do know that they have issued bras at 12:25:29

11 GDCP for offenders with breasts. 12:25:36

12 Q Okay. Is there a process that's in place 12:25:39

13 that allows for that to happen in a timely manner? 12:25:41

14 A They would -- currently, they have to 12:25:48

15 request that -- those items. And it would have to 12:25:51

16 go through an approval process, I believe, with the 12:25:56

17 regional director. And then the items are stored in 12:25:59

18 a GDC warehouse, undergarments for all offenders. 12:26:03

19 And those would be -- for instance, at their 12:26:08

20 permanent facility, those would be requested from 12:26:13

21 the warehouse and the warehouse would then send 12:26:15

22 those items to the requesting facility. 12:26:20

23 Q Okay. So there's a potential process that 12:26:23

24 could be employed but it's not -- it's not written 12:26:28

25 into this policy; correct? 12:26:31

1 A I don't believe so. 12:26:34

2 Q What consideration, if any, was given to 12:26:36

3 the impact on a person with gender dysphoria's 12:26:40

4 mental health to be forced to wear undergarments 12:26:43

5 that don't align with their gender identity? 12:26:48

6 A I would refer that to a mental health 12:26:51

7 professional. 12:26:54

8 Q Were you a part of the creation of this 12:26:55

9 policy? 12:26:57

10 A Yes. 12:26:58

11 Q Are you aware of any consideration that 12:27:02

12 was given to the impact on a person with gender 12:27:03

13 identity's mental health to be forced to wear 12:27:09

14 undergarments during a period between when they 12:27:12

15 arrive and when they are placed in their permanent 12:27:16

16 facility? 12:27:18

17 A Not specifically. I do not recall. 12:27:19

18 Q Okay. Do you recall any consideration 12:27:21

19 given to the discomfort associated with not having a 12:27:24

20 bra for transgender women for a period of time? 12:27:28

21 A Right. I'm not aware of any discussions, 12:27:32

22 in my presence, that took place with that. 12:27:34

23 Q Were there any discussions about safety 12:27:44

24 concerns with respect to a transgender woman with 12:27:46

25 breasts who is not able to have those breasts 12:27:48

1 supported by a bra in the interim? 12:27:50

2 A No. I do not recall a conversation about 12:27:52

3 that. However, I do recall a conversation about 12:27:54

4 transgender males and binders and them being a 12:28:00

5 security risk, to be able to use that to breach our 12:28:05

6 fencing systems. But that is the only conversation 12:28:11

7 that I recall for that. 12:28:13

8 Q And was the result of that conversation 12:28:21

9 that transgender men would not be allowed access to 12:28:23

10 binding materials? 12:28:27

11 A Yes, at that time. 12:28:29

12 Q Okay. Is that still case today? 12:28:31

13 A I'm not sure. 12:28:35

14 Q Okay. Underneath that, in number eight, 12:28:36

15 it says, "Diagnostics staff will assist in gaining 12:28:45

16 information about safe housing." What is meant by 12:28:50

17 diagnostic staff? 12:28:53

18 A Okay. So this is for the diagnostics 12:29:05

19 staff to prepare for the classification, the 12:29:07

20 Facility Classification Committee. And this really 12:29:10

21 is a procedure for all offenders. We look at all of 12:29:16

22 this information, the medical and mental health 12:29:19

23 issues. I believe if we scroll down. Yes. All of 12:29:23

24 that is really not specifically for transgender 12:29:29

25 offenders. We look at that for every offender. 12:29:34

1 Q Okay. And so the diagnostic staff person, 12:29:37
2 that's someone designated within the facility? 12:29:40

3 A Yes. 12:29:44

4 Q And their efforts with respect to number 12:29:49
5 eight is efforts they undertake with respect to all 12:29:51
6 offenders? 12:29:54

7 A This is number eight? Yes. 12:29:57

8 Q Okay. But with respect to -- it says here 12:30:02
9 that they're gaining information about safe housing 12:30:07
10 for transgender and intersex offenders. How is 12:30:10
11 their effort -- how are their efforts different for 12:30:16
12 transgender and intersex offenders than for others 12:30:20
13 pursuant to the policy? 12:30:25

14 A Well, if we scroll down and look at -- 12:30:26
15 okay. The PREA sexual -- I think it is -- there's 12:30:30
16 two sixes there, aren't there? 12:30:34

17 The PREA sexual victim/aggressor 12:30:37
18 classification screening, that goes into that 12:30:40
19 individual assessment too. And because transgenders 12:30:43
20 and intersex offenders tend to be more at risk, that 12:30:49
21 would play a -- maybe a different part than a -- 12:30:54
22 other offenders, is what I'm trying to say. 12:31:06

23 So that would -- that might be different 12:31:09
24 just because of their status. But that's the only 12:31:12
25 thing on the list that I see that -- personal data 12:31:15

1 sheet -- that would be any factor whatsoever and 12:31:24
2 would be different from what we do with any other 12:31:27
3 offender. 12:31:29

4 Q Do you know what is meant by [as read]: 12:31:29
5 Any other areas pertinent to the needs and placement 12:31:31
6 facility of the offender"? 12:31:35

7 A No. I think that was just placed in 12:31:37
8 there. You know, when we put down lists, there's 12:31:39
9 always that special case that comes up that doesn't 12:31:44
10 meet any of that criteria. So I think that was just 12:31:46
11 some language we put in there in case there were any 12:31:48
12 other factors that come into play. 12:31:54

13 Q Okay. And the information that they're 12:31:55
14 gathering here, the diagnostic staff is gathering 12:32:00
15 here, is that for the benefit of the Statewide 12:32:03
16 Classification Committee? 12:32:04

17 A No. That information is actually done for 12:32:07
18 all offenders. There's a personal data sheet that's 12:32:10
19 done for every offender that has an array of 12:32:12
20 questions; where they come from, their criminal 12:32:19
21 history, things like that. 12:32:27

22 Q Okay. And is the personal data sheet part 12:32:28
23 of the offender's institutional file? 12:32:33

24 A I know that it is in SCRIBE, and I do want 12:32:39
25 to say yes, I have seen them in an institutional 12:32:45

1 file but I cannot 100 percent verify that. 12:32:49

2 Q Does the Statewide Classification 12:32:55

3 Committee consider the personal data sheet in 12:32:55

4 arriving at their determination? 12:32:59

5 A No. The SCC goes by the forms 12:33:02

6 specifically indicated by this policy. 12:33:07

7 Q Okay. The classification profile that you 12:33:13

8 see referenced in 8(b), is that for the facility? 12:33:22

9 A Yes. 12:33:30

10 Q And same as to (c), the recommendations 12:33:36

11 made by the interviewer who was a diagnostic staff 12:33:41

12 member, that is also relating to the facility 12:33:44

13 classification? 12:33:46

14 A Yes. The classification chairperson at 12:33:47

15 the facility. 12:33:48

16 Q Okay. And then when we get to (d), if the 12:33:54

17 offender is transgender or intersex, then the 12:33:57

18 diagnostic staff will complete section one of 12:34:00

19 Attachment 1, the Statewide Classification Committee 12:34:03

20 referral form and submit it to the classification 12:34:06

21 committee? 12:34:08

22 A Yes. 12:34:10

23 Q Is that right? 12:34:12

24 A So it's a statewide classification form. 12:34:12

25 But at this particular step in the process, they're 12:34:15

1 referring it to their Facility Classification 12:34:17
2 Committee. 12:34:18

3 Q Okay. They're referring the Attachment 1 12:34:20
4 to their facility classification committee? 12:34:28

5 A Yes. 12:34:32

6 Q And right above that, (c)(iii), housing 12:34:32
7 placement, that again, just to be clear, that 12:34:36
8 references housing placement, not male or female 12:34:38
9 facility. That's within the institution? 12:34:40

10 A Yes. 12:34:43

11 Q Okay. 12:34:43

12 MR. CHALMERS: Counsel, you may be close 12:34:50
13 to done with this exhibit. But if not, I just 12:34:51
14 wanted to ask about what time you want to break 12:34:53
15 for our lunch break. 12:34:55

16 MS. LITTRELL: I would like to -- I think 12:34:58
17 I can get through this next section and 12:35:00
18 hopefully in 10 minutes. Maybe we can shoot 12:35:05
19 for 12:45 as a good breaking point. 12:35:10

20 BY MS. LITTRELL: 12:35:31

21 Q Let's see. "Once the classification 12:35:37
22 committee is notified of the offender status," does 12:35:43
23 that reference the Statewide Classification 12:35:46
24 Committee? 12:35:46

25 A Let's see what's preceding that. Let me 12:35:51

1 read through it real quick. 12:35:54

2 Q Sure. 12:35:55

3 A Okay. So this is still referencing number 12:36:12

4 nine still -- 12:36:15

5 Q Can you see the next page? 12:36:20

6 A Yeah. It's still referencing the facility 12:36:21

7 classification committee. And then once they do -- 12:36:24

8 the facility classification chairperson does their 12:36:26

9 part, then they forward that form, that attachment 12:36:33

10 form to the PREA unit. 12:36:37

11 Q Okay. So the first place that the 12:36:39

12 statewide classification referral form goes is to 12:36:44

13 prea.report@gdc.ga.gov; right? 12:36:47

14 A Yes. 12:36:55

15 Q And whose email is that? 12:36:55

16 A That is a reporting line email that comes 12:36:57

17 directly -- all the PREA unit staff have access, we 12:37:01

18 three -- 12:37:07

19 Q Okay. 12:37:08

20 A -- have access to that. But instead of 12:37:09

21 sending it to an individual, for example, if one of 12:37:13

22 us is on vacation, it doesn't get missed. So 12:37:16

23 anybody in our unit can check that email. And it's 12:37:20

24 checked daily. 12:37:22

25 Q And what does the policy, the transgender 12:37:24

1 policy require the recipient of this email that's 12:37:26
2 referred to in 9(a), what does the policy require 12:37:32
3 the recipient to do upon the receipt of the form? 12:37:37

4 A Okay. So (a) says they have to submit the 12:37:40
5 form to PREA. (b) says in the meantime -- this is 12:37:43
6 still the facility classification chairperson, on 12:37:50
7 number (b), they are responsible for entering that 12:37:52
8 profile on the TIOL. So that lets us know that -- 12:37:56
9 lets everybody know, anybody that has access to that 12:38:07
10 know that they're on that list. 12:38:09

11 And then the classification -- this is 12:38:11
12 still facility [as read]: Classification Committee 12:38:16
13 will determine on a case-by-case basis, the most 12:38:19
14 appropriate classification assignments for 12:38:22
15 transgender offenders. While this is all going at 12:38:24
16 the same time, concurrently with the SCC PREA is 12:38:29
17 working on their stuff at this point still. 12:38:34

18 (d), transgender offenders must never be 12:38:38
19 placed in dedicated houses. Yes, that's 12:38:42
20 specifically taken from the PREA standards 12:38:43
21 themselves. 12:38:47

22 And the offenders' own views with respect 12:38:50
23 to their safety should be given serious 12:38:52
24 consideration. And that question is on the form. 12:38:54

25 Q My understanding was that nine was 12:38:57

1 referencing the facility classification system which 12:39:03
2 does not determine whether the offender is placed in 12:39:08
3 a women's or men's facility. 12:39:11

4 A Correct. 12:39:14

5 Q And so what does it mean, the offender -- 12:39:17
6 to consider the offenders' views with respect to 12:39:20
7 their safety within the facility? 12:39:22

8 A Again, that's a case-by-case. If an 12:39:28
9 offender says, I don't feel comfortable with this 12:39:32
10 offender, this offender's been saying something, 12:39:36
11 sexual, making sexual comments to me or this or 12:39:40
12 that, then we would look at that as their own 12:39:44
13 respect to their safety. So if they say, I don't 12:39:49
14 feel safe here, then we need to seriously take into 12:39:52
15 consideration that that offender does not feel safe 12:39:55
16 in that particular bed or that particular dorm. 12:39:57

17 So that's what that means for the facility 12:40:00
18 classification. 12:40:02

19 Q Okay. And then let's talk to the -- we 12:40:03
20 mentioned the TIOL. We see it in 9(b), the facility 12:40:13
21 chairperson. So this is the facility chairperson 12:40:20
22 has to enter the appropriate profile in the TIOL. 12:40:23

23 And then in 10, the GDC unit ensures the 12:40:29
24 facility has entered the correct profile and then 12:40:33
25 arranges for a meeting and asks some questions which 12:40:37

1 we'll talk about in a minute. 12:40:40

2 I just want to ask, and then we'll break 12:40:42

3 for lunch, about the TIOL. 12:40:44

4 A Okay. 12:40:45

5 Q So is it mandatory to enter the 12:40:47

6 information on each offender that you -- that is 12:40:49

7 identified as transgender or intersex? 12:40:52

8 A Yes. 12:40:56

9 Q Okay. And does GDC -- are they required 12:40:57

10 to maintain that TIOL? 12:41:02

11 A Yes. 12:41:03

12 Q And how is it accessed? 12:41:09

13 A Through SCRIBE database. 12:41:10

14 Q Is it an actual list? Is there a list of 12:41:11

15 all the trans and intersex offenders on that? 12:41:13

16 A Yes. 12:41:17

17 Q Okay. Who can access it? 12:41:18

18 A Anyone making moves. When I say moves, 12:41:28

19 for this part, I mean facility moves. Maybe from 12:41:30

20 one dorm to another, another bed to another, the 12:41:33

21 classification chairperson at the facility. And 12:41:42

22 then all the PREA unit staff, which there are three 12:41:44

23 of us, we can see this list. And anyone with an 12:41:47

24 offender administration security right would be able 12:41:53

25 to see this profile. 12:42:00

1 Q Okay. What program is it in? Is it in 12:42:03
2 any particular Word, Excel? Anything like that? 12:42:05
3 A It's in SCRIBE, which is our offender 12:42:10
4 database. 12:42:12
5 Q Okay. It's its own program? 12:42:13
6 A Yes. 12:42:14
7 Q Okay. What programs can the list be 12:42:15
8 exported to, if you know? 12:42:21
9 A I believe Excel. 12:42:25
10 Q Okay. What categories of information are 12:42:31
11 listed in TIOL? 12:42:34
12 A The name of the offender, the GDC number, 12:42:37
13 which category they are, whether they're transgender 12:42:42
14 or intersex, their current housing location, and 12:42:45
15 their inmate status, as far as if they're an inmate 12:42:54
16 or a probationer. 12:42:59
17 Q Okay. Is their preferred housing with 12:43:09
18 respect to male or female facility, is that included 12:43:11
19 on the list? 12:43:14
20 A No. 12:43:15
21 Q Okay. Is the SCC decision regarding 12:43:15
22 housing included on the list? 12:43:19
23 A No. 12:43:21
24 Q Are any grievances related to housing or 12:43:23
25 safety concerns included on the list? 12:43:25

1 A No. 12:43:28

2 Q Any PREA allegations? 12:43:30

3 A No. 12:43:31

4 Q PREA dispositions? 12:43:33

5 A No. 12:43:35

6 Q Okay. Any requests for housing transfers 12:43:36

7 on the list? 12:43:41

8 A No. 12:43:42

9 Q Are safety reassessments included on the 12:43:44

10 list? 12:43:46

11 A No. But that is the purpose of the TIOL, 12:43:47

12 is to be able to determine what offenders need to be 12:43:51

13 reassessed twice a year for the transgender clause 12:43:57

14 in the law. 12:44:04

15 Q Um-hum. And if it's not on the list, what 12:44:05

16 steps does PREA or GDC, anyone at GDC take to ensure 12:44:11

17 that the reassessments were completed in the 12:44:17

18 appropriate time? 12:44:19

19 MR. CHALMERS: Objection. This has been 12:44:22

20 asked and answered. 12:44:23

21 You can answer again. 12:44:23

22 THE WITNESS: The facility would -- the 12:44:27

23 facility is responsible for doing the risk 12:44:30

24 screening on any offenders. So that would 12:44:33

25 include the transgender offenders. If they 12:44:35

1 are -- they go through the risk screening and 12:44:38
2 do that, then they have to track when it is 12:44:42
3 done again. But the PREA unit does 12:44:47
4 periodically pull this list and do checks to 12:44:52
5 see if the -- if they're in compliance with the 12:44:55
6 PREA policy. 12:45:00

7 BY MS. LITTRELL: 12:45:02

8 Q And what is the process for a check? 12:45:03

9 A To see if it's done within six months of 12:45:09
10 each one. So if I look at it and it was done in 12:45:11
11 January of 2022, and here it is July of 2022 and 12:45:14
12 there's not another one after that, then they didn't 12:45:18
13 do that within the policy time frame. But we -- 12:45:21

14 Q How would you -- how would you know 12:45:28
15 that -- 12:45:29

16 MR. CHALMERS: Objection, Counsel. 12:45:30
17 Counsel, can you let the witness finish the 12:45:31
18 answer, please. 12:45:33

19 BY MS. LITTRELL: 12:45:35

20 Q Ms. Atchison, how would you know -- 12:45:37

21 MR. CHALMERS: Counsel, I'm just going to 12:45:40
22 interrupt and in the future, would you please 12:45:41
23 allow the witness to finish the answer before 12:45:43
24 you move on to your next question? 12:45:45

25 BY MS. LITTRELL: 12:45:47

1 Q Okay. Ms. Atchison, how would you know 12:45:48
2 that the screening has not been done if it's not 12:45:50
3 listed -- it's not one of the categories that's 12:45:55
4 listed on the TIOL? 12:45:57
5 A It would be listed on the TIOL. We would 12:46:02
6 pull that TIOL and then individually look up each 12:46:05
7 offender, their classification history and determine 12:46:13
8 when their last assessment was completed. 12:46:16
9 Q Now I understand. Thank you. 12:46:19
10 And in terms of checking, is that a phone 12:46:24
11 call? Is it an email? Is it a form? What's the 12:46:27
12 process to inform someone that they are not in 12:46:30
13 compliance -- inform a facility they're not in 12:46:39
14 compliance with the reassessment? 12:46:41
15 A If the PREA unit catches it, then we will 12:46:43
16 send an email to the PREA compliance manager at the 12:46:46
17 facility and advise them that this -- a new 12:46:50
18 rescreening is due or past due and that they need to 12:46:56
19 complete that. 12:47:00
20 Q Okay. Is there any other information 12:47:02
21 beyond what you've mentioned that's contained on the 12:47:06
22 list? 12:47:09
23 A Not that I can recall. 12:47:13
24 Q Okay. Good. Skip to page 19 real quick 12:47:16
25 and we'll be almost breaking. 12:47:23

1 Do you see -- sorry -- what is 12:47:49
2 Subsection M, Tracking and Quality Improvement? 12:47:51
3 A Yes. 12:47:56
4 Q And here, again, there's a reference to 12:47:56
5 transgender/intersex offender lists. This is what 12:47:59
6 we've been speaking about as the TIOL; right? 12:48:05
7 A Yes. 12:48:07
8 Q Will you take a moment to look at number 12:48:08
9 two, the goals listed. And let me know when you 12:48:11
10 want me to scroll to the next page. 12:48:15
11 A Okay. 12:48:17
12 Okay. You can scroll down. 12:48:44
13 Okay. 12:48:57
14 Q And is that accurate with respect to the 12:48:58
15 goals of the TIOL? 12:49:00
16 A Yes. 12:49:03
17 Q And so if grievance history, for example, 12:49:04
18 or incident history is not listed on the TIOL, how 12:49:09
19 are you able to meet those goals? 12:49:13
20 A The list itself has limited information on 12:49:16
21 it for the protection of the confidential 12:49:19
22 information. So whoever is in charge, as far as 12:49:23
23 their subject matter experts go in to look at 12:49:31
24 grievances, they have to do all of that manually. 12:49:35
25 The list just says these are who you need to keep an 12:49:38

1 eye on and keep a check on. And these are -- this 12:49:43
 2 is a list of people that you would have to manually 12:49:46
 3 go in and look at the incident history, grievance 12:49:50
 4 history, property, et cetera. 12:49:53

5 Q Is there anyone in the PREA unit who is 12:49:56
 6 expressly dedicated to checking the list and all of 12:49:58
 7 these categories to ensure the goals are being met? 12:50:06

8 A No. Not all of the categories. We would 12:50:09
 9 do the twice-yearly reassessments because that's 12:50:12
 10 directly in the PREA standards. 12:50:15

11 If we can scroll back up so I can attest 12:50:22
 12 to the other. 12:50:25

13 The number of transgender and intersex 12:50:30
 14 offenders is useful for PREA. 12:50:32

15 And then, of course, any housing, bed, 12:50:40
 16 programming decisions, mental health, all that would 12:50:45
 17 be the classification committee at the facility. 12:50:49

18 Q I'm trying to understand the connection 12:51:00
 19 between the TIOL and the goals that are listed. 12:51:02

20 I had envisioned -- and this is why I'm 12:51:09
 21 going to let you help me understand how it actually 12:51:11
 22 works. 12:51:15

23 In my head, there would be a list that has 12:51:16
 24 the answers to all of these questions. So that 12:51:20
 25 somebody could look at the list and figure out 12:51:23

1 whether the goals are being met. 12:51:27

2 If that's not happening, can you help me 12:51:31

3 understand how the TIOL is used to ensure these 12:51:34

4 goals are met? 12:51:40

5 MR. CHALMERS: Objection. This -- you can 12:51:41

6 answer, but objection. This has been asked and 12:51:42

7 answered twice now. 12:51:45

8 Go ahead. 12:51:47

9 THE WITNESS: Okay. And the TIOL is just 12:51:48

10 a list for us to identify who is transgender 12:51:52

11 and who is intersex and who -- these areas 12:51:57

12 right here, they would have to look at that 12:52:02

13 information manually. If they wanted to know, 12:52:04

14 that's just to let them know who is on the 12:52:07

15 list. 12:52:09

16 BY MS. LITTRELL: 12:52:13

17 Q Okay. And then they individually go into 12:52:13

18 some file to figure out whether they're on the 12:52:17

19 mental health caseload, for example? 12:52:19

20 A Correct. 12:52:22

21 Q Okay. Or whether they're receiving 12:52:22

22 hormones for medical? 12:52:29

23 A Correct. 12:52:30

24 Q And then specifically, I'm going to go to 12:52:30

25 the next page. 12:52:32

1	Incident history and grievance history.	12:52:36
2	If one of the goals is to track this, who tracks	12:52:38
3	that with respect to transgender and intersex	12:52:40
4	offenders?	12:52:44
5	A The SCRIBE module will track the incident	12:52:45
6	and grievance history. So when the classification	12:52:48
7	committee at the facility makes a determination on	12:52:54
8	housing/bed programming, they look at all of these	12:52:57
9	factors. Their incident history, for example, like	12:53:00
10	we discussed before, any sexual activity, have they	12:53:08
11	had any previous -- have they committed any	12:53:11
12	violations previously of PREA, have they been an	12:53:17
13	aggressor, have they been a victim. This is all	12:53:19
14	what the Facility Classification Committee factors	12:53:27
15	in when they make a decision.	12:53:30
16	Q Is there a way to compile all of this	12:53:32
17	information for offender?	12:53:34
18	A Manually, yes. But there's not a set form	12:53:42
19	or anything that we keep track of this on currently.	12:53:45
20	Q Is there a process at GDC to review the	12:53:53
21	status of all the transgender and intersex offenders	12:53:58
22	that are currently housed in GDC?	12:54:01
23	A The list would give them that information	12:54:06
24	as far as identification purposes of who is on that	12:54:14
25	list.	12:54:15

1 Q If GDC were interested to know the number 12:54:16
 2 of PREA allegations that transgender women in men's 12:54:19
 3 facilities have made, would there be a way to 12:54:28
 4 compile that information? 12:54:30

5 A We keep -- as in "we," the PREA unit, 12:54:32
 6 keeps a PREA allegation log for any PREA allegation 12:54:36
 7 that we are made aware of, which we're supposed to 12:54:42
 8 be made aware of all of them. So that is not 12:54:45
 9 information that the facility has access to. That 12:54:49
 10 is only information that the PREA unit has access 12:54:53
 11 to. 12:54:56

12 Q Does the PREA unit track all of these 12:54:58
 13 categories for transgender offenders to determine 12:55:00
 14 whether their needs are being met? 12:55:05

15 A No. Not -- not incident history or -- 12:55:07
 16 this is strictly for the Facility Classification 12:55:10
 17 Committee to make a housing decision at their 12:55:12
 18 facility. 12:55:17

19 MS. LITTRELL: Okay. I think this is a 12:55:17
 20 good stopping point for lunch, if that's okay 12:55:18
 21 with everyone. 12:55:23

22 In order to try and get us out of here in 12:55:27
 23 a timely way, I'm going to suggest that we take 12:55:30
 24 a 35-minute lunch break and meet back at 1:30. 12:55:33
 25 Will that work? 12:55:37

Transcript of Grace Atchison, 30(b)(6)

Conducted on July 27, 2022

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1 MR. CHALMERS: Counsel, I'd like 45 12:55:37
2 minutes. I have something I need to attend to 12:55:39
3 in addition to getting lunch, so if 12:55:41
4 everybody's -- nobody objects to that, I would 12:55:43
5 prefer that. 12:55:45
6 MS. LITTRELL: Okay. So that's going to 12:55:46
7 put us at 1:40 back on the record. 12:55:48
8 THE WITNESS: I'm good with that. Okay. 12:55:52
9 MS. LITTRELL: Okay. 12:55:55
10 VIDEOGRAPHER: Okay. It is 12:56 p.m. We 12:55:56
11 go off the record. 12:56:00
12 (A luncheon recess is had from 12:56 p.m. 12:56:01
13 to 1:42 p.m.) 12:56:01
14 VIDEOGRAPHER: It is the beginning of 13:41:19
15 media number three of the testimony of Grace 13:41:20
16 Atchison. It is 1:41 p.m. We're back on 13:41:25
17 record. 13:41:29
18 BY MS. LITTRELL: 13:41:29
19 Q Ms. Atchison, when we were last talking, 13:41:30
20 we were looking at an exhibit that was the pol -- 13:41:32
21 transgender policy, which is SOP 220.09. Do you 13:41:38
22 remember that? 13:41:42
23 A Yes. 13:41:45
24 MS. LITTRELL: And at this time, I'd like 13:41:47
25 to ask the tech to bring that policy back up. 13:41:48

1 I believe it's been marked as Exhibit 2. 13:41:51

2 Wonderful. And if you could give me 13:41:58

3 control. 13:41:59

4 BY MS. LITTRELL: 13:42:13

5 Q I have scrolled down to page 22 of this 13:42:16

6 exhibit. Do you see the document on your screen 13:42:17

7 now? 13:42:19

8 A Yes. 13:42:19

9 Q Do you recognize this document? 13:42:23

10 A Yes. 13:42:24

11 Q Okay. I'm going to scroll so you can see 13:42:25

12 the entire document. 13:42:27

13 MR. CHALMERS: Counsel, could you give the 13:42:36

14 Bates number of the page you're turning to? 13:42:38

15 MS. LITTRELL: This was filed as an 13:42:42

16 exhibit so it does not have Bates numbers on 13:42:43

17 it. 13:42:45

18 It's page 23 of ECF_78-9. 13:42:56

19 BY MS. LITTRELL: 13:43:02

20 Q Ms. Atchison, what is this document? 13:43:04

21 A This is the Attachment 1 form to the 13:43:05

22 policy 220.09 also known as the transgender policy. 13:43:08

23 Q And who fills out this form pursuant to 13:43:20

24 the policy? 13:43:23

25 A This particular portion, the SCC interview 13:43:23

1 with offender is the PREA unit. 13:43:26

2 Q Okay. So these are questions here. I see 13:43:36

3 one -- there's (a) and (b) and then five questions 13:43:42

4 underneath that. Those are questions that are asked 13:43:48

5 by the -- someone from the PREA unit; is that right? 13:43:50

6 A Yes. 13:43:54

7 Q Going up to the page before that, do you 13:44:07

8 recognize this document? 13:44:09

9 A Yes. This is the Facility Classification 13:44:12

10 Committee questionnaire. 13:44:14

11 Q Okay. And who is required pursuant to 13:44:21

12 policy to fill this out? 13:44:24

13 A The facility classification chairperson. 13:44:30

14 Q Is that different from the diagnostic 13:44:32

15 staff member that's referenced in the policy that we 13:44:34

16 looked at a little earlier? 13:44:38

17 A It could be but this particular form is 13:44:44

18 completed by the Facility Classification Committee 13:44:50

19 chairperson. 13:44:53

20 Q Do you know what qualifications the 13:44:58

21 chairperson is required to have? 13:45:04

22 A It's a warden's designee as to who they 13:45:07

23 decide the chairperson is going to be. 13:45:09

24 Q Has the PREA unit or anyone within GDC, to 13:45:15

25 your knowledge, provided those designees with any 13:45:18

1 training with respect to this form? 13:45:24

2 A I know that we went over it with Lachesha 13:45:33

3 Smith at GDCP, but any formal training, the answer 13:45:35

4 to that would be no. 13:45:41

5 Q Did you go over it with Ms. Smith before 13:45:42

6 or after she filled out this form with respect to 13:45:45

7 Ms. Diamond? 13:45:51

8 A I believe it was before. 13:46:01

9 Q Okay. The next page of this attachment we 13:46:02

10 just talked about, that's the form that the PREA 13:46:05

11 unit fills out. Then going to the next page, do you 13:46:09

12 recognize this document? 13:46:18

13 A Yes. This is the Workflow and the paper 13:46:19

14 version of the Workflow to where each of us would 13:46:21

15 complete our recommendations, whether to have that 13:46:28

16 particular offender remain in a current facility 13:46:35

17 type, which current would be defined as based on 13:46:38

18 their sex at birth. And the other option is based 13:46:43

19 on their gender identity. 13:46:49

20 Q Okay. And you say this is the paper 13:46:51

21 version. Is there -- does this form populate in 13:46:54

22 electronic form? 13:47:00

23 A It goes through a Workflow and PowerDMS 13:47:05

24 which is an electronic document keeper. 13:47:10

25 Q And as part of that Workflow, does it 13:47:13

1 allow the different individuals to add their 13:47:17

2 information on to the same form? 13:47:25

3 A Yes. 13:47:30

4 Q Okay. And is the objective of the policy 13:47:30

5 to have all of the SCC members' recommendations and 13:47:35

6 justifications on one form? 13:47:42

7 A Yes. But I do want to backtrack on that 13:47:46

8 just a second because once it went into PowerDMS, 13:47:48

9 that -- the PowerDMS was the electronic version. 13:47:53

10 The form is not named the same or exactly the same 13:47:57

11 but it has the same purpose. 13:48:01

12 Q Okay. And so in the policy itself, it 13:48:06

13 references this attachment. And even though the 13:48:09

14 form is now in an electronic version, the reference 13:48:16

15 in the policy to Attachment 1 is the same; right? 13:48:22

16 A Yes. 13:48:27

17 Q Scroll down, make sure we see the whole 13:48:31

18 page. And then I know it's sideways. But do you 13:48:34

19 recognize this last page? 13:48:41

20 A Yes. That is the pamphlet I referred to 13:48:46

21 earlier that is given to the transgender offender to 13:48:49

22 know what the processes are for their 13:48:55

23 classification. 13:48:59

24 Q As to the attachment, it appears to have 13:49:07

25 three pages that we have looked at. Make it a 13:49:09

1 little bit smaller just since you're familiar with 13:49:12
2 it, so we can look at them and get a general sense 13:49:15
3 of what page we're talking about. 13:49:18

4 So nope. Too small. 13:49:23

5 Attachment 1, page one, statewide 13:49:25
6 classification referral form. This is filled out by 13:49:33
7 the Facility Classification Committee chairperson; 13:49:37
8 correct? 13:49:41

9 A Yes. 13:49:42

10 Q Okay. And there's a signature -- or 13:49:43
11 there's a print line in this signature line and a 13:49:50
12 date. And is the classification chairperson 13:49:53
13 required to put their name and sign this form? 13:50:00

14 A Yes. 13:50:01

15 Q And to date it as well? 13:50:02

16 A Yes. 13:50:03

17 Q And there's also a recommendation -- 13:50:05
18 warden's recommendation/comments. When in the 13:50:07
19 process is the warden's recommendation and comments 13:50:12
20 required to be entered? 13:50:16

21 A The classification chairperson would 13:50:18
22 submit it to the warden prior to it being sent to 13:50:20
23 the PREA unit. 13:50:23

24 Q Okay. So it's within the facility's 13:50:25
25 two-step process, facility classification 13:50:29

1 chairperson first, then the warden? 13:50:31

2 A Yes. 13:50:34

3 Q Got it. 13:50:35

4 Of the three forms that we just -- three 13:50:41

5 pages of the same attachment that we've looked at, 13:50:43

6 so statewide classification referral form, next page 13:50:48

7 is the interview with offender page, that's the PREA 13:50:53

8 unit form; correct? 13:50:59

9 A Yes. 13:51:01

10 Q Okay. There's a place for the 13:51:02

11 interviewer's comments. Whoops. 13:51:06

12 And a staff signature. What staff is that 13:51:12

13 referencing? 13:51:17

14 A Whoever completed this form, whether it 13:51:19

15 would be me or one of my designees from the PREA 13:51:21

16 unit. 13:51:25

17 Q Okay. And then there's a line for the 13:51:27

18 inmate to sign; is that right? 13:51:34

19 A Yes. 13:51:36

20 Q Is that part of the process that the 13:51:37

21 inmate reviews this form after it's filled out to 13:51:39

22 ensure that it's filled out accurately and then has 13:51:43

23 an opportunity to sign and date? 13:51:46

24 A Yes. 13:51:48

25 Q And then finally, page three, and this is 13:51:52

1 where the Statewide Classification Committee enters 13:51:56
2 their recommendations and justifications, signs and 13:51:59
3 dates; correct? 13:52:03
4 A Yes. 13:52:04
5 Q What parts of this form are required to be 13:52:06
6 completed? 13:52:11
7 A All of them. 13:52:12
8 Q And this form is required to be 13:52:21
9 maintained; is that right? 13:52:23
10 A Yes. 13:52:24
11 Q And for how long? 13:52:24
12 A I would have to go to the retention 13:52:29
13 schedule that's also a part of this policy. 13:52:36
14 Q Okay. Scroll up. I feel like I may have 13:52:38
15 seen a reference to that on this page. Perhaps not. 13:52:47
16 You may not be able to see with that little font, 13:52:54
17 but I believe the retention schedule says, "Upon 13:52:57
18 completion, this form shall become a permanent part 13:52:58
19 of the offender's institutional file." 13:53:02
20 A Yes. 13:53:06
21 Q Sound accurate? 13:53:07
22 A Yes. 13:53:07
23 Q And when in the process does the Statewide 13:53:14
24 Classification Committee fill out their portion of 13:53:16
25 this form? 13:53:21

1 A When it is forwarded to us, we do it 13:53:25
2 within the seven-day period. Again, I would have to 13:53:28
3 reference the transgender policy to see what that 13:53:37
4 is. But basically, the PREA does it almost 13:53:39
5 immediately after we receive it. 13:53:41
6 Q So the statewide classification -- I'm 13:53:42
7 sorry, the Facility Classification Committee fills 13:53:45
8 it out, forwards it on. That goes to the email that 13:53:49
9 we looked at before to the PREA unit. The PREA -- 13:53:52
10 someone from the PREA department does a separate 13:54:02
11 interview, is my understanding? 13:54:04
12 A Yes. 13:54:06
13 Q And is that when this form, which is now 13:54:10
14 just page 23 of 25 of the -- marked 23 of 25 of 13:54:14
15 Exhibit 2, is that when this -- these questions are 13:54:20
16 asked and this form is filled in? 13:54:24
17 A Yes. 13:54:29
18 Q Does it occur at the same time, that is, 13:54:29
19 is the -- do you receive the -- are the 13:54:34
20 interviewer's comments completed during the 13:54:39
21 interview? 13:54:44
22 A Yes. 13:54:46
23 Q Okay. And that's when the interviewer 13:54:47
24 will sign and date and the inmate is to sign and 13:54:51
25 date? 13:54:55

1 A Yes. 13:54:56

2 Q And then does the -- and just to 13:54:57

3 understand, is this a sequential process where the 13:55:02

4 next step is the statewide classification housing 13:55:06

5 committee fills in the form or can they fill their 13:55:10

6 part of this in at any time? 13:55:15

7 A Yes. Or in the PowerDMS system. 13:55:19

8 Q All right. My question was bad. I would 13:55:23

9 have objected. 13:55:29

10 Is this filled in afterwards or at the 13:55:31

11 same time which -- 13:55:34

12 A My portion, which would be the PREA 13:55:38

13 coordinator portion would have been done at the same 13:55:39

14 time -- 13:55:44

15 Q Okay. 13:55:45

16 A -- that the interview was conducted. And 13:55:46

17 then it would be forwarded for the Workflow. 13:55:47

18 Q And is the entire form forwarded for the 13:55:53

19 Workflow? 13:55:56

20 A Yes. 13:55:59

21 Q So that when the medical director enters 13:55:59

22 his or her recommendation, they would have attached 13:56:05

23 the page that we just looked at that the PREA unit 13:56:11

24 fills in and the page that we looked at that the 13:56:14

25 facility fills in? 13:56:18

1 A That was the intent. 13:56:20

2 Q What is the reality? 13:56:22

3 A Well, I mean, the medical director would 13:56:25
4 have to speak as to what they did as far as those -- 13:56:28
5 and anybody after that would have to testify to what 13:56:35
6 they did with that form. 13:56:39

7 Beyond that point, I don't have that 13:56:42
8 information. 13:56:45

9 Q But pursuant to policy, the policy would 13:56:45
10 anticipate that the members of the Statewide 13:56:52
11 Classification Committee would have access to 13:56:56
12 completed form pages one and two? 13:57:02

13 A Yes. 13:57:05

14 Q Okay. On page one of the attachment, the 13:57:09
15 part that's filled out by the facility 13:57:30
16 classification chairperson, what training does GDC 13:57:33
17 provide to the warden that assists the warden in 13:57:41
18 arriving at his recommendation with respect to a 13:57:47
19 transgender or intersex offender? 13:57:51

20 A No formal training. Just the 13:57:54
21 implementation of the policy. 13:57:56

22 Q Are you aware of any training or 13:58:02
23 information that the warden is provided with respect 13:58:03
24 to symptoms of gender dysphoria? 13:58:06

25 A No. 13:58:12

1	Q	Any information that you're aware of which	13:58:15
2		either the warden or the classification chairperson	13:58:18
3		are provided that would assist them in understanding	13:58:21
4		the impact on a person with gender dysphoria of not	13:58:28
5		being able to express their gender identity?	13:58:33
6	A	Not that I'm aware of.	13:58:37
7	Q	Let me try and find my way back to where	13:58:48
8		we were before, which was looking at 10(a). So give	13:58:51
9		me just a moment.	13:58:57
10	A	Okay.	13:59:16
11	Q	Okay. So this would be, under	13:59:22
12		Subsection C -- I may have lost my place a little	13:59:23
13		bit. But my question is targeted at understanding	13:59:41
14		when, with respect to the policy where there's a	13:59:50
15		PREA unit designee provided for, are there any	13:59:53
16		qualifications that are required for a person to be	13:59:58
17		a PREA unit designee?	14:00:03
18	A	No.	14:00:08
19	Q	Okay. There we go. It's actually	14:00:09
20		Subsection B that I was looking for. So that's	14:00:18
21		where there's a reference in the policy to the GDC	14:00:21
22		PREA unit. And it says the things that the PREA	14:00:23
23		unit will do, which includes ensuring the facility's	14:00:26
24		entered the correct profile on the TIOL.	14:00:29
25		Can you define "correct profile" for me?	14:00:33

1 A We do train on the definitions of 14:00:39
2 transgender female or transgender male. So we also 14:00:43
3 needed to differentiate between whether they're a 14:00:50
4 transgender or an intersex. Sometimes our facility 14:00:55
5 staff gets those two terms confused. So we just 14:01:00
6 make sure. Of course, one is based on the gender 14:01:03
7 identity and the other one is an actual medical 14:01:11
8 diagnosis. So we just make sure that profile is 14:01:14
9 correct, that they've put either transgender or 14:01:19
10 intersex in that and it does -- and it is in line 14:01:24
11 with the definitions of those terms. 14:01:27

12 Q Okay. Under 10(c), it says, "If a 14:01:29
13 previous SCC referral was not completed, the PREA 14:01:37
14 unit will arrange a private meeting with the 14:01:41
15 offender in person." What does that mean? 14:01:43

16 A "If a previous SCC referral was not 14:01:49
17 completed, the PREA unit will arrange a private 14:01:52
18 meeting with the offender in person." I'm a little 14:02:03
19 stumped on that one because before it gets to the 14:02:05
20 PREA unit, there shouldn't be any SCC referrals that 14:02:08
21 weren't completed. 14:02:11

22 Q And the SCC referral that's referenced 14:02:13
23 here, do you understand that to be page one, that's 14:02:17
24 what the facility fills out? 14:02:20

25 A Yes. 14:02:21

1 Q Okay. And then it says the PREA unit will 14:02:22
2 arrange a meeting within 10 business days? 14:02:28
3 A Yes. 14:02:31
4 Q Okay. When you were referencing a time 14:02:31
5 frame earlier, was that the time frame you were 14:02:33
6 thinking of? 14:02:35
7 A Yes, it was. 14:02:36
8 Q Okay. And is it policy that that occurs 14:02:36
9 within 10 days regardless of whether the previous -- 14:02:43
10 the SCC referral was completed or not? 14:02:45
11 A It's based on when the PREA unit receives 14:02:47
12 the referral form. 14:02:51
13 Q Okay. In any event, the PREA unit 14:02:53
14 arranges for that meeting, regardless? 14:02:58
15 A Yes. 14:03:01
16 Q Is that right? 14:03:01
17 A Yes. 14:03:02
18 Q And you testified to this, but just making 14:03:09
19 sure I'm connecting it to the policy. 10(d) 14:03:10
20 references that the PREA unit designee will complete 14:03:14
21 the interview portion of the referral form and then 14:03:15
22 make a recommendation. That's page two of the 14:03:19
23 attachment that we were looking at? 14:03:21
24 A Yes. 14:03:23
25 Q Got it. And then we move to the Statewide 14:03:24

1 Classification Committee considerations. 14:03:25

2 A Is that a question? 14:03:34

3 Q Yeah. No. 14:03:36

4 A Yeah. Yes, then it moves to that portion. 14:03:39

5 Q And just thinking about the warden's 14:03:45

6 recommendation in the initial facility 14:03:48

7 classification recommendations. What information, 14:03:52

8 pursuant to the policy, is the warden's 14:03:57

9 recommendation reliant upon with respect to the 14:04:03

10 transgender or intersex offender? 14:04:08

11 A Well, the form, we wanted to make sure 14:04:13

12 that the warden was aware, number one, that they had 14:04:17

13 a transgender in their population, a new transgender 14:04:19

14 in their population, and that they just review the 14:04:24

15 form that their staff completed to make sure that 14:04:27

16 they're either in agreement or disagreement with 14:04:33

17 their own classification committee. 14:04:36

18 Q And is there any information that GDC 14:04:39

19 provides to the warden that directs the warden to 14:04:42

20 look at any particular information in arriving at 14:04:48

21 their recommendation? 14:04:53

22 A No, not in addition to what's provided on 14:04:55

23 the form, the policy forms. 14:04:57

24 Q Okay. And with respect to the 14:05:01

25 classification chairperson, is there any information 14:05:05

1	that GDC provides to the person in that role that	14:05:09
2	directs them to the type of information that they	14:05:15
3	should consider in arriving at their recommendation?	14:05:20
4	A Nothing in addition to the questions on	14:05:24
5	the policy forms.	14:05:27
6	Q Got it. And is genital status a	14:05:30
7	permissible basis to arrive at a recommendation?	14:05:39
8	A It is not the sole factor but it is a	14:05:43
9	factor in determining housing.	14:05:48
10	Q With respect to the facility	14:05:52
11	classification portion of the referral form, page	14:05:53
12	one, is genital status a permissible basis for their	14:05:58
13	recommendation?	14:06:03
14	A No. As it relates to Diamond	14:06:06
15	specifically, I returned a form that had that	14:06:09
16	documented on the form and advised that we could not	14:06:13
17	make that determination solely based on genital	14:06:18
18	status.	14:06:21
19	Q Okay. Is the link of time that a trans	14:06:23
20	person has been living in conformity with their	14:06:30
21	gender identity a relevant consideration for the SCC	14:06:33
22	in arriving at their recommendation?	14:06:38
23	A It's not indicated on the question. It	14:06:44
24	would be one of the comments. It would be, I would	14:06:51
25	believe. I don't know that I've had any that	14:06:54

1 actually do meet that question. But if that was 14:06:57
2 something that was brought up, it would be indicated 14:07:00
3 in the comments section of the form. 14:07:02
4 Q But it's not a question that's routinely 14:07:08
5 asked? 14:07:10
6 A No. 14:07:10
7 Q Okay. Is whether or not the individual 14:07:11
8 has a history of genital mutilation when deprived of 14:07:19
9 gender expression a relevant consideration in 14:07:22
10 arriving at the recommendation? 14:07:26
11 A I would say that that would be a question 14:07:33
12 for medical staff. I don't believe that I'm 14:07:34
13 qualified to answer that question. 14:07:36
14 Q Okay. But it's not a question that's 14:07:37
15 asked in the PREA unit interview? 14:07:40
16 A No. 14:07:43
17 Q Is it required to be asked by anyone in 14:07:51
18 the -- in the review process? 14:07:54
19 A Not in this process. 14:07:58
20 Q I believe you've already testified to this 14:08:04
21 but I want to just make sure I understand. The SCC 14:08:07
22 members do not meet to discuss individual cases; 14:08:11
23 correct? 14:08:15
24 A No, we do not. 14:08:16
25 Q All right. And there's no reference to 14:08:19

1 hormones on any form or any portion of the form that 14:08:20
2 we just looked at? 14:08:25
3 A Yes. I believe the question is on the 14:08:26
4 PREA unit's interview question. 14:08:29
5 Q Okay. I'll look at that -- 14:08:33
6 A I believe. I think. If we could 14:08:36
7 reference -- look at that. 14:08:37
8 Q Okay. Let me see if I can't get us to 14:08:39
9 there and back again officially this time. 14:08:51
10 Very nice. I'm going to make it a little 14:08:54
11 bit bigger. 14:08:55
12 A Let's see. Okay. It may be on the one 14:09:05
13 before that, then, facility classification. 14:09:07
14 Q Okay. 14:09:10
15 A Yes. Does the offender receive hormone 14:09:10
16 treatments. 14:09:13
17 Q Okay. And is that a consideration that 14:09:14
18 the PREA unit designee factors into their 14:09:19
19 determination? 14:09:26
20 A I would not factor that in. That would 14:09:27
21 have been the purpose of the Workflow for it to go 14:09:31
22 to the medical unit to make that determination. 14:09:33
23 Q And why would the medical unit need to 14:09:39
24 make that determination? Or isn't that under their 14:09:43
25 purview? 14:09:49

Transcript of Grace Atchison, 30(b)(6)

Conducted on July 27, 2022

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1 A It is. 14:09:50

2 Q Do you know why? 14:09:50

3 A I think because of the locations where we 14:09:51

4 have the contractors that come in at certain 14:09:53

5 facilities. But, again, that's speculation. I 14:09:57

6 couldn't give you an exact answer for that. 14:10:00

7 Q Do you understand or -- strike that. 14:10:07

8 Does GDC policy include, as a 14:10:17

9 consideration, whether the offender has secondary 14:10:20

10 sex characteristics as a result of hormone 14:10:29

11 treatment? 14:10:33

12 MR. CHALMERS: Objection, form. 14:10:34

13 Counsel, are you asking about 220.09? 14:10:35

14 MS. LITTRELL: Yes. 14:10:39

15 BY MS. LITTRELL: 14:10:42

16 Q Unless I reference another policy, 14:10:42

17 Ms. Atchison, I will be talking about the policy 14:10:45

18 that's up on the screen and that we have been 14:10:48

19 talking about so far. 14:10:52

20 A I would have to say we would need to look 14:10:56

21 at that in the body of the policy in this exhibit, 14:10:58

22 just to see if it does mention that. 14:11:05

23 Q Okay. Let's see if we can't get back 14:11:09

24 where we were before. Now we found where in the 14:11:12

25 form the hormone question is asked. 14:11:18

1 And here, we're looking at Subsection C. 14:11:24

2 This is at the top of the page. Just let me mark 14:11:28

3 what page number we're on. Page marked as page 10 14:11:37

4 of 25 of this exhibit at the top of the page. 14:11:53

5 The SCC committee. Is this where, in the 14:11:59

6 policy -- and by the policy, I'm talking about the 14:12:03

7 policy we're looking at, the criteria that SCC 14:12:06

8 committee is required to consider is listed? And 14:12:09

9 let me know if you want me to scroll through all of 14:12:15

10 Subsection C. 14:12:18

11 A Yes. So far. 14:12:31

12 And if we can -- 14:12:32

13 Q Sure. 14:12:33

14 A -- scroll down. 14:12:34

15 Yes. 14:12:44

16 Q Okay. Scrolling back up and starting with 14:12:44

17 1(a), do you -- can you further define what is meant 14:12:51

18 by placement would ensure the offender's health and 14:13:02

19 safety? Who makes that determination? 14:13:06

20 A It would be a combination of the different 14:13:10

21 committee members. For example, OHS, which is 14:13:16

22 health services, would have to make determinations 14:13:24

23 regarding the health. The facilities operation 14:13:27

24 would consider that information in addition to the 14:13:31

25 safety factors which would include the 14:13:34

1	disciplinaries and any institutional -- prior	14:13:38
2	institutional behaviors. Again, that would be on an	14:13:42
3	individual basis for that offender.	14:13:48
4	Q But this suggests that the health of the	14:13:55
5	transgender or intersex offender is a consideration;	14:13:57
6	correct?	14:14:00
7	A Yes.	14:14:01
8	Q And that includes their mental health?	14:14:02
9	A Yes.	14:14:05
10	Q Okay. And their safety, does that include	14:14:08
11	their sexual victimization risk?	14:14:14
12	A Yes. That would include that in addition	14:14:19
13	to maybe gang affiliations or any other security	14:14:21
14	function.	14:14:27
15	Q Okay.	14:14:28
16	A Yeah.	14:14:29
17	Q And then under that, 1(b), the	14:14:30
18	consideration is whether the placement would present	14:14:36
19	management or security problems, who determines	14:14:38
20	that?	14:14:40
21	A Facilities operations.	14:14:41
22	Q Okay. And is that referencing placement	14:14:42
23	in a male facility or only placement in a female	14:14:48
24	facility?	14:14:52
25	A That portion of the policy really did not	14:14:54

1 factor in male or female facility, as far as the 14:15:01
2 placement would present management or security 14:15:06
3 problems. That was just overall. I know it says in 14:15:08
4 deciding whether to place in a female or male 14:15:16
5 facility. 14:15:19

6 I'm trying to think of an example as to 14:15:23
7 why that was placed in there. And I really can't 14:15:25
8 come up with one, so I'm not sure on that answer. 14:15:33

9 Q You've referenced a few times a discipline 14:15:42
10 history. That suggests, to me, that the transgender 14:15:46
11 offenders are held to a different standard in terms 14:15:55
12 of their placement. Is that accurate? 14:16:00

13 MR. CHALMERS: Objection, form. 14:16:04

14 You can answer. 14:16:05

15 THE WITNESS: All offenders go through the 14:16:09
16 same classification process. Transgenders 14:16:10
17 are -- in addition to the risk screening, yes, 14:16:17
18 because we have to follow the PREA law that 14:16:23
19 says that we have to conduct that risk 14:16:25
20 screening twice a year. 14:16:29

21 In the PREA standards, it specifically 14:16:32
22 outlines the ability to shower separately. So 14:16:35
23 as far as those areas are concerned, we do pay 14:16:43
24 a little more attention to the transgender 14:16:44
25 status when it comes to the specific parts of 14:16:47

1 the PREA law. Otherwise, they are treated -- 14:16:55
2 or they go through the same process as any 14:16:59
3 other offender. 14:17:01

4 BY MS. LITTRELL: 14:17:04

5 Q With respect to whether or not to place a 14:17:06
6 non-transgender person, so cisgender is the term -- 14:17:13

7 A Yes. 14:17:19

8 Q -- that's accepted. So a cisgender woman 14:17:19
9 doesn't need to have a clean disciplinary record in 14:17:23
10 order for her to be placed in a female facility; 14:17:28
11 right? 14:17:31

12 A Correct. 14:17:32

13 Q Okay. But a transgender woman needs to 14:17:32
14 have some version of a clean disciplinary record in 14:17:38
15 order to be placed in a women's facility? 14:17:42

16 A Well, it's determined on the nature of the 14:17:44
17 disciplinary report. 14:17:47

18 Q Okay. 14:17:51

19 A Not just, I mean, if it was a failure to 14:17:51
20 follow or something like that. If it has a direct 14:17:53
21 impact on potential safety issues, that is where the 14:17:57
22 DR -- it would be the nature of the DR, not 14:18:03
23 necessarily a DR. 14:18:07

24 Q Okay. A cisgender woman can have even a 14:18:09
25 violent disciplinary history and still be placed in 14:18:13

1 a women's facility; right? 14:18:17

2 A Yes. 14:18:19

3 Q So there's a difference between the way 14:18:21

4 GDC treats transgender women and cisgender women 14:18:24

5 with respect to female facility placement? 14:18:26

6 MR. CHALMERS: Objection, form. 14:18:30

7 You can answer. 14:18:31

8 THE WITNESS: As far -- again, that's kind 14:18:39

9 of a broad answer that I can give you but it is 14:18:41

10 based on the individual. 14:18:43

11 For example, if we have, like, physical 14:18:44

12 stature, that's why that risk screening is in 14:18:50

13 place. If you're a transgender male and 14:18:52

14 possibly six foot tall and 300 pounds, then a 14:18:56

15 female offender at a female prison may be 14:19:03

16 unable to defend themselves if we were to place 14:19:09

17 that person, considering they might have a 14:19:12

18 sexual disciplinary history. Again, it just -- 14:19:17

19 it just determines on an individual basis. 14:19:20

20 It's hard to answer that as a general 14:19:25

21 question. 14:19:27

22 BY MS. LITTRELL: 14:19:29

23 Q Is there a scenario in which you would not 14:19:30

24 place a cisgender woman in a female facility? 14:19:32

25 A No, not that I'm aware of. 14:19:38

1 Q Is there a situation in which you would 14:19:40
2 place a cisgender woman in a male facility? 14:19:42

3 A Again, on an individual basis, they would 14:19:51
4 go through the classification process. We would 14:19:52
5 interview them. And based on all of their 14:19:54
6 classification factors, we would make that decision. 14:19:57

7 Q So it's possible a cisgender woman could 14:20:00
8 be placed in a men's facility? 14:20:02

9 A A cisgender, no. A transgender male, 14:20:05
10 possibly. 14:20:10

11 Q Understood. Looking further into the 14:20:15
12 criteria here. Three, the SCC will evaluate each 14:20:22
13 referral to discuss the facility type and the safe 14:20:28
14 placement of each transgender offender. That 14:20:31
15 suggests that it was anticipated that the 14:20:33
16 classification committee would have a discussion. 14:20:36
17 Why did that not -- why is that not the way the 14:20:43
18 Statewide Classification Committee in fact makes 14:20:46
19 their determination? 14:20:49

20 MR. CHALMERS: Objection, form. 14:20:50

21 You can answer. 14:20:51

22 THE WITNESS: (Witness reading.) Discuss 14:20:51
23 the facility type and safe placement of each 14:20:58
24 transgender offender. They will consider the 14:21:00
25 following. 14:21:02

1 Yeah. I can't answer that only to say 14:21:07
2 that we evaluate it from the documentation and 14:21:09
3 the forms. But as far as discussion goes, we 14:21:14
4 may not do that, necessarily. 14:21:21
5 BY MS. LITTRELL: 14:21:25
6 Q Has the SCC met to discuss any transgender 14:21:29
7 placement decision this year? 14:21:34
8 A Not that I'm aware of. 14:21:39
9 Q What about in 2021? 14:21:41
10 A Not that I'm aware of because beyond me, 14:21:44
11 like the -- the facility -- let me just say this. 14:21:48
12 The facility's operations division has the deciding 14:21:52
13 factor, period. We just give the recommendation. 14:21:58
14 So if they have discussed it amongst themselves in 14:22:02
15 the facilities division, I wouldn't know that. 14:22:05
16 Q Are there any other members of the SCC in 14:22:11
17 the facilities division besides the one member that 14:22:13
18 you've identified? 14:22:17
19 A Going back and looking at the exhibit just 14:22:19
20 now, I did see on the form where the facilities 14:22:22
21 director was on that as well. And I think that I 14:22:28
22 did not mention that before. 14:22:33
23 Q So there's a facility -- we'll look at 14:22:35
24 that form again. 14:22:37
25 A Okay. 14:22:38

1 Q We know there's a facility director and 14:22:38
2 you think that there's another facility person, 14:22:40
3 designee of some sort? 14:22:44
4 A Yes. And the facilities director would be 14:22:47
5 the next in line after the medical and mental 14:22:52
6 health. And then the facilities director would look 14:22:54
7 at it and then give their recommendation to the 14:22:56
8 assistant commissioner or designee for final 14:23:00
9 decision. They have the final decision. 14:23:06
10 Q My understanding earlier was that the 14:23:11
11 facilities division designee was also the person who 14:23:13
12 made the final decision. 14:23:21
13 A No. I didn't see that. We weren't going 14:23:31
14 over the exhibit when I answered that earlier. But 14:23:32
15 when I saw it a minute ago when you pulled that up, 14:23:34
16 it did have a spot for facilities director or 14:23:37
17 designee. 14:23:42
18 Q And then who is the ultimate decision 14:23:42
19 maker who can override everyone else's 14:23:44
20 recommendations? 14:23:46
21 A That would be the assistant commissioner 14:23:47
22 of facilities operations. 14:23:52
23 Q I see. Okay. And who is the assistant 14:23:54
24 commissioner of facilities operations? 14:23:56
25 A Right now, it is Ahmed Holt. And 14:24:00

1 previously during Diamond's classification, it was 14:24:04
2 Ricky Myrick. 14:24:06

3 Q Okay. And who was the facility director 14:24:09
4 in October 2019? 14:24:15

5 A Robert Toole. 14:24:17

6 Q And who is the facility director now? 14:24:20
7 A Robert Toole. 14:24:22

8 Q Okay. The considerations that are listed 14:24:23
9 in number three here of Subsection C is the 14:24:38
10 classification housing decision. Does that refer to 14:24:43
11 the recommendation that the facility chairperson 14:24:46
12 makes? 14:24:51

13 A Yes. Classification housing decision. 14:25:03

14 Q And then another consideration is the 14:25:07
15 offender's documented choice of whether a male or 14:25:10
16 female facility is safest for him or her? 14:25:14

17 A Yes. 14:25:17

18 Q And that's going to be based on the SCC 14:25:18
19 referral form, so that's page one of the attachment 14:25:20
20 that we looked at? 14:25:23

21 A Yes. 14:25:25

22 Q Okay. Another consideration is -- 14:25:25

23 MR. CHALMERS: Objection. Okay. 14:25:29

24 MS. LITTRELL: Sorry. 14:25:31

25 MR. CHALMERS: Objection, misstates the 14:25:32

1 record. But that's okay. Go ahead. 14:25:35

2 BY MS. LITTRELL: 14:25:36

3 Q Another consideration is the offender's 14:25:37

4 prior institutional history; right? 14:25:40

5 A Yes. 14:25:44

6 Q And that includes incidents and 14:25:50

7 grievances. Can you explain how those two types of 14:25:53

8 pieces of information in the institutional history 14:26:00

9 are considered relevant to the determination? 14:26:02

10 A Again, it's on an individual basis. It 14:26:06

11 would look at any sexual activity incidents, whether 14:26:08

12 it be consensual or not consensual; any grievances 14:26:13

13 regarding their sexual safety to -- and that would 14:26:17

14 be what the Facility Classification Committee 14:26:25

15 completes on that form. 14:26:32

16 And I think what this is, is just a 14:26:33

17 dial-down of what the questions are on that form. 14:26:35

18 Q To your knowledge, do any of the Statewide 14:26:39

19 Classification Committee members review the 14:26:41

20 individual transgender or intersex offender's 14:26:47

21 institutional file prior to making their 14:26:53

22 recommendation? 14:26:56

23 A No. We use the facility form that the 14:26:58

24 facility has completed. And if there are any 14:27:04

25 concerning factors that we see, then at that time we 14:27:10

1 would pull maybe an -- I mean, an individual 14:27:13
2 incident or disciplinary or grievance history. But 14:27:16
3 if it is not indicated on that form, we would not 14:27:23
4 dig further. 14:27:26

5 Q And we see other categories that we've 14:27:27
6 talked about. E is whether they're a PREA victim or 14:27:30
7 aggressor. We talked a little bit about their 14:27:38
8 physical appearance, age and physical build. 14:27:41

9 To the extent of, you know, a transgender 14:27:45
10 woman seeks to be placed in a female facility, if 14:27:49
11 she is young and healthy, does that count against 14:27:58
12 her with respect to whether or not she can have the 14:28:04
13 placement that she has indicated she prefers? 14:28:08

14 A Again, I would I have to say on an 14:28:18
15 individual basis. It doesn't count against them. 14:28:20
16 It's just a factor. If their physical appearance or 14:28:23
17 let's say we have an elderly transgender woman, the 14:28:29
18 age, and their vulnerability may come into play with 14:28:35
19 that housing decision, but it's not held against 14:28:40
20 them, per se. 14:28:46

21 Q You would agree that these factors are 14:28:49
22 discretionary; right? 14:28:56

23 A Yes. And these are -- this is actual 14:28:59
24 language from the Prison Rape Elimination Act. 14:29:01
25 These data points come straight from the standards 14:29:13

1 in the law itself. 14:29:15

2 Q In order to understand the basis for the 14:29:19

3 recommendation, are the SCC members required to 14:29:25

4 identify what it is about the offender's appearance 14:29:31

5 or history they considered in arriving at their 14:29:38

6 recommendation? 14:29:44

7 A If -- that, again, depends on the person 14:29:45

8 who's completing the paperwork. If it were me 14:29:49

9 completing the paperwork, I try to put every single 14:29:52

10 piece of information on my recommendation so that I 14:29:56

11 can make the best recommendation. 14:30:00

12 As far as what other people document on 14:30:03

13 the forms, I can't testify to that. 14:30:05

14 Q Okay. But there was no training that the 14:30:12

15 statewide classification members had in which it 14:30:15

16 was -- in which you all instructed that you were to 14:30:18

17 include the basis for your determination; is that 14:30:24

18 right? 14:30:30

19 A Right, other than the process action team 14:30:31

20 meetings that we held prior to the policy 14:30:34

21 implementation. 14:30:37

22 Q Were there minutes to those meetings? 14:30:47

23 A I do not recall. 14:30:49

24 Q Do you recall whether there was any 14:30:51

25 discussion about the need to include the basis for 14:30:52

1 the determination on the form or someplace? 14:30:58

2 A For the what determination? 14:31:06

3 Q Determination as to -- or I should say the 14:31:07

4 recommendation for housing placement. 14:31:09

5 A It's on the page three of that attachment. 14:31:14

6 Q There's a place for it. I'm wondering if 14:31:19

7 you recall, in any discussions, the necessity to 14:31:22

8 include the basis for the decision. 14:31:26

9 A Oh, I see. 14:31:30

10 Yes. The justification portion of that 14:31:32

11 form should have that information in it. But as far 14:31:35

12 as formal training on what we tell them to say, 14:31:39

13 there is none of that. 14:31:44

14 Q Okay. And then there's some other 14:31:46

15 criteria that is the basis for the decision and 14:31:58

16 which should be documented on the form as part of 14:32:05

17 the recommendation; right? 14:32:09

18 A Yes. As part of their justification, yes. 14:32:11

19 Q Okay. Then the next step, [as read]: The 14:32:14

20 decision about the type of facility, meaning male or 14:32:17

21 female, made by the committee will be documented on 14:32:19

22 Attachment 1, SCC referral form and reviewed and 14:32:23

23 approved by the facilities division assistant 14:32:26

24 commissioner or designee. 14:32:29

25 What training does the facilities division 14:32:34

1 assistant commissioner have with regard to 14:32:38

2 transgender or intersex offenders? 14:32:46

3 A Again, just the policy implementation. 14:32:50

4 Q Okay. Are you aware of any information 14:32:56

5 that the facility division assistant commissioner is 14:33:00

6 required to have with respect to gender dysphoria or 14:33:04

7 its symptoms? 14:33:11

8 A No. 14:33:13

9 Q Okay. Do you know whether the facility 14:33:15

10 division assistant commissioner discusses the 14:33:22

11 transgender/intersex offender's individual needs 14:33:27

12 with respect to gender expression to treat their 14:33:33

13 gender dysphoria in arriving at their ultimate 14:33:36

14 decision? 14:33:41

15 A No, it's not their area. 14:33:45

16 MR. CHALMERS: Objection to form. 14:33:46

17 Can I ask, Ms. Atchison, a little bit of a 14:33:47

18 pause between the questions. I'm trying to 14:33:49

19 keep muted so I don't interfere but I may need 14:33:51

20 to state an objection. 14:33:54

21 THE WITNESS: Yes. 14:33:54

22 MR. CHALMERS: Objection, form. Thank 14:33:55

23 you. 14:33:55

24 BY MS. LITTRELL: 14:33:57

25 Q Okay. Did you understand the question, 14:33:57

1 Ms. Atchison? 14:33:58

2 A That do I understand the assistant 14:34:02

3 commissioner has training based on gender dysphoria 14:34:03

4 signs? 14:34:08

5 Q And that was the last question. Before 14:34:10

6 that. I'll just restate the question. 14:34:12

7 Are you aware of whether the facility 14:34:17

8 division assistant commissioner or designee is 14:34:19

9 required to have a conversation with anyone in the 14:34:25

10 medical field to assist them in understanding the 14:34:31

11 impact that denying gender expression to a 14:34:38

12 particular person with gender dysphoria would have 14:34:43

13 on their health? 14:34:47

14 A Okay. And then that was the one the 14:34:50

15 attorney objected. So now I can answer, right? 14:34:53

16 Q Correct. 14:34:55

17 A Okay. 14:34:56

18 I am not aware of any requirement that 14:34:58

19 they have to have a discussion for their 14:35:01

20 understanding of gender dysphoria. But I can 14:35:04

21 testify that that is the reason why the question was 14:35:08

22 put on the form for the SCC committee. 14:35:10

23 Q Okay. Where in the process is there a 14:35:15

24 consideration, if at all, for trans women whose 14:35:31

25 gender dysphoria would be exacerbated by the ritual 14:35:41

1 of face shape? 14:35:45

2 A Again, that would be a mental health 14:35:53

3 question, one that I'm not qualified to answer. 14:35:55

4 Q Okay. And do you know whether that 14:36:00

5 question is asked? 14:36:02

6 A I don't. 14:36:03

7 Q Does the policy that we are referencing 14:36:14

8 now, the transgender policy, provide for a process 14:36:17

9 to create a safety plan for those transgender or 14:36:20

10 intersex offenders who are not placed in the 14:36:25

11 facility that conforms with their gender identity? 14:36:30

12 A Yes. Because if the determination of 14:36:34

13 whether they're going to be placed in a male or 14:36:38

14 female facility has already been determined, then 14:36:42

15 the facility in which they are housed will go 14:36:45

16 through the traditional classification process and 14:36:48

17 weigh in all of the classification factors to house 14:36:54

18 them safely. 14:36:58

19 Q Okay. Does this policy override whatever 14:37:07

20 is happening at the facility level with respect to a 14:37:08

21 safety plan? 14:37:14

22 A No. 14:37:15

23 Q Okay. I think you answered this, but does 14:37:16

24 the statewide classification member's 14:37:55

25 recommendations, they could be overruled by the 14:37:57

1 facility -- the assistant commissioners of 14:38:03

2 facilities; correct? 14:38:09

3 A Yes. 14:38:10

4 Q And that would be true even if the 14:38:11

5 facility chairperson recommended, for example, a 14:38:14

6 female placement, every member of the SCC 14:38:19

7 recommended a female placement, the assistant 14:38:23

8 commissioner could overrule all of those decisions 14:38:25

9 and deny the recommendations; correct? 14:38:29

10 A That's correct. 14:38:32

11 Q Got it. Okay. 14:38:46

12 In D(1) -- you may have answered this 14:38:46

13 already -- but I think at one point I asked you if 14:38:47

14 the policy recognizes the particularly high risk for 14:38:49

15 physical or sexual abuse or harassment. You see 14:38:51

16 here that it does? 14:38:54

17 A Yes. 14:38:56

18 Q On D(1)? 14:38:56

19 MR. CHALMERS: Objection to form. 14:39:06

20 BY MS. LITTRELL: 14:39:07

21 Q There's no prohibition on placing a 14:39:07

22 transgender woman in a multi-person cell, if that 14:39:09

23 housing determination has been to place them in a 14:39:11

24 facility that does not correspond with their gender 14:39:15

25 identity; right? 14:39:18

1 A Again, that is on an individual basis but 14:39:22
2 there are times where we will house them with other 14:39:26
3 offenders that may also score out as a potential 14:39:30
4 victim. We refrain from putting potential victims 14:39:33
5 and potential aggressors together in any form. But 14:39:41
6 if they are both potential victims, for example, we 14:39:43
7 may house them together. 14:39:46

8 Q Is that a part of this policy or is that 14:39:49
9 the PREA policy we talked about? 14:39:51

10 A The PREA policy just prohibits us from 14:39:58
11 placing victims with alleged aggressors, based on 14:40:00
12 the risk screening. That's the authority that PREA 14:40:04
13 has. The remaining classification for housing 14:40:06
14 decisions would be based on other facility factors 14:40:09
15 with the inclusion of the PREA recommendations. 14:40:18

16 Q Okay. And now we're looking at section E, 14:40:20
17 number four. [As read]: In addition to the PREA 14:40:30
18 sexual victim/sexual aggressor classification 14:40:33
19 screening, transgender offenders' risk levels for 14:40:36
20 sexual victimization and abusiveness must be 14:40:42
21 reassessed within 30 days of their intake date; 14:40:47
22 right? 14:40:49

23 A Yes. 14:40:50

24 Q And you talked about that earlier. And 14:40:51
25 then on the next page, also after any new 14:40:52

1 information is learned that bears upon their sexual 14:40:55

2 safety; right? 14:40:57

3 A Yes. 14:40:58

4 Q Okay. And at least twice each year of 14:40:59

5 their incarceration; right? 14:41:01

6 A Yes. 14:41:03

7 Q Okay. Does the reassessment process 14:41:03

8 include an interview with the offender? 14:41:11

9 A Yes, it does. It previously did not. But 14:41:14

10 through our audit process, it was recommended to us 14:41:20

11 that we give a little more detail. So what I 14:41:23

12 implemented was that they would just repeat the 14:41:30

13 24-hour assessment and go in and do the 30-day 14:41:34

14 reassessment which is in-depth and requires the 14:41:40

15 offender to be there. 14:41:44

16 Q The 24-hour assessment is not in-depth? 14:41:49

17 A Yes, it is. And they have the offender in 14:41:55

18 the room and actively asking the questions. 14:41:59

19 Q And by "the questions," do you mean the 14:42:02

20 questions on the PREA victim/aggressor 14:42:05

21 classification form? 14:42:11

22 A Yes. 14:42:12

23 Q Okay. That's part of the 24-hour PREA 14:42:12

24 review. And then the 30-day, you said that that had 14:42:20

25 been changed. When was that changed? 14:42:27

1 A When the department initially adopted the 14:42:32
2 PREA standards, they did a risk screening, the 14:42:36
3 24-hour risk screening with the offender present. 14:42:40
4 They asked all of those questions. And then the 14:42:43
5 30-day review was done just to see if there were any 14:42:47
6 changes that were reported. But when I came in to 14:42:51
7 be the PREA coordinator, I didn't feel that that was 14:42:56
8 sufficient enough so I am making them do the initial 14:43:01
9 assessment over again so that they have the offender 14:43:08
10 present and that any changes, as this policy says, 14:43:12
11 if any new information is learned, then that is 14:43:19
12 documented with the offender present. 14:43:22

13 Q And this review process is part of the 14:43:27
14 transgender policy; correct? 14:43:32

15 A This process is part of the PREA policy 14:43:36
16 and also implemented in the transgender policy. So 14:43:42
17 it's in both policies, as far as them having to be 14:43:48
18 reassessed twice, annually. 14:43:54

19 Q So this policy provides for the assignment 14:44:05
20 to either a male or female facility; right? 14:44:07

21 A Yes. 14:44:12

22 Q And so the reassessments that's 14:44:12
23 contemplated in this policy includes whether or not 14:44:16
24 to place them in a male or female facility based on 14:44:20
25 safety reassessments? 14:44:24

1 A The risk screening does not revisit the 14:44:27
2 placement in a male or female facility. It strictly 14:44:30
3 addresses whether their current housing within the 14:44:38
4 facility they've already been assigned to is 14:44:41
5 appropriate for their sexual safety. 14:44:45

6 Q And if the PREA -- if the form that you 14:44:48
7 are referencing, do you know the name of the form 14:44:52
8 that you're referencing that is part of the 14:44:56
9 reassessment process? 14:45:00

10 A That is an attachment to the PREA policy. 14:45:02
11 And it should be the victim/aggressor risk 14:45:07
12 assessment form. 14:45:16

13 Q And that form's objective is to determine 14:45:16
14 whether or not the offender is designated as either 14:45:20
15 a PREA victim or a PREA aggressor; right? 14:45:26

16 A Correct. 14:45:30

17 Q Okay. And so if you have a transgender 14:45:35
18 intersex offender who you already know is a PREA 14:45:38
19 victim, what assistance does asking them again do to 14:45:41
20 help ensure their safety? 14:45:47

21 A They may already be in the safest place. 14:45:51
22 We just do that as the procedure tells us to see if 14:45:54
23 whether or not anything has changed from what 14:45:59
24 they've said. For example, you can have an offender 14:46:04
25 that scores out as a potential victim and a 14:46:08

1 potential aggressor. So when we have those 14:46:13
2 particular cases, we look at those on an individual 14:46:17
3 basis. But they're -- whether they're a victim or 14:46:21
4 an aggressor, normally doesn't change, but sometimes 14:46:25
5 it does. And then we have to reevaluate the housing 14:46:30
6 assignment at that point. 14:46:33

7 Q Okay. But the reassessment is essentially 14:46:35
8 just another opportunity to determine whether that 14:46:38
9 offender is a PREA victim or PREA aggressor or both? 14:46:43

10 A Yes. And the reason we do a 30-day in 14:46:51
11 addition to the initial is because the initial is 14:46:53
12 done when the offender is first assigned to that 14:46:54
13 facility. And within that 24-hour period when we do 14:46:57
14 the initial, they have not had a chance to live in 14:47:01
15 the population yet. They don't know -- they don't 14:47:06
16 really know what their safety concerns are at that 14:47:12
17 point. 14:47:14

18 So the reason we do the 30-day is not only 14:47:16
19 is it in the PREA law, but the purpose of it is to 14:47:19
20 see, okay, we have had -- this offender has had the 14:47:22
21 opportunity to live in a population to see what 14:47:26
22 factors surround them in their living situation, and 14:47:29
23 has anything changed at that point for how they feel 14:47:34
24 safety-wise or any other factors that may determine 14:47:41
25 their housing. 14:47:49

1 Q So are there questions beyond the PREA 14:47:50
2 victim/aggressor assessment form that are asked in 14:47:52
3 the safety reassessment process? 14:47:55
4 A No. Those are strictly the questions we 14:47:58
5 ask. 14:48:01
6 Q And, again, I think you mentioned this but 14:48:13
7 the reassessments are documented in the individual 14:48:14
8 offender's file? 14:48:18
9 A They're in the SCRIBE database. 14:48:19
10 Q For each offender; correct? 14:48:24
11 A Yes. 14:48:28
12 Q Are they compiled anywhere? 14:48:29
13 A They are in a sub-portion of SCRIBE under 14:48:30
14 the classification module. 14:48:36
15 Q Okay. And that's per offender? 14:48:39
16 A Yes. 14:48:41
17 Q Got it. 14:48:42
18 Does the safety reassessment that's 14:48:57
19 contemplated in this policy, the word "safety," does 14:48:59
20 it include risks associated with self-harm resulting 14:49:05
21 from denial of gender expression? 14:49:08
22 A No. It's strictly their sexual safety. 14:49:11
23 Q Okay. To the extent that an offender's 14:49:19
24 safety risks are documented in their medical or 14:49:27
25 mental health file, is that information communicated 14:49:33

1 in any way to the PREA unit? 14:49:37

2 A Not to the PREA unit because there are 14:49:40

3 HIPAA violations that would go into that. So 14:49:44

4 medical typically does not release any information 14:49:49

5 such as that to the PREA unit. 14:49:53

6 Q Do you know where that information would 14:50:02

7 go that -- 14:50:09

8 A I think it's protected information that's 14:50:12

9 in the offender's medical or mental health chart. 14:50:15

10 Q Okay. So with respect to the policy, the 14:50:20

11 transgender policy, if a transgender or intersex 14:50:25

12 person's safety was at risk as a result of their 14:50:30

13 placement in a male or female facility, is there any 14:50:37

14 process for that information to be considered by the 14:50:47

15 classification committee or anyone else who would be 14:50:53

16 able to transfer them? 14:50:57

17 A In relation to gender dysphoria? 14:51:01

18 Q Yes, ma'am. 14:51:03

19 A That would, again, be a mental health or 14:51:04

20 medical decision. 14:51:08

21 Q Okay. The next section talks about 14:51:14

22 showers. 14:51:24

23 MR. CHALMERS: Counsel, when we get a 14:51:30

24 chance, can we take a five-minute break, 14:51:33

25 please? 14:51:36

1 BY MS. LITTRELL: 14:51:37

2 Q Okay. This section that talks about 14:51:37

3 showers, my understanding of this provision is that 14:51:38

4 a trans woman who is housed in a men's facility 14:51:44

5 showers alongside men so long as she has a shower 14:51:49

6 curtain. That accurate? 14:51:54

7 A Right. And this really goes to all 14:51:57

8 offenders. All offenders are given the opportunity 14:51:59

9 to shower separately. And then of course, it goes 14:52:01

10 on to say it doesn't necessarily mean they can't 14:52:08

11 shower at the same time, but they are covered 14:52:10

12 with -- they have the ability not to expose their 14:52:14

13 body parts by covering it with a shower or a stall 14:52:20

14 door, et cetera. 14:52:23

15 Q What consideration, if any, is given to 14:52:29

16 security protocol in showering areas with respect to 14:52:31

17 the presence of a trans woman who is in a shower 14:52:34

18 amongst men? 14:52:39

19 MR. CHALMERS: Objection. Counsel, that's 14:52:41

20 not a topic the witness has been designated to 14:52:43

21 testify to. 14:52:46

22 Which topic are you addressing at this 14:52:48

23 point? 14:52:49

24 MS. LITTRELL: Transgender policy that's 14:52:52

25 up on the screen with respect to F. She's been 14:52:52

1 designated to talk about the origin and the 14:52:56
2 creation of the policy. 14:52:58
3 MR. CHALMERS: That's not -- 14:53:01
4 MS. LITTRELL: This is a question -- 14:53:02
5 MR. CHALMERS: I'm asking this question 14:53:03
6 specifically. Are you asking, is there 14:53:04
7 anything in the transgender policy with respect 14:53:06
8 to security for showers? Is that the question? 14:53:07
9 MS. LITTRELL: I'm asking what 14:53:10
10 consideration, if any, was given to the impact 14:53:11
11 of this policy, of this provision of the policy 14:53:16
12 with respect to trans women who are showering 14:53:19
13 at the same time with men. 14:53:22
14 BY MS. LITTRELL: 14:53:26
15 Q Is there any consideration of the security 14:53:26
16 protocol or other security concerns as a result of 14:53:29
17 this section of the policy? 14:53:34
18 MR. CHALMERS: You can answer. 14:53:39
19 THE WITNESS: Okay. 14:53:40
20 This language right here is another part 14:53:43
21 that was directly taken from the PREA law and 14:53:48
22 the PREA standards. 14:53:50
23 This is just advising for a transgender 14:53:55
24 offender that they have the opportunity -- or 14:54:00
25 they must have the opportunity to shower 14:54:03

1 separately. To my knowledge of security 14:54:05
2 standards on whether they're allowed to shower 14:54:10
3 together, I don't believe, but I can't answer 14:54:12
4 to that on a security side. 14:54:14

5 BY MS. LITTRELL: 14:54:21

6 Q And this policy doesn't incorporate any 14:54:21
7 security measures as a result of this showering 14:54:23
8 provision? 14:54:25

9 A No. Only that they have the opportunity 14:54:26
10 to shower separately. 14:54:29

11 Q Okay. In G, below, under personal 14:54:31
12 property, "Transgender offenders will be issued the 14:54:37
13 same property as other offenders in their assigned 14:54:41
14 facility are issued." 14:54:45

15 A Yes. 14:54:46

16 Q What does that mean "the same property"? 14:54:52

17 A Initially, they will be given the same 14:54:54
18 property as other offenders in their assigned 14:54:57
19 facility. Assigned facility in this case means a 14:54:59
20 male or female facility. 14:55:04

21 But I believe it goes on. If we could 14:55:05
22 scroll down. 14:55:07

23 Right, that they have the opportunity, if 14:55:13
24 they're on that TIOL list, to request hygiene items 14:55:14
25 or undergarments that are different than those 14:55:17

1 typically supplied. They'll have to make that 14:55:21
2 request to a designated staff member. And then it 14:55:23
3 will go through an approval process and they either 14:55:26
4 will or will not get the undergarments that they 14:55:31
5 requested. 14:55:33

6 Q And the hygiene products, this is the same 14:55:35
7 reference we saw earlier to hygiene items? 14:55:37

8 A Yes. 14:55:41

9 Q Is there a list of hygiene items that the 14:55:43
10 trans or intersex person can request? 14:55:45

11 A There are. And that would go down to 14:55:51
12 seven on this page, number seven, where it says 14:55:54
13 providing hygiene or undergarments to transgender 14:56:00
14 females. It has to be done in accordance with 14:56:04
15 206.01, offender personal property. So anytime that 14:56:06
16 they need to change what the offenders are allowed 14:56:14
17 to have, that is not covered in a PREA policy or a 14:56:17
18 transgender policy. That's strictly indicated in 14:56:24
19 the offender personal property policy. 14:56:27

20 So that would fall under facilities 14:56:30
21 operations. 14:56:31

22 Q And do you know whether in the case of a 14:56:33
23 trans woman who is housed in a men's facility that 14:56:36
24 would include the ability to receive makeup? 14:56:39

25 A Yes. It would be referenced in that 14:56:47

1 offender personal property policy. 14:56:50

2 Q Okay. And that's incorporated into this 14:56:51

3 policy. I'm not sure that we've seen a copy of 14:57:00

4 that. 14:57:03

5 MS. LITTRELL: So, Roger, I may have to 14:57:04

6 follow up with you on that. 14:57:05

7 BY MS. LITTRELL: 14:57:11

8 Q And to the extent that there's a number 14:57:11

9 of, let's say, undergarments that are provided but 14:57:16

10 that the offender is allowed to have a number above 14:57:22

11 that, how would a transgender offender get access to 14:57:27

12 the additional undergarments or hygiene items? 14:57:33

13 A Again, I would reference the personal 14:57:38

14 property policy. They have a limit on what is 14:57:39

15 considered what they can have. I do know that if 14:57:44

16 they are approved, if a transgender woman is 14:57:47

17 approved for panties, that they can have the number 14:57:50

18 of panties but they have to have either/or. They 14:57:55

19 cannot have three sets of panties and three sets of 14:58:04

20 boxers. It has to be either/or. And the limits 14:58:07

21 would be set in that personal property policy. 14:58:11

22 Q What I'm trying to get at is, if there is 14:58:15

23 a maximum number of items that is allowed, but the 14:58:20

24 GDC only provides a minimum number, and that item is 14:58:25

25 sold in the commissary, then the offender can 14:58:32

1 purchase more items; right? 14:58:36

2 A As long as they are not -- they do not 14:58:40

3 exceed the maximum number indicated by that policy. 14:58:42

4 Q But in the case of a transgender person 14:58:46

5 where the items they need are not available to them 14:58:51

6 because they're in the commissary of the other sex, 14:58:55

7 how do they get access to the amount that's above 14:59:01

8 the amount that's provided by GDC? 14:59:04

9 A That would, I believe, go under 14:59:08

10 administration, GDC administration policies on 14:59:13

11 commissary items. 14:59:16

12 Q Okay. 14:59:19

13 A And I don't know the parameters of those. 14:59:19

14 MR. CHALMERS: Yeah, Counsel, and that 14:59:22

15 question was not a designated topic for this 14:59:24

16 deposition. I would ask that we stick to the 14:59:26

17 topics that you've designated because we're 14:59:27

18 taking a long time and my understanding is you 14:59:30

19 have a little bit more to go. 14:59:32

20 MS. LITTRELL: I do, indeed. 14:59:35

21 But the policy -- I'm trying to understand 14:59:38

22 the policy and its limits so I'm well within 14:59:40

23 the designation. And I appreciate the 14:59:44

24 information you've been able to provide. 14:59:46

25 I think this is a good time to take a 14:59:52

1 break. It's almost 3:00. How long do you 14:59:54
2 need, Mr. Chalmers? 14:59:57
3 MR. CHALMERS: We should give the witness 15:00:02
4 five minutes, at least. Anybody else need 10? 15:00:03
5 Five to 10 is fine with me. 15:00:06
6 TECHNICIAN: This is the tech. Could we 15:00:08
7 just do 10 real quick? Sorry about that. 15:00:10
8 MS. LITTRELL: Thanks for letting us know. 15:00:12
9 VIDEOGRAPHER: It is 3:00 p.m. We go off 15:00:15
10 the record. 15:00:17
11 (A brief recess is had from 3:00 p.m. to 15:00:19
12 3:11 p.m.) 15:00:19
13 VIDEOGRAPHER: Okay. It is the beginning 15:11:21
14 of media number four of the testimony of Grace 15:11:22
15 Atchison. It is 3:11 p.m. We are back on the 15:11:26
16 record. 15:11:30
17 BY MS. LITTRELL: 15:11:31
18 Q Ms. Atchison, the requirements in this 15:11:38
19 policy, are violations of this policy treated any 15:11:40
20 different than violations of other GDC policies, to 15:11:43
21 your knowledge? 15:11:46
22 A No. 15:11:46
23 Q Okay. 15:11:52
24 MS. LITTRELL: If you could pull the 15:11:53
25 document up, again, please, Exhibit 2. 15:11:54

1 Perfect. Right where I want to ask you a 15:12:09
2 question. 15:12:10

3 BY MS. LITTRELL: 15:12:10

4 Q You see on K, Subsection K on the page 15:12:10
5 that's open on your screen, number four talks about 15:12:13
6 GDC will provide transgender offenders with 15:12:16
7 individualized assessments and care to include, and 15:12:18
8 it lists necessary and appropriate mental health 15:12:22
9 services, and when warranted, hormone treatment 15:12:25
10 throughout their incarceration. 15:12:28

11 Is your understanding that these are the 15:12:30
12 only two medical or mental health accommodations 15:12:32
13 that are available for transgender offenders? 15:12:41

14 MR. CHALMERS: Objection. Counsel, this 15:12:43
15 is another question not covered by your 15:12:44
16 designated topics and on this witness -- on 15:12:50
17 which this witness is not designated to 15:12:53
18 testify. 15:12:57

19 BY MS. LITTRELL: 15:12:57

20 Q Ms. Atchison, is there any other place in 15:12:58
21 the transgender policy that references the type of 15:13:03
22 care or accommodations transgender offenders are 15:13:05
23 provided other than these two? 15:13:11

24 A Not that I'm aware of. 15:13:14

25 Q Okay. Is there any mention of referral to 15:13:21

1 specialists within this policy? 15:13:24

2 A At the beginning of the policy, there's an 15:13:27

3 authority section. And I believe the medical and 15:13:29

4 mental health policies are referenced in that 15:13:34

5 authority section so, therefore, they would have to 15:13:37

6 answer for anything that is in addition -- in a 15:13:40

7 different policy than this one. 15:13:43

8 MS. LITTRELL: Kyle, you can take this 15:13:49

9 down. And if you would, please bring up what's 15:13:50

10 designated DEF_1362. 15:13:52

11 (Exhibit 3 was marked.) 15:13:54

12 MS. LITTRELL: And drop a link into the 15:14:03

13 Chat, please. 15:14:05

14 TECHNICIAN: Do you want this marked as 15:14:26

15 Exhibit 3? 15:14:28

16 MS. LITTRELL: Yes, please. 15:14:28

17 BY MS. LITTRELL: 15:14:34

18 Q Do you see the document that's on your 15:14:34

19 screen right now, Ms. Atchison? 15:14:36

20 A Yes. 15:14:38

21 Q Okay. And is this SOP 208.06? 15:14:39

22 A Yes. 15:14:44

23 Q And this is the GDC PREA policy; correct? 15:14:44

24 A Yes. 15:14:47

25 MR. CHALMERS: Okay. And, Counsel, this 15:14:48

1 is marked DEF_001362. The front page. 15:14:55

2 BY MS. LITTRELL: 15:15:01

3 Q I just want to scroll down and make sure 15:15:01

4 that we are talking about the same thing. Do you 15:15:03

5 see the page that is open right now? It appears to 15:15:12

6 be page 35 of 51 on the screen. It starts with 15:15:14

7 "PREA sexual victim/sexual aggressor classification 15:15:16

8 screening instrument." 15:15:25

9 Do you see that? 15:15:26

10 A Yes. 15:15:27

11 Q Okay. Is this the form that you were 15:15:27

12 referencing in your earlier testimony that's the 15:15:28

13 form required to be filled out as part of the safety 15:15:30

14 assessment? 15:15:33

15 A Can we blow it up just a tad? 15:15:33

16 Yes. 15:15:46

17 Q Okay. And this is -- in the transgender 15:15:47

18 policy we were just referencing, there is a 15:15:50

19 reference to a safety reassessment. This is the 15:15:54

20 form that is filled out in order to comply with that 15:16:03

21 portion of the policy; is that right? 15:16:05

22 A Yes. 15:16:07

23 Q And there's no other form or steps that 15:16:08

24 are taken beyond this form; is that right? 15:16:12

25 A This form is in our SCRIBE database. And 15:16:21

1 the information is computed -- the information 15:16:23
2 obtained on this form is computed into the SCRIBE 15:16:25
3 database. 15:16:27

4 Q Okay. And so the questions that are 15:16:28
5 asked, there's 10 questions to determine whether the 15:16:32
6 transgender or intersex offender -- in this case, 15:16:37
7 we're talking about reassessment. And it's to 15:16:40
8 determine whether they're a sexual victim. And so 15:16:44
9 as to number one, that may have changed for some 15:16:48
10 offenders; correct? 15:16:53

11 A Yes. 15:16:56

12 Q And the reassessment? Um-hum. 15:16:57

13 A Yes. 15:16:59

14 Q But if an offender had already answered 15:16:59
15 yes and had been assaulted again, there's no place 15:17:02
16 to indicate that in this -- in this portion of the 15:17:07
17 form; right? 15:17:11

18 A No. 15:17:12

19 Q Okay. And then in terms of the second 15:17:13
20 question, which is as to age, the only thing that 15:17:15
21 would have changed is if perhaps the offender is now 15:17:19
22 25 and was 24 at the time; right? So they may have 15:17:23
23 aged a little bit but otherwise the answer's going 15:17:29
24 to be the same? 15:17:32

25 A Yes, unless their age changes from that 15:17:34

1 criteria. 15:17:37

2 Q Right. Is there anything else on this 15:17:38
3 form that would change as a result of being 15:17:46
4 subjected to a sexual assault or an environment of 15:17:55
5 sexual harassment since they arrived at this 15:17:58
6 facility? 15:18:02

7 A Yes. And we discussed number one could 15:18:16
8 change. Number two could change. 15:18:18

9 Number eight, the offender's own 15:18:25
10 perception of being vulnerable, that might could 15:18:27
11 change, depending on what they say. And possibly 15:18:30
12 number six, if they have not answered yes to that 15:18:40
13 question before and then they answer yes to that 15:18:42
14 question now, that could possibly change as well. 15:18:46

15 Q Is that true for the reassessment required 15:18:50
16 for transgender/intersex individuals? 15:18:56

17 A Yes. This is the form that is used for 15:19:01
18 both the initial assessment and the 30-day 15:19:04
19 assessment. 15:19:07

20 Q My understanding was that the reassessment 15:19:09
21 is only required pursuant to the policy for 15:19:11
22 offenders who have identified themselves, and then 15:19:15
23 identified on the TIOL as transgender or intersex; 15:19:18
24 right? 15:19:22

25 A For this form? This form is for all 15:19:23

1 offenders. 15:19:25

2 Q The reassessment that's being done is just 15:19:26
3 for transgender and intersex offenders; correct? 15:19:29

4 A No. All offenders have to go through the 15:19:34
5 initial 24-hour session with this form. They have 15:19:38
6 to all go through a 30-day. The only things that is 15:19:43
7 different with a transgender offender is that 15:19:47
8 they're required, at minimum, to have it twice, have 15:19:50
9 it conducted twice per year thereafter. 15:19:56

10 Q Okay. What about the information bearing 15:19:59
11 on their sexual safety? Is that unique to the 15:20:03
12 policy on transgender individuals? 15:20:08

13 A That is also -- that is the 24 hours, the 15:20:10
14 30 days, and any other time a situation may impact 15:20:14
15 that screening. 15:20:19

16 Q Okay. 15:20:21

17 A So whether that is, again, if they changed 15:20:22
18 age, if they have a new PREA allegation, they're 15:20:25
19 supposed to do one every time a new PREA allegation 15:20:33
20 is made for the victim or aggressor -- and 15:20:36
21 aggressors, or aggressors, so... 15:20:42

22 Q The transgender policy that we were 15:20:44
23 looking at requires a safety reassessment after any 15:20:46
24 information that bears upon their sexual safety; 15:20:49
25 right? 15:20:52

1 A Yes. 15:20:52

2 Q Okay. And that's for transgender and 15:20:53

3 intersex offenders specifically; right? 15:20:55

4 A That's for all offenders. Anything that 15:20:57

5 would change on this form would require a new -- a 15:21:00

6 reassessment for any offender. 15:21:07

7 Q Okay. And the reassessment is just this 15:21:08

8 form; right? 15:21:10

9 A Yes. 15:21:11

10 Q Okay. So if someone, for example, in 15:21:11

11 Ashley's situation, where her answers to the first 15:21:18

12 question -- and we can look at her form, if you 15:21:25

13 don't recall. She answered yes to whether she was a 15:21:27

14 former victim of institutional rape or sexual 15:21:32

15 assault. So in a reassessment, that wouldn't 15:21:36

16 change; right? 15:21:38

17 A Correct. 15:21:44

18 Q Okay. And she's between 25 and 60. So 15:21:45

19 that answer wouldn't change in the reassessment; 15:21:47

20 right? 15:21:49

21 A Correct. 15:21:49

22 Q She may have gained or lost some weight, 15:21:50

23 so that may change, I suppose, in number three. But 15:21:53

24 that doesn't have anything to do with whether or not 15:21:58

25 she was sexually assaulted in the interim; right? 15:22:00

1 A Correct. That's just what her stature is 15:22:04
2 at the time the assessment is completed. 15:22:08

3 Q Um-hum. And then number four talks about 15:22:10
4 a developmental disability that would be 15:22:12
5 preexisting. And that answer wouldn't change; 15:22:15
6 right? That's based on a sexual assault in the 15:22:17
7 interim? 15:22:20

8 A No. 15:22:27

9 Q Okay. And whether or not it's the 15:22:27
10 offender's first incarceration, that wouldn't 15:22:30
11 change? 15:22:32

12 A No. 15:22:33

13 Q No? Okay. 15:22:34

14 And you just said that -- well, for 15:22:36
15 Ms. Diamond, who identified as transgender, that 15:22:40
16 wouldn't change in the reassessment; right? 15:22:42

17 A No. 15:22:46

18 Q Okay. And number seven, whether the 15:22:48
19 offender has a history of prior sexual victimization 15:22:50
20 or sexual abuse. She answered yes when she entered 15:22:53
21 so that wouldn't change; right? 15:22:56

22 A No. 15:23:00

23 Q And she answered that she was -- that she 15:23:01
24 perceived herself to be vulnerable. So the answer 15:23:05
25 to this was yes. It wouldn't change as a result of 15:23:07

1 sexual assault in the interim; right? 15:23:10

2 A That is an "I don't know" because it 15:23:16

3 depends on their perception at the time they're 15:23:18

4 completing this form whether they feel they're 15:23:21

5 vulnerable or not. 15:23:24

6 Q Okay. But if they answered yes the first 15:23:26

7 time and they'd been sexually assaulted, so the 15:23:28

8 answer could be exactly the same for the 15:23:31

9 reassessment; right? 15:23:33

10 A Yeah. If they answer yes the second or 15:23:36

11 any consecutive other time this form's being 15:23:38

12 completed. 15:23:41

13 Q And their criminal history wouldn't have 15:23:42

14 changed while they're incarcerated; correct? 15:23:44

15 A Unless they receive a new charge while 15:23:47

16 they're incarcerated, no, it would not. 15:23:48

17 Q Okay. And their convictions for sex 15:23:51

18 offenses wouldn't change as a result of sexual 15:23:52

19 assault while they were incarcerated between the 15:23:59

20 initial placement and the reassessment; right? 15:24:02

21 A Unless they get a new charge. For 15:24:07

22 instance, if they rape somebody, that could change. 15:24:08

23 Q So the safety reassessment, it seems, has, 15:24:12

24 if any impact, a negative impact on that transgender 15:24:20

25 offender. They might have been convicted of an 15:24:23

1 assault in the interim; right? 15:24:27

2 MR. CHALMERS: Objection, form. 15:24:30

3 You can answer. 15:24:33

4 BY MS. LITTRELL: 15:24:33

5 Q If they've already been identified as a 15:24:33

6 victim, most of this information wouldn't change. 15:24:35

7 How is this form helpful to ensure that they're safe 15:24:39

8 where they're placed? 15:24:46

9 MR. CHALMERS: Objection, form. 15:24:47

10 You can answer. 15:24:48

11 THE WITNESS: This just indicates -- if 15:24:49

12 they -- if the information did not change at 15:24:51

13 all or slightly changed, it's built on an 15:24:55

14 algorithm that -- this is before my time -- 15:24:58

15 that a contractor came in and evaluated how 15:25:04

16 many yeses, how many nos, if they answered yes 15:25:11

17 to this question, this is how it scores out. 15:25:14

18 So whatever it is at the time of this -- 15:25:21

19 the completion of this form, whether it's 15:25:22

20 initial or it's a reassessment, that determines 15:25:25

21 whether or not they remain a victim or if their 15:25:28

22 status changes in any way. 15:25:32

23 BY MS. LITTRELL: 15:25:34

24 Q Okay. And if in the case of an offender 15:25:34

25 who scores as high as they possibly can score on the 15:25:40

1 sexual victim factor coming into the facility, and 15:25:44
2 when they're reassessed, that victim number doesn't 15:25:50
3 go down; right? 15:25:57

4 MR. CHALMERS: Objection. 15:26:02

5 THE WITNESS: Can you rephrase that? 15:26:03

6 BY MS. LITTRELL: 15:26:04

7 Q If a offender comes into the institution, 15:26:05
8 fills out this form, scores as high as they can 15:26:07
9 possibly score on a sexual -- on the sexual victim 15:26:10
10 factors, and then they're assaulted again, in terms 15:26:13
11 of their sexual victim status, that wouldn't change; 15:26:19
12 right? 15:26:22

13 MR. CHALMERS: Objection. 15:26:27

14 You can answer. 15:26:29

15 THE WITNESS: That would not change. 15:26:30

16 Correct. 15:26:31

17 BY MS. LITTRELL: 15:26:36

18 Q Just to scroll down. There's a series of 15:26:36
19 questions that asks whether or not the offender 15:26:38
20 would score on the sexual aggressor series. So the 15:26:41
21 reassessment would help to determine whether a 15:26:45
22 transgender offender who was designated a victim may 15:26:50
23 also be designated an aggressor in a later 15:26:52
24 reassessment; right? 15:26:56

25 A Yes. 15:27:00

1 Q Okay. And then under additional 15:27:00
2 comments -- oh, sorry -- additional 15:27:02
3 comments/observations, what is GDC policy with 15:27:06
4 respect to questions that should be asked in the 15:27:11
5 reassessment and entered in this portion of the 15:27:15
6 document? 15:27:20

7 A From my understanding, the numbered 15:27:23
8 questions are factored into the algorithm. And the 15:27:26
9 additional comments are just that, they are not 15:27:31
10 factored. 15:27:37

11 There's no way to select a data point for 15:27:39
12 that information. So that would just be what -- in 15:27:41
13 any justification, perhaps, to any question that was 15:27:45
14 answered before or just an additional comment that 15:27:48
15 may have come up with the voluntary information an 15:27:50
16 inmate may give. 15:27:55

17 Q There's no required information to be 15:27:59
18 asked at the reassessment as a -- under the 15:28:00
19 transgender policy to fill in here under the 15:28:03
20 comments or observations? 15:28:06

21 A No. Just strictly adhered to the numbered 15:28:08
22 questions. 15:28:10

23 Q Okay. And this form, it says, required to 15:28:15
24 be maintained for 10 years from the date of the 15:28:18
25 report; right? 15:28:20

1 A Yes. 15:28:21

2 Q So there should be, after every 15:28:22

3 reassessment, a form maintained for an additional 10 15:28:23

4 years; right? 15:28:27

5 A Yes. This risk screening is 15:28:30

6 electronically kept in the SCRIBE database 15:28:31

7 indefinitely. So it is actually exceeding the 15:28:34

8 10-year retention schedule. 15:28:37

9 Q Okay. 15:28:40

10 MS. LITTRELL: You can take this down. 15:28:43

11 BY MS. LITTRELL: 15:28:44

12 Q Who made the initial housing placement 15:28:51

13 decision for Ms. Diamond? 15:28:54

14 A I don't know that specifically. 15:29:03

15 The initial, as far as when she came back 15:29:08

16 into the system? 15:29:10

17 MR. CHALMERS: Hang on. Hang on. 15:29:15

18 Just a second. 15:29:16

19 Counsel, which topic are we on? 15:29:17

20 MS. LITTRELL: Let's see. Application -- 15:29:36

21 same topic. Application of the policies to 15:29:38

22 plaintiff. Subsection (n), under four. 15:29:40

23 BY MS. LITTRELL: 15:29:44

24 Q Ms. Atchison, you can -- 15:29:44

25 MR. CHALMERS: Sorry. I had myself on 15:29:49

1 mute. You're referring to number four? 15:29:50

2 MS. LITTRELL: That's correct. 15:29:52

3 MR. CHALMERS: Subsection what? 15:29:53

4 MS. LITTRELL: (n). 15:29:54

5 MR. CHALMERS: Thanks. 15:30:01

6 BY MS. LITTRELL: 15:30:01

7 Q So who made the decision to keep 15:30:02

8 Ms. Diamond at GDCP? 15:30:08

9 A Specifically, I don't know. 15:30:15

10 Q Okay. Who is on -- do you know who the 15:30:16

11 facility classification chairperson was who 15:30:21

12 recommended her placement as to male or female 15:30:24

13 facility? 15:30:30

14 A Again, I'm not sure who made the final 15:30:33

15 decision on that. 15:30:37

16 Q Okay. Who was on the Statewide 15:30:39

17 Classification Committee at the time? 15:30:41

18 A Not at the GDCP location. The GDCP 15:30:47

19 location, because it is a diagnostics facility, that 15:30:52

20 is where Diamond was placed initially from coming in 15:30:54

21 for her new sentence. 15:31:02

22 Q And under the policy, the Statewide 15:31:03

23 Classification Committee makes a recommendation; 15:31:04

24 right? 15:31:09

25 A Yes. 15:31:10

1 Q Okay. And each of the committee members, 15:31:10
2 as far as this policy was followed, would have made 15:31:13
3 a recommendation; right? 15:31:17

4 A They were required to make one, yes. 15:31:18

5 Q Did they make one? 15:31:23

6 A Not that I'm aware. I made a 15:31:24
7 recommendation as far as the PREA portion of it 15:31:26
8 goes. But beyond that, I cannot answer that 15:31:29
9 question. 15:31:32

10 Q Okay. Who could answer that question? 15:31:34

11 A Maybe offender administration or 15:31:39
12 facilities division. 15:31:41

13 Q Okay. It was my understanding that the 15:31:43
14 form that is filled out that we looked at is 15:31:48
15 required to be retained; isn't that right? 15:31:50

16 A Yes. 15:31:52

17 Q Is that form, as to Ms. Diamond, was it 15:31:53
18 retained? 15:31:58

19 A It was placed in our PowerDMS database 15:31:59
20 with the Workflow. So it would permanently be -- 15:32:07
21 anything that was done with that form would have 15:32:11
22 permanently been retained in that system. 15:32:13

23 Q Okay. So it's accessible to you; right? 15:32:16

24 A My portion is accessible to me. 15:32:19

25 Q You cannot see the completed form? 15:32:22

1	A	I'm not sure.	15:32:27
2	Q	Okay. Did you attempt to refresh your	15:32:29
3		recollection or become knowledgeable as to who made	15:32:35
4		the housing placement decisions with respect to	15:32:41
5		Ms. Diamond?	15:32:44
6	A	Beyond me and my recommendation, I may not	15:32:51
7		be informed of the final decision.	15:32:53
8	Q	Okay.	15:32:59
9	A	But the documents are supposed to be	15:32:59
10		retained.	15:33:01
11		MR. CHALMERS: Counsel, you've asked for	15:33:04
12		and we produced all of the documentation on the	15:33:05
13		classification placement.	15:33:08
14		MS. LITTRELL: Okay.	15:33:12
15		MR. CHALMERS: You have the documents.	15:33:12
16		BY MS. LITTRELL:	15:33:16
17	Q	Ms. Atchison, did you attempt to review	15:33:17
18		any documents with respect to Ms. Diamond's	15:33:18
19		placement decision before today's deposition?	15:33:23
20	A	When initially I completed the form, I	15:33:26
21		reviewed that.	15:33:29
22	Q	Okay. Did you look at the entire referral	15:33:32
23		form that has three pages?	15:33:34
24	A	I looked at what was submitted to me at	15:33:36
25		the time, which was the first page from the facility	15:33:38

1 from what I -- my SCC completed form, and then 15:33:44
2 beyond that, it was forwarded to the remainder of 15:33:49
3 the Workflow. 15:33:52
4 Q Okay. And if it's in Workflow, you could 15:33:55
5 view a copy -- you could view the information in 15:34:00
6 Workflow to see whether it was completed by the 15:34:03
7 other SCC members; correct? 15:34:05
8 A I believe I can but I'm not for sure. 15:34:09
9 Q Okay. 15:34:13
10 A I would have to get back with you on that 15:34:13
11 one. 15:34:15
12 Q Okay. And you did not attempt to view 15:34:15
13 that before today's deposition; is that right? 15:34:19
14 A No. 15:34:23
15 Q Okay. 15:34:23
16 MS. LITTRELL: Okay. Kyle, can you please 15:34:29
17 bring up what's marked DEF_4640 and mark this 15:34:31
18 as Exhibit 4? 15:34:34
19 (Exhibit 4 was marked.) 15:34:35
20 MS. LITTRELL: Be sure to drop it in the 15:34:52
21 Chat for the other counsels. 15:34:53
22 TECHNICIAN: Exhibit 4? 15:35:11
23 MS. LITTRELL: Yes. 15:35:12
24 All right. Thank you. 15:35:20
25 BY MS. LITTRELL: 15:35:20

1 Q What is this document, Ms. Atchison? 15:35:21

2 A Okay. It looks like an email that was 15:35:23
3 sent to me from -- okay. Hold on. The first part 15:35:25
4 is from me. 15:35:33

5 Q If we could, can we -- let's start at the 15:35:36
6 bottom, I think, of the email chain. 15:35:39

7 A Oh, okay. Okay. 15:35:41

8 This is an email from our JPay Services 15:35:42
9 from Ashley Diamond. And it says "Please do not 15:35:46
10 reply to this email. I'm requesting assessment for 15:35:55
11 a female facility to ensure my health and safety." 15:35:58

12 Q And that went to the 15:36:07
13 `prea.report@gdc.ga.gov` address, which earlier you 15:36:07
14 testified would go to all the employees in that 15:36:15
15 unit; you and two others? 15:36:17

16 A We have access to that joint -- it 15:36:19
17 wouldn't necessarily give us a notification. But we 15:36:24
18 have access to check that email. And the designated 15:36:26
19 person to do that in my unit is my analyst. 15:36:29

20 Q Okay. And then you see that there is an 15:36:35
21 email from you to the same email 15:36:37
22 address -- correct? -- that's dated March 9th, 2020 15:36:40
23 at 11:03 a.m.? 15:36:49

24 A Yes. This looks like Chester from -- 15:36:51
25 accessed the PREA report email and forwarded me to 15:36:53

1 my work email about sending me her SCC package from 15:36:57
2 G. And G would be our drive that we keep our 15:37:07
3 documents on. 15:37:10
4 Q And to be clear, this looks like it's from 15:37:12
5 you to PREA? 15:37:14
6 A Oh, yes. Yeah. Okay. I had that 15:37:15
7 backwards. That's correct. 15:37:17
8 Q And you're asking for Mr. Hofer to send 15:37:20
9 you the SCC package from the G drive; right? 15:37:26
10 A Correct. 15:37:29
11 Q Got it. And then the response is "I am 15:37:30
12 sending you the whole file." 15:37:36
13 Do you see that? 15:37:38
14 A I do. Yes. 15:37:38
15 Q Okay. Do you recall receiving this email? 15:37:39
16 A I am sure I did. 15:37:45
17 Q Okay. And the attachments, which would be 15:37:46
18 the whole file, there are six. One is Ashley 15:37:48
19 Diamond Edited.pdf; one is Ashley Diamond GDC, a 15:37:54
20 bunch of numbers, .pdf; a third says Ashley dot -- 15:37:59
21 I'm sorry, Diamond Ashley.docx. That would be 15:38:04
22 three. And then there's Diamond, Ashley. That 15:38:10
23 would be four. The SCC Chairperson Summary - 15:38:15
24 Diamond, Ashley. And that ends in an xlsx. That's 15:38:20
25 five. And then there is 2019-11-06 Video Interview. 15:38:26

1 So there's six attachments; right? 15:38:27

2 A Okay. Yes. 15:38:30

3 Q And it says that that's the whole file; 15:38:31

4 right? 15:38:34

5 A According to what Chester mentioned there, 15:38:35

6 yes. 15:38:37

7 Q Is there more documents in Ms. Diamond's 15:38:41

8 SCC file than these six documents? 15:38:48

9 A With them being labeled edited pdf, with 15:38:54

10 them just being a name and not saved as a file form 15:38:57

11 such as the SCC chairperson's summary, I can tell 15:39:01

12 what that would be. I would have to go back and 15:39:04

13 look at the files to see what exactly those forms 15:39:07

14 were. But I'm -- 15:39:10

15 Q Okay. 15:39:16

16 A -- assuming that is all that goes with 15:39:17

17 that file. 15:39:19

18 Q Okay. We have all these attachments. 15:39:19

19 MS. LITTRELL: So if you could, Kyle, can 15:39:35

20 you please take this down and bring up 15:39:37

21 DEF_4643. 15:39:40

22 (Exhibit 5 was marked.) 15:39:41

23 BY MS. LITTRELL: 15:40:09

24 Q Okay. And the name of this file was 15:40:09

25 Ashley Diamond pdf. 15:40:11

1 MR. CHALMERS: You'll have to give me a 15:40:14
2 second, Counsel. Give her a second to read it 15:40:15
3 and give me a second to pull it up and let you 15:40:17
4 know I've got it before you start your 15:40:20
5 questions, please. 15:40:22

6 BY MS. LITTRELL: 15:40:30

7 Q Ms. Atchison, do you see this document 15:40:31
8 that's up on your screen now? 15:40:32

9 A Yes. 15:40:34

10 Q Okay. Do you see that it's a Statewide 15:40:35
11 Classification Committee -- 15:40:37

12 MR. CHALMERS: Counsel, as a courtesy, I'm 15:40:40
13 asking that you wait until I have the document. 15:40:42
14 Can you give me a second, because I don't? 15:40:44

15 MS. LITTRELL: I gave you two minutes, 15:40:46
16 but... 15:40:47

17 MR. CHALMERS: You did not give me two 15:40:48
18 minutes, Counsel. That is an absolute blatant 15:40:49
19 misrepresentation. You just pulled this 15:40:52
20 document up and it has been less than 20 15:40:54
21 seconds since you gave it. 15:40:56

22 MS. LITTRELL: Do you have it now, 15:41:00
23 Mr. Chalmers? 15:41:01

24 MR. CHALMERS: Are you attempting to 15:41:02
25 misstate what is occurring on the record 15:41:02

1 because we don't have a timer? 15:41:05

2 MS. LITTRELL: We have a timer, 15:41:08

3 Mr. Chalmers. 15:41:09

4 MR. CHALMERS: Well, then your statement 15:41:09

5 about it being two minutes is simply incorrect. 15:41:10

6 MS. LITTRELL: Do you have the document 15:41:14

7 now, Mr. Chalmers? Can I proceed with the 15:41:14

8 questioning, please? 15:41:16

9 MR. CHALMERS: Counsel, I'll let you know 15:41:20

10 when I do have it. 15:41:21

11 I do have it now on my screen. 15:41:22

12 We had a conversation with the judge about 15:41:24

13 this issue, about you not providing documents 15:41:26

14 before a deposition. And I thought that you 15:41:28

15 and I had an agreement that when you share 15:41:30

16 documents at the time that you're going to be 15:41:33

17 using them in the deposition, that as a 15:41:35

18 courtesy, you would allow counsel to actually 15:41:37

19 read the document, pull up the document before 15:41:40

20 you began questioning. Did I misunderstand 15:41:42

21 that agreement that we had? 15:41:44

22 MS. LITTRELL: You misunderstood that you 15:41:46

23 would have an opportunity to read the entire 15:41:47

24 document. We're proceeding in this deposition 15:41:49

25 as we would if it were not video. 15:41:53

1 MR. CHALMERS: I'm simply asking -- 15:41:57

2 MS. LITTRELL: So you're provided the 15:41:58

3 document. When I pulled it up, you were 15:42:00

4 provided the document. You heard me give a 15:42:02

5 standing instruction to the tech. 15:42:04

6 Roger, I think that you're trying to eat 15:42:07

7 up time in this deposition. I don't understand 15:42:09

8 why you would do so. 15:42:10

9 MR. CHALMERS: I am not. I'm trying to 15:42:11

10 see the document before you have your questions 15:42:12

11 begun. And that's the courtesy that I'm 15:42:14

12 asking. That is the agreement that we reached. 15:42:16

13 I have the document now. You can proceed. 15:42:22

14 MS. LITTRELL: Thank you, kind sir. 15:42:24

15 BY MS. LITTRELL: 15:42:25

16 Q Ms. Atchison, do you see a document on 15:42:26

17 your screen right now, and we'll scroll to the 15:42:28

18 bottom, sorry, of this page. I don't think I can 15:42:33

19 without losing the whole screen. There we go. It's 15:42:45

20 been marked Exhibit 5. We'll make it a little bit 15:42:47

21 bigger. 15:42:49

22 Have you seen this document before? 15:42:50

23 A Yes. 15:42:52

24 Q Okay. And what is this document? 15:42:52

25 A This is the original Statewide 15:42:53

1 Classification Committee facility classification 15:42:54
2 recommendation on Offender Ashley Diamond. 15:43:00

3 Q Okay. And I'll represent that this was 15:43:06
4 one of the attachments that has -- we'll look at the 15:43:08
5 next page as part of her file. You see that that's 15:43:13
6 blank; right? 15:43:15

7 A Yes. 15:43:16

8 Q Okay. And the next page is also blank; 15:43:17
9 right? 15:43:18

10 A Yes. 15:43:19

11 Q Okay. What did you do after you received 15:43:20
12 this document? 15:43:27

13 A I completed page two. 15:43:31

14 Q Okay. 15:43:35

15 A And it may not be reflected here because 15:43:36
16 the facility has to send it to me electronically. 15:43:38
17 And that portion, when they attach all three pages, 15:43:43
18 are blank, the remaining two, because the Facility 15:43:46
19 Classification Committee doesn't complete page two 15:43:50
20 or three of this attachment. 15:43:53

21 Q Okay. 15:43:58

22 MS. LITTRELL: You can take this down now 15:44:00
23 and we'll pull up the other of the six 15:44:01
24 attachments, which is DEF_4646. 15:44:06
25 (Exhibit 6 was marked.) 15:44:08

1 MS. LITTRELL: Mr. Chalmers, will you 15:44:29
2 please let me know when you get the document so 15:44:30
3 that I don't get accused as to -- 15:44:31
4 MR. CHALMERS: I certainly will. I 15:44:33
5 haven't received it yet, Counsel. And I 15:44:34
6 certainly will, if you would allow me to do 15:44:36
7 that. 15:44:38
8 I have it now, though I'm having trouble 15:44:49
9 opening it. I have it now. 15:44:51
10 BY MS. LITTRELL: 15:44:53
11 Q Ms. Atchison, do you see the document on 15:44:54
12 your screen? 15:44:55
13 A Yes. 15:44:56
14 Q And what is this document? 15:44:56
15 A It is an email from me to GDCP employees 15:44:57
16 Theresa Thornton who is the deputy warden of care 15:45:02
17 and treatment, and Lachesha Smith who was the PREA 15:45:06
18 compliance manager at GDCP. 15:45:10
19 MR. CHALMERS: We're marking this 15:45:16
20 Exhibit 6? 15:45:17
21 MS. LITTRELL: Yes, please. I'm sorry. I 15:45:19
22 did not mention that, Counsel. We're going to 15:45:21
23 reference this as Exhibit 6. I believe 6 is 15:45:27
24 the number that we're on. 15:45:30
25 BY MS. LITTRELL: 15:45:31

1 Q This email is from you. It says, "Please 15:45:32
2 re-do Diamond's SCC classification form. We cannot 15:45:35
3 make housing decision based on genital status"; 15:45:40
4 right? 15:45:44

5 A Correct. 15:45:45

6 Q This indicates that you received her form 15:45:49
7 that we just looked at in November, November 25th or 15:45:51
8 somewhere near that; is that right? 15:45:57

9 A That's the date of the email I sent to 15:46:01
10 her. So, yes, it would have been either that day or 15:46:02
11 close to that date. 15:46:05

12 Q Okay. And so the re-do came in sometime 15:46:06
13 after November 25th; right? 15:46:11

14 A Yes. 15:46:13

15 Q Okay. 15:46:14

16 MS. LITTRELL: You can take this down now 15:46:15
17 and pull up 4650 and mark it as the next 15:46:20
18 exhibit. 15:46:32

19 MR. CHALMERS: I don't have it yet. I 15:46:33
20 still don't have it. I don't have it now, 15:46:34
21 Counsel. 15:46:36

22 MS. LITTRELL: Don't be sarcastic, Roger. 15:46:36
23 Let me know when you have it. 15:46:39

24 MR. CHALMERS: Now I have it on my system. 15:46:45

25 (Exhibit 7 was marked.) 15:46:48

1 MS. LITTRELL: Okay. 15:46:50

2 TECHNICIAN: Do you want this marked as 15:46:55

3 the next exhibit? 15:46:57

4 MS. LITTRELL: Sure. 15:46:58

5 BY MS. LITTRELL: 15:47:07

6 Q Okay. Do you see this form that's up on 15:47:07

7 your screen now, Ms. Atchison? 15:47:09

8 A Yes. 15:47:10

9 Q Okay. Do you recall seeing this document 15:47:11

10 before? 15:47:13

11 A Yes. 15:47:15

12 Q Okay. And is this the -- what is this 15:47:16

13 document? 15:47:19

14 A This is my summary as the chairperson and 15:47:21

15 my recommendation. 15:47:28

16 Q Okay. And this was part of the file that 15:47:31

17 was sent to you. Do you recall that? 15:47:34

18 A Yes. 15:47:36

19 Q Okay. Do you recall filling this in in an 15:47:37

20 Excel spreadsheet, originally? 15:47:43

21 A Yes. 15:47:44

22 Q And why is that? 15:47:45

23 A I'm not sure. Just maybe my preference of 15:47:48

24 placing it on this format. 15:47:55

25 Q Okay. My understanding was that the SCC 15:47:59

1 form with the three pages that we looked at was a 15:48:05
2 form where each page was part of the form that each 15:48:08
3 participant filled out; right? 15:48:17
4 A Yes. 15:48:20
5 Q So that this would have been page two of 15:48:21
6 that form? 15:48:23
7 A Yes. 15:48:26
8 Q The top of this does not have -- and it 15:48:28
9 doesn't say attachment, page two; right? 15:48:32
10 A That's correct. 15:48:35
11 Q Okay. Do you know why this was not filled 15:48:36
12 out in the usual course? 15:48:40
13 A As I discussed earlier, we made some 15:48:44
14 changes to the policy -- or not changes. Let me 15:48:49
15 rephrase that. We made recommendations for changes 15:48:53
16 to the policy. And this was one of the changes that 15:48:56
17 we were implementing, a summary form. 15:49:02
18 Q Okay. The form that we looked at earlier 15:49:09
19 had a place for signatures. Do you recall? 15:49:11
20 A Yes. 15:49:16
21 Q Okay. And if we scroll down or make this 15:49:16
22 smaller, you see that there's a place where an 15:49:21
23 electronic signature has been entered. 15:49:32
24 Do you see that? 15:49:34
25 A Yes. 15:49:34

1 Q But no date; right? 15:49:35

2 A Correct. No date. 15:49:39

3 Q And that's different from the attachment 15:49:40

4 that we looked at earlier that was associated with 15:49:44

5 the transgender policy; right? 15:49:49

6 A Yes. 15:49:51

7 Q And do you know why this wasn't filled out 15:49:52

8 in the usual course? 15:49:54

9 A I do not recall. 15:49:58

10 Q And the attachment to the transgender 15:50:00

11 policy also has a signature and date line for the 15:50:04

12 offender. Do you recall that? 15:50:10

13 A On the second page. 15:50:15

14 Q Correct. 15:50:16

15 A Yes. 15:50:17

16 Q But there's no signature line on this 15:50:18

17 form; right? 15:50:21

18 A No. 15:50:22

19 Q Do you know whether Ashley Diamond was 15:50:25

20 given an opportunity to review and sign any forms 15:50:26

21 associated with the transgender policy? 15:50:32

22 A This particular form would not have been. 15:50:36

23 And if this form is replacing page three which has 15:50:40

24 everybody's signature and justification on it, then 15:50:45

25 Diamond would not have signed that form. 15:50:50

1 Q Why would this be replacing page three? 15:50:54

2 A I think that if you look up the other 15:50:57

3 documents we've submitted -- because there was one 15:51:00

4 in between this document where GDCP forwarded an 15:51:04

5 edited version of the SCC classification portion to 15:51:12

6 change the genital status, that I instructed them to 15:51:20

7 change. 15:51:25

8 Q So that's the first page of the 15:51:28

9 attachment? 15:51:30

10 A Yes. 15:51:31

11 Q That was changed? 15:51:31

12 A Right. And if memory serves me, if you do 15:51:32

13 have that exhibit where I filled out the second page 15:51:35

14 of that policy form, it should have been provided. 15:51:38

15 Q Okay. So we have -- of the attachments, 15:51:43

16 we have the original Ashley Diamond SCC form that 15:51:49

17 was filled out and referencing genital status. We 15:51:54

18 have the email that you just saw where you asked 15:51:58

19 that to be redone. We have the edited FCC 15:52:02

20 recommendation, which we have not looked at yet. 15:52:09

21 That would be three. 15:52:14

22 This is a fourth of the four of six of the 15:52:18

23 attachments, is what we're looking at here. And 15:52:22

24 this is the SCC summary -- chairperson's summary; 15:52:25

25 right? 15:52:32

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1 A Yes. 15:52:33

2 Q Okay. And so number six is an audio. 15:52:34

3 We're not going to look at that. And so I will ask 15:52:36

4 the tech to take this down, pull up 4647 and mark it 15:52:42

5 as the next exhibit. 15:52:48

6 (Exhibit 8 was marked.) 15:52:49

7 MR. CHALMERS: I'm pulling it up now. 15:53:03

8 TECHNICIAN: This is Exhibit 8. 15:53:07

9 MS. LITTRELL: Okay. 15:53:09

10 BY MS. LITTRELL: 15:53:10

11 Q Do you see the document that's on your 15:53:10

12 screen now, Ms. Atchison? 15:53:12

13 THE WITNESS: Roger, am I okay -- 15:53:18

14 MR. CHALMERS: Yes. 15:53:20

15 THE WITNESS: Yes. Yes. 15:53:20

16 BY MS. LITTRELL: 15:53:22

17 Q Okay. Do you recognize this document? It 15:53:22

18 appears to be blank. But this is the statewide 15:53:24

19 classification referral form. It says Attachment 1, 15:53:27

20 SOP 220.09 up at the top. 15:53:31

21 Do you see that? 15:53:35

22 A Yes. 15:53:35

23 Q And if we could -- and you would agree 15:53:40

24 that this is blank. If you could make it so she can 15:53:41

25 see the entire page. 15:53:43

1 A Yes. I confirm that it is blank. 15:53:44

2 MS. LITTRELL: Okay. And if you can go to 15:53:47

3 the next page, please. 15:53:49

4 TECHNICIAN: One second. 15:53:54

5 BY MS. LITTRELL: 15:54:00

6 Q Okay. And this is this SCC interview with 15:54:01

7 Ms. Diamond; correct? 15:54:04

8 A That's correct. 15:54:06

9 Q And did you fill this form out? 15:54:10

10 A I did. 15:54:12

11 Q Why did you not sign this form? 15:54:13

12 A I am not sure. 15:54:20

13 Q My understanding was that this form was 15:54:23

14 part of the policy and that the policy was 15:54:27

15 mandatory; right? 15:54:28

16 A Yes. 15:54:30

17 Q Did you fill this out after? How long 15:54:30

18 after the interview did you fill this form out? 15:54:34

19 A There's still a missing piece that I 15:54:39

20 recall where Theresa Thornton at GDCP re-completed 15:54:41

21 that first portion that you just showed me was 15:54:50

22 blank. 15:54:56

23 Q Um-hum. 15:55:01

24 A She re-completed that and I haven't seen 15:55:01

25 that yet. 15:55:04

1 Q Okay. 15:55:04

2 A But when I received that, I would have 15:55:05

3 completed that at this -- at that time. 15:55:06

4 Q So that would have been sometime after 15:55:10

5 November 25th; right? 15:55:12

6 A Yes. But I can't recall the exact date 15:55:17

7 because obviously it's not dated on here. 15:55:21

8 Q Okay. 15:55:24

9 MS. LITTRELL: Can you make it big enough 15:55:25

10 so we can see the entire page, please? 15:55:27

11 I'm sorry. I guess I should say small 15:55:37

12 enough so we can see the entire page. Thank 15:55:39

13 you. 15:55:41

14 BY MS. LITTRELL: 15:55:43

15 Q There's a staff signature and date. But 15:55:44

16 on this particular document, there's no -- there's 15:55:46

17 no place for the offender to sign and date. 15:55:48

18 Do you see that? 15:55:55

19 A I do. 15:55:56

20 Q That's different from the form 15:55:57

21 Attachment 1 that's attached to the policy. Do you 15:56:00

22 remember that? 15:56:02

23 A Yes. 15:56:03

24 Q Do you know why that is the case? 15:56:09

25 A I believe it was because the interview was 15:56:10

1 conducted via teleconference or via GoTo Meeting. 15:56:16

2 So the offender was not in my presence physically to 15:56:24

3 sign the form. I'm not sure why the inmate's 15:56:34

4 signature line is not there. 15:56:35

5 Q Okay. Was this -- was this document 15:56:37

6 recreated or is this how it appears in PowerDMS or 15:56:41

7 Workflow or whatever your electronic software is? 15:56:48

8 A It would not have been recreated. It 15:56:56

9 would have been downloaded as a Word document so 15:56:58

10 that it would have been editable. 15:57:02

11 Q Okay. 15:57:04

12 A But this is, to my knowledge, the form, 15:57:04

13 absent the inmate's signature. 15:57:10

14 Q And you filled this out; right? 15:57:11

15 A Yes. 15:57:13

16 Q Okay. 15:57:13

17 MS. LITTRELL: Can you go to the next 15:57:15

18 page, please. 15:57:16

19 BY MS. LITTRELL: 15:57:22

20 Q Okay. This is page three of this same 15:57:23

21 document. And this is also page three of the SCC 15:57:25

22 referral form; right? 15:57:31

23 A Yes. 15:57:32

24 Q And this is the page in which all of the 15:57:33

25 SCC members are required to make their 15:57:35

1 recommendation and provide their justification; 15:57:40
2 right? 15:57:44
3 A Correct. 15:57:45
4 Q And it's blank; right? 15:57:46
5 A It is. 15:57:47
6 Q Do you know why that is? 15:57:48
7 A Because the information I filled out was a 15:57:50
8 whole page of information which is that other 15:57:55
9 document you showed me that was not a policy 15:57:58
10 attachment that had a summary for me to -- on a 15:58:02
11 one-page at a glance that showed the classification 15:58:10
12 recommendation -- the Facility Classification 15:58:15
13 Committee recommendation as well as the interview 15:58:15
14 information. 15:58:21
15 Q But not the SCC recommendation; correct? 15:58:23
16 Just yours? 15:58:27
17 A Just mine, yes. 15:58:28
18 Q Okay. Why did the medical director not 15:58:29
19 fill out this mandatory form for Ashley Diamond? 15:58:33
20 A I cannot answer that. 15:58:37
21 Q Same question as to the mental health 15:58:43
22 director. Do you know why that person did not fill 15:58:45
23 out this form? 15:58:47
24 A Right. Same answer. I don't know. 15:58:47
25 Q Have you had any conversations with any of 15:58:50

1 the SCC members to find out why this form was not 15:58:51
2 filled out as to Ms. Diamond? 15:58:56

3 A I can't speculate on what it is but I 15:58:59
4 believe there were some issues with medical 15:59:01
5 making -- having an issue with making a housing 15:59:06
6 decision. 15:59:09

7 Q What is the basis of that information? 15:59:11

8 A Again, not sure on the details of that. 15:59:15

9 Q Okay. Are you basing your answer on a 15:59:18
10 conversation that you were a part of? 15:59:22

11 A I know that I emailed the committee 15:59:27
12 members and advised them that the documents were in 15:59:30
13 PowerDMS and that they were next in the Workflow. 15:59:35
14 And beyond that, I cannot answer as to why it was or 15:59:40
15 was not completed. 15:59:43

16 MS. LITTRELL: You can take this down. 15:59:49

17 BY MS. LITTRELL: 16:00:10

18 Q Other than the edited or redone SCC 16:00:11
19 recommendation and the audio interview that was in 16:00:13
20 her file, are there any other documents that you're 16:00:16
21 aware of that are part of Ms. Diamond's SCC file? 16:00:21

22 A Not that I'm aware of. 16:00:27

23 Q Okay. Do you know whether Ms. Diamond's 16:00:33
24 30-day safety reassessment was completed? 16:00:35

25 A Not offhand. I can retrieve that 16:00:40

1 information at a later time, but not at the moment. 16:00:42

2 Q Okay. Are you sure that it was completed? 16:00:47

3 A I'm not sure. 16:00:55

4 Q Okay. Do you recall communicating to 16:00:56

5 ensure that Ms. Diamond's 30-day safety reassessment 16:01:02

6 was conducted? 16:01:05

7 A That is what the policy requires the 16:01:13

8 facility to do. I wouldn't necessarily call them 16:01:14

9 and tell them they had to do it. It's just a 16:01:16

10 procedure they have to follow from the policy. 16:01:21

11 Q Okay. Does the PREA unit have any role in 16:01:25

12 ensuring compliance with transgender policy as it 16:01:28

13 relates to safety assessments? 16:01:33

14 A Yes. We do periodic checks and we're also 16:01:34

15 audited by a federal certified PREA auditor -- 16:01:37

16 Q Okay. 16:01:43

17 A -- that selects files at random. But 16:01:43

18 there is not a system where we check every single 16:01:46

19 one. 16:01:48

20 Q Okay. Are you aware of whether or not the 16:01:51

21 six-month safety reassessment was completed for 16:01:53

22 Ms. Diamond? 16:01:57

23 A I believe that we did. The PREA unit did 16:01:57

24 do that check but it wasn't specific to Diamond. It 16:02:03

25 was all transgenders on that list. 16:02:05

1 Q Um-hum. 16:02:08

2 A And we do that periodically. But as for 16:02:08

3 the exact dates, I don't have those today. 16:02:10

4 Q Okay. But you could get those; correct? 16:02:14

5 A Yes. 16:02:18

6 Q And the forms associated with them; right? 16:02:18

7 A The reassessments in SCRIBE, yes. 16:02:23

8 Q Okay. And those would be the form we just 16:02:26

9 looked at, the PREA victim/aggressor classification 16:02:30

10 form; right? 16:02:34

11 A Yes. 16:02:35

12 MS. LITTRELL: Could you please, Kyle, 16:02:42

13 bring up what is marked -- yeah, what is 16:02:43

14 designated DEF_4638 and mark it as the next 16:02:45

15 exhibit? 16:02:48

16 MR. CHALMERS: Don't have it yet. I'll 16:03:03

17 let you know when I do. 16:03:04

18 TECHNICIAN: You said 4638? 16:03:10

19 MS. LITTRELL: Yes. 16:03:13

20 TECHNICIAN: I don't believe I have that 16:03:15

21 one. Let me just... 16:03:17

22 Yeah. I don't think I have that one. 16:03:34

23 MS. LITTRELL: Okay. Hang on one second 16:03:36

24 and I will -- I'll drop it in. 16:03:37

25 MR. CHALMERS: Counsel, is this the fifth 16:03:55

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1 attachment to the email? 16:03:57

2 MS. LITTRELL: It is not. 16:03:58

3 MR. CHALMERS: Do you have that, that 16:04:02

4 attachment? 16:04:03

5 MS. LITTRELL: I do. It's been referenced 16:04:03

6 many times. I'm not sure that it's necessary 16:04:08

7 for us to review it on the record. 16:04:11

8 Okay. Do you see that new uploaded file, 16:04:20

9 Kyle? 16:04:26

10 TECHNICIAN: Yep. 16:04:28

11 MS. LITTRELL: Okay. 16:04:29

12 TECHNICIAN: You want this marked as 16:04:41

13 Exhibit 9? 16:04:42

14 MS. LITTRELL: Yes, please. 16:04:43

15 (Exhibit 9 was marked.) 16:04:53

16 BY MS. LITTRELL: 16:04:53

17 Q Do you see this document on the screen, 16:04:53

18 Ms. Atchison? 16:04:56

19 THE WITNESS: Do you have it, Roger? 16:05:01

20 MR. CHALMERS: You can go ahead, yes. 16:05:02

21 THE WITNESS: Okay. Yes, I do. 16:05:03

22 BY MS. LITTRELL: 16:05:04

23 Q Okay. And do you see that it starts at 16:05:05

24 the bottom with the email from JPay Services to the 16:05:07

25 PREA unit? 16:05:11

1 A Yes. 16:05:13

2 Q And it's from Ashley Diamond; right? 16:05:14

3 A Correct. 16:05:17

4 Q And this is March 8th, 2020? 16:05:17

5 A Yes. 16:05:19

6 Q And it says, "Im requesting assessment for 16:05:20

7 a female facility to ensure my health and safety"? 16:05:26

8 A Yes. 16:05:30

9 Q Do you recall getting this email? 16:05:30

10 A I do. 16:05:32

11 Q Okay. Would you agree that this is 16:05:36

12 information that bears upon her safety? 16:05:37

13 A I agree that that is her statement, yes. 16:05:44

14 Q Is a PREA allegation considered 16:05:52

15 information that bears upon an offender's sexual 16:05:54

16 safety? 16:05:57

17 A Yes. 16:06:02

18 Q Do you recall whether any steps were taken 16:06:03

19 by GDC to provide Ms. Diamond with a reassessment 16:06:04

20 after receipt of this request? 16:06:13

21 MR. CHALMERS: Objection, form. This is 16:06:16

22 not a designated topic for the deposition. 16:06:21

23 MS. LITTRELL: I beg to differ. We're 16:06:27

24 talking about the policy and application of 16:06:28

25 Ms. Diamond. There's a safety reassessment 16:06:30

1 provision in there after any information that 16:06:32
2 bears on her safety. And my question is, do 16:06:34
3 you know whether there was any safety 16:06:37
4 reassessments conducted after receipt of this 16:06:41
5 information? 16:06:44

6 MR. CHALMERS: Yeah. You're asking about 16:06:46
7 a specific email and what occurred after 16:06:54
8 receipt of that specific email. 16:06:55

9 So this is not a designated topic. The 16:06:57
10 witness can answer if it's within her personal 16:06:59
11 knowledge but she's not designated as a GDC 16:07:01
12 representative on this particular topic. 16:07:04

13 MS. LITTRELL: She's designated as a GDC 16:07:05
14 representative of the application of the 16:07:07
15 policies to plaintiff. How in the world is 16:07:09
16 whether or not the policy was applied to 16:07:14
17 plaintiff not contemplated within this 16:07:19
18 designation? 16:07:21

19 MR. CHALMERS: My objection is noted for 16:07:22
20 the record. She can answer, if she can, 16:07:24
21 individually, but she's not designated on this. 16:07:26

22 MS. LITTRELL: She is. 16:07:29

23 BY MS. LITTRELL: 16:07:31

24 Q Ms. Atchison, what steps did GDC take to 16:07:31
25 initiate a safety reassessment after receipt of this 16:07:35

1 email, if anything? 16:07:39

2 A I am not sure. That would be the 16:07:41

3 facility's responsibility to complete the 16:07:44

4 reassessment. 16:07:48

5 Q And how would they be informed that there 16:07:49

6 was information bearing on her safety if the 16:07:53

7 information went to the PREA unit? 16:07:57

8 A Well, according to this document, this 16:07:59

9 exhibit that we're looking at now, it looks like she 16:08:01

10 forwarded -- Diamond forwarded a JPay email to our 16:08:07

11 PREA report email which Chester checked it. And it 16:08:13

12 appears that he sent it to me as an FYI, and that I 16:08:20

13 advised Mr. Holt, Mr. Toole, and Angela Williams 16:08:26

14 that this came to the PREA email. And at that 16:08:31

15 point, they are over the facility's staff. And that 16:08:38

16 would fall under their umbrella. 16:08:42

17 Q Okay. Would your answer be the same with 16:08:49

18 respect to all the allegations of sexual assault, 16:08:50

19 abuse, and harassment that came to the PREA unit 16:08:55

20 after Ms. Diamond arrived in GDC custody with 16:09:01

21 respect to the safety reassessment that's 16:09:06

22 contemplated and mandatory as part of the 16:09:08

23 transgender policy? Would you -- 16:09:13

24 MR. CHALMERS: Objection. Objection to 16:09:15

25 form. 16:09:16

1 BY MS. LITTRELL: 16:09:16

2 Q Would you -- would you refer me to the 16:09:17

3 facility as opposed to the PREA unit? 16:09:20

4 MR. CHALMERS: Objection, form. 16:09:26

5 You can answer. 16:09:27

6 THE WITNESS: Yes. My answer would remain 16:09:28

7 the same on any email that we get of this 16:09:29

8 nature. It would fall back on the facility to 16:09:31

9 which Chester Hofer, when he receives these 16:09:35

10 emails, in the PREA report dot -- 16:09:38

11 preareport@gdc.gov -- ga.gov email address. 16:09:44

12 He forwards these to the facility warden 16:09:49

13 or the facility executive leadership. And they 16:09:53

14 must follow the policy at that point. 16:09:57

15 MS. LITTRELL: You can take this down now. 16:10:17

16 BY MS. LITTRELL: 16:10:19

17 Q How many transgender or intersex offenders 16:10:26

18 have been identified and placed on the TIOL list 16:10:32

19 since 2019? 16:10:41

20 A I don't have an exact number from that 16:10:48

21 time frame who has been added, but it fluctuates 16:10:51

22 depending on inmate releases and inmate arrivals, 16:10:57

23 and who has self-reported. At this time, we have 16:11:02

24 approximately 150 on the TIOL list. 16:11:07

25 Q Okay. How many transgender or intersex 16:11:13

1 offenders were considered under the transgender 16:11:19

2 policy for their housing placement? 16:11:27

3 A Any transgender that arrived from the 16:11:33

4 implementation of the policy. 16:11:35

5 Q And roughly what number of people have 16:11:38

6 been -- have gone through the transgender policy 16:11:44

7 with respect to the housing since this went into 16:11:50

8 effect? 16:11:53

9 A I don't have that number. 16:11:58

10 Q More than five? 16:11:59

11 A Yes. 16:12:00

12 Q More than 10? 16:12:01

13 A Probably. But other than -- beyond that, 16:12:04

14 I do not have a specific number. 16:12:06

15 Q More or less than 20? Do you know -- 16:12:14

16 A I don't know. 16:12:18

17 Q -- since it went into effect? 16:12:19

18 A I would have to go back and look at the 16:12:20

19 records to give you a decent answer on that. 16:12:22

20 Q And you did not go back and look at the 16:12:27

21 records before this deposition? 16:12:29

22 A Not anything pertaining to other 16:12:30

23 offenders; just strictly for Diamond's case. 16:12:33

24 Q One of the topics is requests made by 16:12:42

25 transgender inmates seeking to be housed at 16:12:43

1 facilities in accordance with their gender identity 16:12:45
2 from 2019 to present and the disposition of those 16:12:48
3 requests along with the decision makers and 16:12:51
4 rationale. That was one of the topics that you were 16:12:54
5 designated and agreed you were the most 16:12:57
6 knowledgeable or most prepared to provide testimony 16:12:59
7 on. Can you -- 16:13:03

8 THE WITNESS: I am not sure if that's one 16:13:08
9 of the topics, Roger, that we objected to. 16:13:10

10 MR. CHALMERS: No. But your topic does 16:13:17
11 not specifically list giving information as to 16:13:18
12 every offender. So, yes, she's designated to 16:13:21
13 talk on that topic generally. As to every 16:13:26
14 offender? No. 16:13:28

15 BY MS. LITTRELL: 16:13:33

16 Q Ms. Atchison, I'm asking if you can give 16:13:34
17 me a ballpark number of transgender or intersex 16:13:39
18 offenders who have gone through the SCC process. 16:13:49

19 A I do not have a specific number except to 16:13:57
20 tell you that the PREA portion of every transgender 16:14:01
21 that has come in and identified as transgender has 16:14:06
22 been reviewed by the PREA unit. 16:14:12

23 Q Okay. And would you be a part of every 16:14:17
24 SCC housing decision as the PREA unit director or 16:14:22
25 statewide coordinator? 16:14:30

1 A Either I or my designee. If I am not the 16:14:31
2 one to conduct it, either Mr. Kight or Mr. Hofer 16:14:38
3 would do that as my designee. 16:14:42

4 Q Okay. 16:14:44

5 A And I can attest that they have done the 16:14:48
6 ones that they have received -- that we have 16:14:49
7 received in our unit. 16:14:51

8 Q Okay. Okay. And would that be more or 16:14:52
9 less than a hundred decisions that the PREA unit has 16:14:59
10 weighed in on since the policy went into effect? 16:15:02

11 A I would say definitely less than a 16:15:06
12 hundred. 16:15:07

13 Q Okay. So we know it's more than 10 and 16:15:08
14 less than a hundred. Can we get it closer to 50? 16:15:10
15 Would you -- do you think it is more or less than 16:15:15
16 50? 16:15:18

17 MR. CHALMERS: Counsel. Counsel, you've 16:15:19
18 asked her multiple times and she says she does 16:15:20
19 not have a way to give you a better number. 16:15:23
20 You're harassing her at this point. She's 16:15:25
21 answered this question multiple times. 16:15:26

22 MS. LITTRELL: Not true. 16:15:29

23 Somewhere between 10 and a hundred is a 16:15:30
24 very large range and she has personal knowledge 16:15:31
25 and she's been designated as the person with 16:15:36

1 the most knowledge. 16:15:39

2 MR. CHALMERS: She's testifying she 16:15:40

3 doesn't have more specific knowledge than what 16:15:41

4 she's giving you. 16:15:43

5 BY MS. LITTRELL: 16:15:44

6 Q Ms. Atchison, is 50 an approximate number 16:15:45

7 of the SCC recommendations that you've been a party 16:15:50

8 to? 16:15:54

9 MR. CHALMERS: Objection. 16:15:55

10 You can answer, if you can. 16:15:56

11 THE WITNESS: I really can't. I don't 16:15:59

12 want to speculate as to what that number is. 16:16:01

13 And I don't even want to estimate because I 16:16:04

14 really don't know. I mean, I can find that out 16:16:09

15 at a later time but I don't have that right 16:16:11

16 now. 16:16:13

17 BY MS. LITTRELL: 16:16:16

18 Q Okay. Are you aware of the decision that 16:16:16

19 was made with respect to housing placement as to the 16:16:24

20 transgender and intersex offenders who have -- who 16:16:28

21 have been persons who were considered under this 16:16:34

22 transgender policy? 16:16:41

23 MR. CHALMERS: Objection, form. 16:16:46

24 You can answer, if you can. 16:16:47

25 THE WITNESS: I'm not quite sure I 16:16:50

1 understand. Can you rephrase that? 16:16:51

2 BY MS. LITTRELL: 16:16:53

3 Q Do you know the ultimate housing placement 16:16:54

4 decision of the offenders who have come through and 16:16:56

5 have been -- and the transgender policy we talked 16:17:02

6 about was applied to them? 16:17:08

7 A Okay. No, I do not. 16:17:09

8 Q Who would know that information? 16:17:12

9 A The facilities division. 16:17:15

10 Q Okay. Do you know how many of the 16:17:17

11 transgender intersex offenders preferred to be 16:17:21

12 placed in a facility that aligned with their gender 16:17:28

13 identity? 16:17:33

14 A I do not. 16:17:34

15 Q Who would know that information? 16:17:36

16 A That information could be found on the 16:17:39

17 page two and page one of those attachments on all 16:17:44

18 the offenders that we've completed paperwork on. 16:17:48

19 Q Okay. 16:17:52

20 A So it is retrievable but I do not have 16:17:53

21 that information in front of me. 16:17:55

22 Q Okay. 16:17:56

23 MR. CHALMERS: For the record, we've 16:17:59

24 objected to that area of inquiry, Counsel. 16:18:01

25 That's your document production that we've 16:18:04

1 communicated about recently, your document 16:18:06

2 request. 16:18:09

3 BY MS. LITTRELL: 16:18:12

4 Q Ms. Atchison, what percentage of 16:18:13

5 transgender and intersex offenders who requested to 16:18:19

6 be placed in a facility in accordance with their 16:18:23

7 gender identity were ultimately placed in accordance 16:18:28

8 with their preference? 16:18:34

9 MR. CHALMERS: Objection, form. 16:18:36

10 You can answer. 16:18:41

11 THE WITNESS: I'm not aware of any. 16:18:42

12 BY MS. LITTRELL: 16:18:46

13 Q Okay. Are you -- other than Ms. Diamond, 16:18:49

14 are you aware of any other transgender or intersex 16:18:50

15 offenders who requested to be placed in a facility 16:18:53

16 that aligned with their gender identity? 16:18:56

17 A Have there been any offenders that have 16:19:01

18 requested a female facility other than Diamond? 16:19:04

19 Q Correct. 16:19:07

20 A I believe so, yes. 16:19:08

21 Q Okay. It sounds like you would not know 16:19:11

22 what the -- if you don't know where those 16:19:17

23 transgender offenders were ultimately housed, you 16:19:20

24 wouldn't know what basis on which the housing 16:19:23

25 decision was ultimately made; isn't that right? 16:19:28

1 A Correct. 16:19:33

2 Q Okay. Since the policy -- the transgender 16:19:34
3 policy was entered in 2019, how many transgender 16:19:53
4 intersex offenders originally placed in men's 16:19:56
5 facilities have filed grievances or otherwise sent 16:19:59
6 messages through PREA that they would like to be 16:20:02
7 placed in a female facility? 16:20:06

8 A To my knowledge, Offender Diamond is the 16:20:12
9 only person who has sent such a request through the 16:20:15
10 JPay email system. The JPay email system is a 16:20:21
11 system designated to make a report of sexual abuse 16:20:24
12 or sexual harassment and is not intended for any 16:20:28
13 other purpose. 16:20:32

14 Q Is that information -- is a request for a 16:20:40
15 transfer from a transgender or intersex offender to 16:20:44
16 a facility that's in alignment with their gender 16:20:48
17 identity, is that information that's kept on the 16:20:52
18 TIOL? 16:20:54

19 A No. 16:21:02

20 Q Okay. And would you have knowledge of 16:21:02
21 grievances that were filed by transgender or 16:21:04
22 intersex offenders seeking to be transferred to a 16:21:07
23 facility in alignment with their gender identity? 16:21:09

24 A I would not be in that flow. That would 16:21:16
25 fall under facilities operations and the care and 16:21:18

1 treatment departments of the facility. 16:21:21

2 Q Do you know whether or not that 16:21:26

3 information is compiled in any form with respect to 16:21:27

4 transgender and intersex offenders? 16:21:32

5 A I do not. 16:21:34

6 Q Are you aware of any housing placement 16:21:46

7 decisions that have subsequently been changed since 16:21:48

8 the initial decision? 16:21:52

9 A No. 16:21:54

10 MR. CHALMERS: Objection, form. 16:21:59

11 MS. LITTRELL: Okay. I'm going to -- my 16:22:01

12 next round of questions is going to be as to a 16:22:02

13 different topic. So if now is a time to take a 16:22:05

14 five-minute break, if anyone needs to use the 16:22:07

15 restroom or anything else, now would be the 16:22:10

16 time to make that happen. Let's -- 16:22:12

17 MR. CHALMERS: While we're doing this, 16:22:16

18 Counsel, can you download and send the fifth 16:22:18

19 attachment to that email through the -- just 16:22:20

20 have it sent along to me during the break? 16:22:23

21 MS. LITTRELL: Yeah, I can. I can send 16:22:30

22 you that information. 16:22:32

23 VIDEOGRAPHER: So it is 4:22 p.m. We go 16:22:33

24 off the record. 16:22:35

25 (A brief recess is had from 4:22 p.m. to 16:22:36

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1 4:30 p.m.) 16:22:36

2 VIDEOGRAPHER: Here is the beginning of 16:30:31

3 media number five of the testimony of Grace 16:30:32

4 Atchison. It is 4:30 p.m. We are back on the 16:30:34

5 record. 16:30:37

6 MS. LITTRELL: Can I ask the tech to 16:30:41

7 please pull up what's marked DEF004642. 16:30:42

8 (Exhibit 10 was marked.) 16:30:47

9 MS. LITTRELL: Drop it into the Chat, 16:30:47

10 please, or link it into the Chat. 16:30:54

11 MR. CHALMERS: Is this 9? 16:31:10

12 TECHNICIAN: This would be Exhibit 10. 16:31:11

13 BY MS. LITTRELL: 16:31:18

14 Q Ms. Atchison, do you see what's now been 16:31:19

15 marked Exhibit 10 on your screen? 16:31:21

16 A I do not see the bottom part that says 16:31:32

17 Exhibit 10. It's out of my view. 16:31:33

18 MS. LITTRELL: Can we make it big enough 16:31:37

19 for her to see that it is Exhibit 10? 16:31:38

20 Okay. Great. And can we make it small 16:31:41

21 enough for her to read? There we go. 16:31:43

22 BY MS. LITTRELL: 16:31:45

23 Q Ms. Atchison, do you recognize this 16:31:46

24 document? 16:31:47

25 A Yes. 16:31:54

1 Q Okay. Great. 16:31:54

2 MS. LITTRELL: And if you'll scroll down, 16:31:55

3 please, so we can see the signature and date. 16:31:57

4 TECHNICIAN: One second. 16:32:01

5 BY MS. LITTRELL: 16:32:08

6 Q You see this appears to be the redone 16:32:08

7 facility classification form in response to your 16:32:10

8 email to Theresa Thornton and Lachesha Smith; right? 16:32:17

9 A Hold on just a second. I did have 16:32:26

10 somebody walk in so let me get them out. 16:32:27

11 Q Okay. Thank you. 16:32:30

12 Ms. Atchison, let me know if you would 16:33:12

13 like to take a break and deal with whatever's going 16:33:13

14 on in the house. 16:33:15

15 A I was trying to find my mute button. 16:33:19

16 Okay. He's gone. 16:33:21

17 Q Okay. 16:33:22

18 A I'm good. Sorry about that. 16:33:23

19 Q Okay. And just for the record, the person 16:33:23

20 that walked into the room, did you speak with him 16:33:28

21 about your testimony? 16:33:30

22 A No. I just advised him that I was on a 16:33:33

23 call that needed to be private. 16:33:35

24 Q Okay. Thank you. And does this appear to 16:33:37

25 be the redone facility classification form that we 16:33:41

1 referenced earlier? 16:33:45

2 A Yes, it does. 16:33:46

3 MS. LITTRELL: Okay. And this was the 16:33:47

4 fifth attachment, Mr. Chalmers, that was 16:33:50

5 attached to the email we looked at earlier that 16:33:54

6 said this is her whole file; okay? 16:33:59

7 The sixth attachment being an audio 16:34:03

8 recording that we're not going to listen to 16:34:05

9 right now. 16:34:07

10 You can take this down now. 16:34:07

11 BY MS. LITTRELL: 16:34:08

12 Q Moving now to the topic that you've been 16:34:16

13 designated to testify about with respect to 16:34:19

14 prevention of sexual harassment, sexual abuse, 16:34:22

15 sexual assault and responses thereto, including any 16:34:25

16 policies, practices, or procedures, I would like to 16:34:28

17 ask you, first, are GDC officials who are involved 16:34:33

18 in investigating an allegation of a sexual assault 16:34:36

19 required to collect evidence as part of the PREA 16:34:43

20 investigation? 16:34:45

21 A Yes. 16:34:46

22 Q And would evidence include video 16:34:46

23 recordings that would have captured footage relating 16:34:49

24 to the allegation? 16:34:56

25 A Yes. 16:34:57

1 Q There are system-wide policies that govern 16:34:58
2 the identification, prevention, and responses to 16:35:05
3 sexual harassment, sexual abuse, and sexual assault; 16:35:07
4 right? 16:35:10
5 A Yes. 16:35:11
6 Q Okay. Certain policies govern Office of 16:35:11
7 Professional Standards; right? 16:35:21
8 A Yes. 16:35:22
9 Q And certain policies govern the facilities 16:35:23
10 investigation process; right? 16:35:29
11 A Yes. 16:35:30
12 MS. LITTRELL: Okay. If we could pull 16:35:32
13 back up -- and I have not been keeping up so 16:35:33
14 it's the exhibit number 1362. Kyle, if you can 16:35:35
15 tell me what exhibit number that was. 16:35:43
16 STENOGRAPHIC REPORTER: That's Exhibit 3. 16:35:51
17 MS. LITTRELL: Thanks, Dawn. 16:35:54
18 If you could pull Exhibit 3 back up, 16:35:56
19 please? 16:35:59
20 BY MS. LITTRELL: 16:36:07
21 Q We've already talked about this. I just 16:36:09
22 want to ensure, when I talk about the GDC PREA 16:36:11
23 policy, this is the policy that I will be 16:36:13
24 referencing, 208.06. Is that okay with you? 16:36:16
25 A Yes. 16:36:27

1 MS. LITTRELL: Okay. And now -- I'm 16:36:28
2 sorry. Take this down and bring up what is 16:36:29
3 DEF_028255. 16:36:31
4 (Exhibit 11 was marked.) 16:36:34
5 MR. CHALMERS: What is that number again, 16:36:57
6 Counsel? 16:36:58
7 MS. LITTRELL: 028255. It was provided to 16:36:59
8 us as part of production as compilation of PREA 16:37:10
9 policies. And it was produced to us with 16:37:13
10 this -- 16:37:21
11 MR. CHALMERS: Okay. 16:37:25
12 MS. LITTRELL: -- with this mark in it 16:37:25
13 so... 16:37:26
14 Let's see. If you can give me control, I 16:37:34
15 can get us through this fairly quickly. I'm 16:37:36
16 going to page five of this document. 16:37:38
17 BY MS. LITTRELL: 16:37:44
18 Q Do you see this policy? It is IK01-006? 16:37:44
19 This policy governs the actions of OPS 16:37:54
20 investigators with respect to PREA allegations; is 16:38:03
21 that right? 16:38:07
22 A I see the document, yes. 16:38:08
23 Q Are you familiar with this policy? 16:38:10
24 I'm sorry. I meant to take us to the 16:38:10
25 beginning of it. 16:38:12

1 MR. CHALMERS: Counsel, on topic eight 16:38:19
2 we've identified Ms. Atchison to testify on 16:38:19
3 training as it relates to PREA. Are you on 16:38:23
4 topic eight? 16:38:31

5 MS. LITTRELL: So is this separate from 16:38:32
6 the prevention of sexual harassment, sexual 16:38:33
7 abuse, and sexual assault? This policy subject 16:38:35
8 is investigations of allegations of sexual 16:38:43
9 contact, sexual abuse, and sexual harassment of 16:38:45
10 offenders. 16:38:49

11 BY MS. LITTRELL: 16:38:51

12 Q Ms. Atchison, are you familiar with this 16:38:51
13 policy? 16:38:52

14 A I am not. And it does not have an 16:38:55
15 up-to-date policy number on it so I'm not even sure 16:38:57
16 that this policy exists anymore. 16:39:02

17 Q Are you prepared to testify on any 16:39:10
18 policies other than 208.06 of GDC PREA policy that 16:39:12
19 we looked at a minute ago that's marked Exhibit 3? 16:39:18

20 A No. I am only qualified to answer 16:39:23
21 questions on 208.06. 16:39:28

22 Q Okay. 16:39:31

23 MR. CHALMERS: And to be clear, Counsel, 16:39:31
24 she was designated as GDC's witness on training 16:39:32
25 as relates to PREA for topic eight, which I 16:39:36

1 believe we're on. 16:39:39

2 MS. LITTRELL: We are on eight. I did not 16:39:43

3 understand that we were limited to PREA. My 16:39:46

4 understanding was that the language of the 16:39:48

5 topic spoke for itself and she was the person 16:39:51

6 that you identified, but she's not 16:39:54

7 knowledgeable on any other policy. So let's 16:39:59

8 take this down. 16:40:01

9 MR. CHALMERS: She's not knowledgeable 16:40:03

10 because she's -- because of the discussions we 16:40:03

11 had leading to our April 2022 designation. 16:40:05

12 MS. LITTRELL: So it sounds like you have 16:40:10

13 some other designees to identify, then. 16:40:11

14 MR. CHALMERS: No, we do not, Counsel. 16:40:13

15 This was part of the meet-and-confer. We 16:40:15

16 identified the witness and you did not object. 16:40:18

17 MS. LITTRELL: We had a misunderstanding. 16:40:22

18 My understanding was that Ms. Atchison would be 16:40:23

19 able to testify as to all the policies that 16:40:25

20 relate to the prevention of sexual harassment, 16:40:28

21 sexual abuse, sexual assault, responses 16:40:31

22 thereto. Our arguments are on the record. 16:40:34

23 We'll talk it before the court, if we need to. 16:40:38

24 We can take this down now. 16:40:41

25 If you could pull back up Exhibit 3. And 16:40:50

1 make it a little bit bigger. 16:41:03

2 Great. 16:41:09

3 BY MS. LITTRELL: 16:41:10

4 Q And do you see the first sentence under 16:41:11

5 section IA? 16:41:14

6 A Yes. 16:41:20

7 Q Do you agree that that's an accurate 16:41:20

8 description of GDC PREA policy? 16:41:23

9 A "Georgia Department of Corrections has a 16:41:27

10 zero-tolerance policy toward all forms of sexual 16:41:29

11 abuse, Sexual harassment, and sexual activity among 16:41:33

12 offenders." Yes. 16:41:38

13 MS. LITTRELL: Let's see. If you'll give 16:41:45

14 me control, Kyle, I'm going to jump through to 16:41:46

15 page five. 16:41:48

16 BY MS. LITTRELL: 16:41:54

17 Q Okay. Section M, sexual harassment, do 16:41:56

18 you see that definition? 16:41:59

19 A Yes. 16:42:00

20 Q Okay. And do you see the word "repeated"? 16:42:01

21 A Yes. 16:42:05

22 Q Where is that word defined in this 16:42:08

23 document? 16:42:09

24 A If it is defined in the document, which I 16:42:14

25 do not believe it is, it would be under the 16:42:16

1 definitions section of the policy. 16:42:18

2 Q Okay. And I'm going to scroll up just 16:42:20

3 real quick to make sure that I didn't miss it. 16:42:22

4 And you see there's -- it goes from 16:42:30

5 "retaliation monitor" to "Sexual Abuse Incident 16:42:31

6 Review Team"; right? 16:42:35

7 A Correct. 16:42:39

8 Q What training are SART investigators 16:42:39

9 provided that help them determine what the 16:42:41

10 definition of the word "repeated" means? 16:42:45

11 A We have SART, which is sexual abuse 16:42:51

12 response team training -- 16:42:53

13 Q Um-hum. 16:42:57

14 A -- twice a year for our SART team members 16:42:58

15 to include the SART team investigators. 16:43:01

16 Q Um-hum. 16:43:06

17 A And we do have the training that dials 16:43:07

18 down into the definitions of sexual harassment and 16:43:11

19 sexual abuse. 16:43:17

20 Q Are those two different trainings or are 16:43:18

21 they the same training offered twice a year? 16:43:21

22 A It's the same training offered twice a 16:43:24

23 year. 16:43:26

24 Q Okay. And is it a PowerPoint presentation 16:43:27

25 that you're referencing? 16:43:33

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1 A Yes. 16:43:35

2 Q Okay. And who drafted those slides? 16:43:36

3 A It was a collaboration with the PREA team 16:43:44

4 members. So that would be myself, Bennett Kight, 16:43:46

5 and Chester Hofer. 16:43:49

6 Q And who presents that information? 16:43:51

7 A It's a combination of us three. 16:43:53

8 Q How often are the slides updated? 16:43:57

9 A We review them prior to every SART 16:44:02

10 training that we conduct. 16:44:06

11 Q And other than that SART training, what 16:44:11

12 other trainings are provided to GDC personnel that 16:44:13

13 assists them in applying this policy, this PREA 16:44:18

14 policy? 16:44:22

15 A They are required. If they are 16:44:25

16 correctional staff, they go through BCOT, which was 16:44:28

17 basic correctional officer training. It is in that 16:44:31

18 curricula. 16:44:34

19 It is also in PSO, which is pre-service 16:44:35

20 orientation for brand-new employees to include 16:44:38

21 non-security staff. 16:44:43

22 So all staff will receive the pre-service 16:44:45

23 orientation and they also receive an annual 16:44:49

24 in-service training that defines and covers the 16:44:52

25 PREA. 16:44:59

1 Q And is that in-service training also a 16:45:01
2 PowerPoint presentation? 16:45:04
3 A Yes, it is. 16:45:05
4 Q Okay. And who drafted those PowerPoint 16:45:07
5 slides? 16:45:11
6 A It was drafted by our training division 16:45:11
7 with input from me. 16:45:15
8 Q Okay. And is it specifically on PREA or 16:45:19
9 is PREA a part of a larger training? 16:45:22
10 A As far as BCOT and PSO, I think -- I mean, 16:45:27
11 it's a separate topic but it may be in security day 16:45:31
12 or something of that nature. But it is its own 16:45:39
13 separate topic. 16:45:42
14 Q The in-service training that you were just 16:45:43
15 referencing, is that its own stand-alone training? 16:45:46
16 A Yes. It's a combination of lecture-based 16:45:50
17 and the JDI PREA, "what you need to know" video. 16:45:54
18 Q Okay. And how long does that -- does the 16:46:00
19 PREA portion of that training generally take? 16:46:02
20 A It is a two-hour block, I believe. 16:46:05
21 Q Okay. And what about the SART training? 16:46:09
22 How long does that generally last? 16:46:11
23 A The SART training is an all-day training. 16:46:12
24 We usually begin at 9:00 and we close up usually 16:46:16
25 around three. 16:46:19

1 Q And does that training include 16:46:23
2 investigation requirements pursuant to the policy? 16:46:27
3 A Yes. As a matter of fact, the 2022, the 16:46:30
4 one we're currently doing -- we actually have one 16:46:36
5 going on today. It has been extended until 16:46:39
6 5:00 p.m. so that we have a block in there to 16:46:42
7 address nothing but the proper investigation 16:46:46
8 procedures. 16:46:50
9 Q Okay. And turning back to the policy with 16:46:55
10 respect to the word "repeated," did you say that 16:46:57
11 your SART investigators are trained to understand 16:47:00
12 what is meant by the word "repeated"? 16:47:07
13 A Yes. We go over that. I can't tell you 16:47:09
14 exactly. But when we go over that definition, we do 16:47:12
15 dial down each definition that we give them in that 16:47:17
16 PowerPoint and explain it. 16:47:22
17 And in addition to that, even if it is not 16:47:26
18 repeated, it is still reported. And then the PREA 16:47:33
19 unit will look at it and make a determination on 16:47:38
20 whether or not this is a repeated offense of sexual 16:47:40
21 harassment or if it's a stand-alone complaint. And 16:47:45
22 either way, it's addressed either if it's -- if it's 16:47:51
23 not repeated, it's addressed as an unprofessional 16:47:59
24 comment. If it is repeated, then it falls under the 16:48:02
25 PREA criteria. 16:48:07

1 Q If it's offender-on-offender unwelcome 16:48:13
2 sexual advance and it occurs one time in one 16:48:20
3 conversation, if that were reported as a PREA 16:48:27
4 violation, that would be determined not PREA; 16:48:32
5 correct? 16:48:36

6 A That's correct. 16:48:37

7 Q If in the same conversation the offender 16:48:39
8 made two sexual -- made a sexual advance and a 16:48:46
9 request for a sexual favor, would that be considered 16:48:52
10 repeated or would that be the same event? 16:48:54

11 A It would be in the same incident. 16:48:59

12 Q Okay. 16:49:00

13 A So, but I still want to look at all of 16:49:04
14 those and have the SART team to investigate them 16:49:06
15 anyway and then make that determination, not just 16:49:09
16 from the get-go say we're not looking into it 16:49:15
17 because it's not repeated. 16:49:17

18 Q Right. But if the determination was it's 16:49:19
19 not repeated therefore it's not PREA, the only thing 16:49:21
20 that would occur with respect to that alleged victim 16:49:27
21 is that they would be subject to a PREA 16:49:30
22 investigation; right? 16:49:35

23 A Yes. We would look in it -- look at it 16:49:36
24 and determine if it was only one occurrence, that it 16:49:38
25 does not fit the PREA definition. However, later, 16:49:43

1 even if it's an hour later, a different incident, 16:49:48
2 and they do the same thing, that makes it repeated, 16:49:51
3 therefore that falls under the PREA law. 16:49:54
4 Q What if it's three months later? 16:49:59
5 A The same difference. The same thing. 16:50:00
6 Q Okay. So an offender gets one free sexual 16:50:06
7 advance or et cetera, and then if they do it again 16:50:10
8 anytime within the institutional history, that would 16:50:14
9 be considered repeated? 16:50:19
10 A Yes. Ever, if they do it again. 16:50:20
11 MR. CHALMERS: Objection. 16:50:22
12 THE WITNESS: Sorry. 16:50:22
13 BY MS. LITTRELL: 16:50:24
14 Q Go ahead. 16:50:26
15 MR. CHALMERS: Slow down a little bit. 16:50:26
16 Thank you. 16:50:28
17 BY MS. LITTRELL: 16:50:31
18 Q You were answering. His objection was to 16:50:31
19 form, but it sounds like you understood what I was 16:50:33
20 asking. 16:50:35
21 A Yes. Repeated at any time is repeated. 16:50:36
22 Q Does it have to be the same type of 16:50:39
23 comment or type of gesture for it to be repeated? 16:50:46
24 A That is hard to answer just because it 16:50:54
25 could be something different. But to me, sexual -- 16:50:59

1 if it's of a sexual nature that happens more than 16:51:01
2 one time, I consider that to be repeated regardless 16:51:04
3 of the type. 16:51:08

4 Q Okay. And the SART team is trained to 16:51:12
5 understand that this -- to apply the same definition 16:51:16
6 that you're providing to me? 16:51:19

7 A Yes. 16:51:21

8 Q Okay. Do sexual advances need to be 16:51:21
9 repeated by the same person in order to be 16:51:29
10 considered a PREA? 16:51:31

11 A Yes. 16:51:35

12 Q So that an offender could be in a room 16:51:36
13 with 50 men who make 50 different sexual gestures 16:51:38
14 and that would not be considered a PREA violation; 16:51:41
15 right? 16:51:46

16 A No. If each of those 50 only said it and 16:51:47
17 had the incident one time, a one-time occurrence, 16:51:51
18 then, no, it would not be. 16:51:55

19 Q And if a transgender woman, for example, 16:51:57
20 was repeatedly exposed to unwelcomed sexual advance 16:52:00
21 but from unknown men such that she couldn't identify 16:52:06
22 them, such that you couldn't determine whether it 16:52:13
23 was repeated, that would not be PREA either; right? 16:52:15

24 A If the alleged victim says it was the same 16:52:22
25 unknown perpetrator, then, yes, that would fall 16:52:27

1 under PREA. But if the alleged victim is unaware 16:52:32
2 every time that it's a different person, then, no, 16:52:40
3 not necessarily, it would not fall under PREA. 16:52:44

4 Q Okay. And if an offender was walking down 16:52:50
5 a hallway and grabbed sexually by unknown people, 16:52:56
6 would that be a PREA violation? 16:53:07

7 A Yes, it would. 16:53:09

8 Q Okay. And what steps could be taken to 16:53:10
9 make that offender safe if she is unable to identify 16:53:16
10 the perpetrator? 16:53:20

11 A To be transparent, the investigation is a 16:53:25
12 little bit more difficult as far as investigating 16:53:26
13 when it comes to interviewing a perpetrator if it's 16:53:31
14 an unknown perpetrator. But if we do have other 16:53:39
15 methods of investigation such as identifying the 16:53:42
16 perpetrator by video, whatever the case may be, then 16:53:47
17 we would take steps to separate those offenders. 16:53:56

18 But if we don't know who the perpetrator 16:53:59
19 is and we cannot determine who the perpetrator is, 16:54:01
20 there's not a guarantee that we may not place them 16:54:04
21 together. 16:54:11

22 Q Is it a violation of the PREA policy for 16:54:13
23 an offender to be subjected to an environment of 16:54:19
24 sexual harassment? 16:54:26

25 A Can you repeat that question? 16:54:29

1 Q Is it a violation of the GDC PREA policy 16:54:31
2 for an offender to be subjected to an environment of 16:54:34
3 sexual harassment? 16:54:41

4 A Not per se. I mean, that is the intent of 16:54:43
5 the PREA policy, is to prevent such occurrences. 16:54:46
6 But it would have to be a specific individual case 16:54:53
7 before I could really answer that question fully. 16:55:00

8 Q Okay. If a particular offender was a 16:55:08
9 recipient of frequent, unwanted sexual comments, 16:55:10
10 gestures, and requests, would that be a violation of 16:55:18
11 the GDC policy? 16:55:24

12 A It would be a violation of the policy if 16:55:31
13 we did not act upon that offender making that 16:55:34
14 complaint. 16:55:44

15 Q And if the complaint was a complaint along 16:55:45
16 the lines of what I just laid out, that it's a 16:55:49
17 frequent occurrence by multiple and unknown 16:55:54
18 offenders, which steps would GDC take to make that 16:56:00
19 PREA victim safe? 16:56:07

20 A Okay. Our investigations are determined 16:56:13
21 with a disposition. Once they're investigated, the 16:56:18
22 disposition is either unfounded, unsubstantiated or 16:56:21
23 substantiated. And unfortunately, if a case is not 16:56:27
24 substantiated, which means that we have the 16:56:30
25 preponderance of evidence shows that it likely 16:56:37

1 occurred. If it's not substantiated, then we really 16:56:40
2 don't have any basis to make those decisions. 16:56:47

3 Q It sounds like the PREA policy is directed 16:56:55
4 at incidents as opposed to a frequent occurrence by 16:57:00
5 unknown men that creates a pervasive environment of 16:57:14
6 sexual harassment. Is that accurate? 16:57:20

7 A I can't testify to that because I'm not on 16:57:23
8 the front lines of the facility or the dormitory. I 16:57:25
9 can't testify to the security of that particular 16:57:30
10 area. 16:57:36

11 Q What training is provided to SART members 16:57:37
12 to respond to a PREA allegation in which an offender 16:57:43
13 reports that they are sexually propositioned, 16:57:54
14 grabbed, groped, and otherwise made to feel unsafe 16:57:59
15 on a daily basis? What training is provided for 16:58:10
16 SART members to respond to a complaint such as that? 16:58:14

17 A The training that is provided, we have 16:58:20
18 first responder training when an incident is 16:58:22
19 reported to a staff member. Whether that be 16:58:24
20 security or non-security, they're all trained on 16:58:29
21 first responder duties. 16:58:34

22 Q Okay. And so in a scenario in which a 16:58:37
23 victim -- alleged victim reports that they are 16:58:42
24 frequently the victim of unwanted sexual advances 16:58:50
25 and sexual contact by unknown men on a daily basis, 16:58:58

1 what would the first responder do in that 16:59:06

2 circumstance? 16:59:08

3 A Depending on who the first responder is, 16:59:11

4 it's usually a front-line correctional officer, they 16:59:15

5 are trained to notify the SART team. And then at 16:59:19

6 that point, a SART investigation is initiated. 16:59:24

7 Q Okay. And the objective of that 16:59:28

8 investigation is to identify the perpetrator of the 16:59:34

9 frequent PREA allegations? 16:59:45

10 A Yes. That is part of it. 16:59:48

11 Q Okay. How are the PREA investigators 16:59:53

12 trained to determine whether someone who alleges 16:59:59

13 that they are sexually harassed on a daily basis and 17:00:04

14 sexual contact is made, unwanted by unknown men on a 17:00:14

15 frequent basis? 17:00:19

16 A As far as unknown, if we're speaking of 17:00:25

17 unknown men, we -- again, depending on the 17:00:28

18 individual case, it would be determined by either 17:00:34

19 reviewing a video, if the alleged victim names any 17:00:37

20 witnesses, all of that would be taken into 17:00:44

21 consideration in an attempt to identify the unknown 17:00:49

22 perpetrator. 17:00:54

23 Q Or perpetrators? 17:00:59

24 A Or perpetrators. Correct. 17:01:01

25 Q The training that you referenced, I'm 17:01:05

1 going to jump to page 16 and some topics. Training 17:01:09
2 and education. Are these topics mandatory training 17:01:14
3 for all GDC personnel? 17:01:20
4 A Yes. 17:01:38
5 Q Okay. And there's some more here. Is 17:01:39
6 there additional training that SART members receive? 17:01:48
7 A Yes. 17:01:50
8 Q Is there additional training that wardens 17:01:51
9 receive? 17:01:54
10 A No. 17:01:59
11 Q And isn't it true that wardens sign off on 17:02:00
12 the recommendation of the SART team? 17:02:10
13 A Yes. 17:02:11
14 Q And how -- 17:02:15
15 (Overspeaking.) 17:02:15
16 A -- of the investigation? 17:02:15
17 Q Yes. 17:02:18
18 A Yes. 17:02:18
19 Q And the investigation includes the 17:02:19
20 disposition; right? 17:02:24
21 A The warden signs off on the incident 17:02:26
22 report. 17:02:29
23 Q Um-hum. 17:02:30
24 A He or she is required to sign the incident 17:02:31
25 report. As far as the completion of an 17:02:34

1 investigation, we have in place what is called the 17:02:38
2 SAIRT, which is S-A-I-R-T. And that's the Sexual 17:02:43
3 Abuse Incident Review Team. It is a committee at 17:02:47
4 each facility designated by the warden of 17:02:54
5 upper-level management that is a check and balance 17:02:57
6 system to the SART investigation. 17:03:01

7 So you have your SART investigator who 17:03:04
8 does and completes the investigation; the PREA 17:03:05
9 compliance manager at that facility, who is required 17:03:08
10 to oversee that. And then at the conclusion of an 17:03:11
11 investigation, they have to have that S-A-I-R-T, 17:03:15
12 SAIRT meeting with upper management as a check and 17:03:22
13 balance. 17:03:24

14 Q Does the PREA compliance manager at the 17:03:27
15 facilities have additional or specialized training? 17:03:29

16 A Yes. The PREA compliance managers do. 17:03:33

17 Q And what is that -- 17:03:36

18 A They are required to attend the SART 17:03:37
19 training. 17:03:40

20 Q Okay. The S-A-I-R-T, the review that you 17:03:40
21 just mentioned, isn't it true that that's only 17:03:45
22 conducted or required after a substantiated or 17:03:50
23 unsubstantiated PREA allegation? 17:03:55

24 A That's correct. 17:03:58

25 Q So that if a disposition is unfounded, 17:04:01

1 that there is no review of the investigation? 17:04:04

2 A Correct. 17:04:09

3 Q And there's no review as to whether there 17:04:09

4 are any alterations that need to be made to an 17:04:12

5 offender's kind of security envelope? 17:04:16

6 A No. Not in unfounded cases. 17:04:20

7 Q Okay. And is there a documentation of 17:04:23

8 completion of the trainings that you've referenced 17:04:34

9 for -- 17:04:40

10 A Yes. 17:04:41

11 Q -- first, for GDC personnel, is there 17:04:41

12 documentation of that? 17:04:45

13 A Yes. If you scroll up a little bit under 17:04:47

14 that, that we just read, all staff are required to 17:04:50

15 sign the Attachment 1, sexual abuse, sexual 17:04:55

16 harassment, Prison Rape Elimination Act 17:05:00

17 acknowledgment statement. And that is kept in their 17:05:03

18 personnel file. But they are required to sign that. 17:05:07

19 And that indicates that they understand all portions 17:05:10

20 of the Prison Rape Elimination Act policy, which we 17:05:13

21 have here in front of us today. 17:05:20

22 Q Is that also the documentation that they 17:05:22

23 have, in fact, attended the training? 17:05:24

24 A There is additional documentation where 17:05:29

25 they have completed in-service -- you'd have to do 17:05:33

1 the individual class. So there's documentation that 17:05:36
2 they completed BCOT. There's documentation that 17:05:39
3 they completed in-service, pre-service orientation. 17:05:44
4 So for every training that they receive, there is 17:05:47
5 documentation. 17:05:51

6 And the PREA unit only keeps up with the 17:05:52
7 SART attendances. 17:05:56

8 Q Okay. 17:06:00

9 A SART training attendances. 17:06:01

10 Q And the SART training attendances are 17:06:03
11 documented in each individual's personnel file? 17:06:05

12 A Those are kept on the PREA -- on the 17:06:13
13 statewide level with a roster. However, if they are 17:06:15
14 POST certified, it is entered into the 17:06:22
15 POST-certified program because PREA is a 17:06:24
16 POST-approved course. 17:06:28

17 Q So, for example, or specifically -- not 17:06:31
18 example -- Lachesha Smith, is there documentation or 17:06:33
19 should there be documentation that she completed the 17:06:39
20 SART training? 17:06:42

21 A Yes. Via roster. 17:06:43

22 Q What does that mean, via roster? 17:06:44

23 A When we have SART trainings, they have 17:06:47
24 been -- they have a sign-in time. The class 17:06:49
25 actually starts at 9:00 and then the sign-in time is 17:06:55

1 from 8:30 to 9:00. So they're required to sign in 17:06:58
2 when they come to the trainings. 17:07:05

3 When COVID hit, we did electronic 17:07:09
4 meetings. And I believe we captured the electronic 17:07:11
5 attendance log for that. 17:07:16

6 Q And so with respect to each individual 17:07:21
7 personnel file, there would not be any certificate 17:07:23
8 or documentation that that employee who's on the 17:07:28
9 SART team has completed the SART training? 17:07:33

10 A No. 17:07:40

11 Q Okay. Do you know whether deputy wardens 17:07:41
12 of security are required to have SART training if 17:07:44
13 they're not on the SART team? 17:07:48

14 A If they're not on the SART team, no. 17:07:50

15 Q I'm jumping to 21 on this document because 17:08:02
16 I believe there's another reference to reassessment. 17:08:04
17 Do you see at the top, in number four [as read]: 17:08:12
18 Offenders whose risk screening indicates a risk for 17:08:13
19 victimization shall be reassessed whenever warranted 17:08:18
20 due to an incident, disclosure, et cetera? 17:08:21

21 Is this the overlap that you were 17:08:26
22 referencing with respect to the transgender policy 17:08:27
23 and the safety reassessment? 17:08:30

24 A Yes. 17:08:33

25 Q Okay. So, again, this is the process is 17:08:33

1 that the PREA screening form is filled out again? 17:08:37

2 A Correct. 17:08:48

3 Q Got it. There's a reference here on 17:08:49

4 page 23 to third-party reporting; right? 17:09:05

5 A Yes. 17:09:10

6 Q Okay. And third-party reporting is 17:09:11

7 expressly authorized; correct? 17:09:13

8 A Yes. 17:09:15

9 Q Is there a specific training module that 17:09:17

10 directs SART members on how to respond to 17:09:23

11 third-party reports? 17:09:28

12 A Yes. It is included in the SART training 17:09:33

13 curricula. 17:09:35

14 Q And is there a separate process involved 17:09:40

15 in third-party reports? 17:09:42

16 A It is just the additional layer of a 17:09:46

17 third-party reporting it. But the procedure, from 17:09:48

18 once we receive a report, is the same. 17:09:52

19 Q Is it your understanding of the basis for 17:10:00

20 the third-party reporting provision that sometimes 17:10:02

21 offenders are afraid to directly report? 17:10:10

22 A As far as is that a reason why we have 17:10:17

23 third-party reporting? 17:10:19

24 Q Is that one of the reasons? 17:10:21

25 A It could be, yes. 17:10:23

1 Q Okay. What are some of the other reasons? 17:10:24

2 A For a third-party report, it might be that 17:10:38

3 they just don't want to report it, not that they're 17:10:39

4 afraid. They just don't want to. Maybe they've had 17:10:42

5 the discussion with the family member and the family 17:10:45

6 member has decided to take matters in their own 17:10:47

7 hands and report it themselves. 17:10:49

8 And, then, either way, we would 17:10:51

9 investigate it fully. 17:10:52

10 Q And is the first step of that 17:10:58

11 investigation always to interview the alleged 17:11:00

12 victim? 17:11:04

13 A The first step with a third-party report 17:11:13

14 depending on who receives it. And I can testify to 17:11:16

15 when I receive a third-party report or anybody in my 17:11:19

16 unit does, we will forward that report back down to 17:11:22

17 the SART investigator, to begin the protocol for 17:11:30

18 SART investigations. 17:11:33

19 Q Okay. Do you know if that protocol always 17:11:35

20 involves, as a first step, going directly to the 17:11:40

21 alleged victim and asking for a statement? 17:11:44

22 A Eventually, yes, they will go to -- I 17:11:53

23 don't know if it's the first step, but they will 17:11:54

24 have to get a -- attempt to try to get a statement 17:11:56

25 from the offender -- from the alleged victim. 17:11:59

1 Q And if the third-party report includes 17:12:01
2 sufficient detail of the alleged assault, is there 17:12:07
3 additional investigative techniques that SART 17:12:12
4 investigators are trained to initiate? 17:12:16

5 A Again, depending on the nature of the 17:12:23
6 report and how much information is provided at the 17:12:25
7 time. 17:12:28

8 Q How are they trained with respect to 17:12:33
9 investigative techniques? 17:12:34

10 A They come through the SART training. And 17:12:41
11 I guess it is dependent on which investigators 17:12:43
12 you're really asking about. Are you asking about 17:12:45
13 the SART, the facility investigators? 17:12:47

14 Q As opposed to what other investigators? 17:12:54

15 A As opposed to the criminal investigators. 17:12:56

16 Q Yeah. I'm speaking about the facility 17:12:59
17 investigators. 17:13:00

18 A Okay. SART training is where they receive 17:13:01
19 that training. 17:13:03

20 Q And you're familiar with the SART 17:13:07
21 training? 17:13:09

22 A I am. 17:13:09

23 Q Okay. And does the SART training include 17:13:10
24 providing the investigators with alternative means 17:13:17
25 to verify an allegation other than interviewing the 17:13:20

1 alleged victim? 17:13:27

2 A Yes. 17:13:28

3 Q Are they trained, for example, to review 17:13:30

4 video footage if there's a camera in the area? 17:13:34

5 A Yes. 17:13:37

6 Q Are they trained to interview potential 17:13:39

7 witnesses? For example, the person in the cell next 17:13:45

8 door where an alleged assault occurred? 17:13:49

9 A Yes. 17:13:54

10 Q Okay. And is there a requirement to 17:13:56

11 document their efforts in the investigative process? 17:13:59

12 A Yes. Via a witness statement form. And 17:14:04

13 if a witness refuses to cooperate or to provide a 17:14:09

14 witness statement, that should be documented. 17:14:13

15 Q And if they reviewed a video, should that 17:14:16

16 be documented? 17:14:19

17 A Yes. 17:14:20

18 Q Okay. And if they spoke with the 17:14:22

19 potential witness and the witness said they didn't 17:14:27

20 hear anything but didn't want to write a witness 17:14:31

21 statement, would that be documented? 17:14:34

22 A Yes. 17:14:38

23 Q Information, all information that they 17:14:39

24 uncover as part of the investigation should be 17:14:43

25 documented; right? 17:14:46

1 A Yes. 17:14:47

2 Q Okay. 17:14:48

3 MR. CHALMERS: Counsel, there seemed to be 17:15:03

4 a pause. Let me just ask for the group here. 17:15:05

5 It's about 5:15. Can you give us an idea, in 17:15:08

6 case folks need to let others know what time 17:15:11

7 we're going to be wrapping up here, and so 17:15:14

8 Ms. Atchison knows. 17:15:17

9 MS. LITTRELL: Within the hour. Can we 17:15:23

10 get a time that we've been on the record? 17:15:24

11 VIDEOGRAPHER: Yes. We have been on the 17:15:29

12 record for five hours, 57 minutes. 17:15:30

13 MS. LITTRELL: Okay. I hope to get 17:15:39

14 everybody out of here -- or I'll be done with 17:15:40

15 my questioning by 6:00. That's my goal. Okay? 17:15:43

16 BY MS. LITTRELL: 17:15:57

17 Q Page 25 of this document. It says -- see 17:15:58

18 at the top where it says [as read]: Multiple 17:16:18

19 protection measures include offender housing changes 17:16:19

20 or transfers, removal of alleged staff member or 17:16:23

21 offender abusers from contact, emotional support 17:16:27

22 services for people who fear retaliation for 17:16:30

23 reporting or cooperating. Multiple protection 17:16:37

24 measures. 17:16:42

25 My question for you is: How are those 17:16:43

1 multiple protection measures supposed to be 17:16:47

2 communicated to the alleged victim? 17:16:49

3 A In forms to -- in terms of this section, 17:16:56

4 it references the retaliation monitor. We have a 17:17:00

5 document that is an official attachment to our 17:17:06

6 policy that we are to monitor and take protection 17:17:10

7 measures against anyone who has cooperated with an 17:17:17

8 investigation. Therefore, we have to look at are we 17:17:20

9 transferring an offender just because they made a 17:17:24

10 PREA allegation. That could be viewed as 17:17:30

11 retaliation. 17:17:32

12 Removal of any staff members or offender 17:17:35

13 abusers from contact with the victims. We need to 17:17:38

14 make sure that we're doing that appropriately. We 17:17:41

15 need to provide them with emotional support services 17:17:46

16 so they have the tools they need to handle certain 17:17:49

17 situations on their own. And for offenders or staff 17:17:51

18 members who fear retaliation, they can report that 17:17:58

19 to the retaliation monitor. 17:18:00

20 Q And what, beyond reporting, did they fear 17:18:07

21 retaliation from the aggressor or an associate? 17:18:13

22 What, beyond reporting that, can be done to ensure 17:18:15

23 their safety? 17:18:25

24 A Well, if they've made a direct complaint 17:18:27

25 and know the aggressor, of course we will separate 17:18:29

1 that aggressor and move that aggressor from the 17:18:32
2 victim, whether that's an offender or a staff 17:18:40
3 perpetrator. We will also -- like I said, we would 17:18:43
4 remove the abusers for contact. But we would also, 17:18:51
5 if we found out that an officer, for example, was 17:18:53
6 harassing an offender for cooperation, the 17:18:55
7 appointing authority at the facility would 17:18:59
8 discipline that employee for retaliation. So, 17:19:00
9 again, it just depends on the individual case. 17:19:04

10 Q What if an alleged victim reported that 17:19:09
11 she was afraid to identify the perpetrator because 17:19:12
12 he was in a gang and affiliated with gang members, 17:19:16
13 and that was the basis of her fear? What does PREA 17:19:22
14 policy require to be done in situations such as 17:19:28
15 that? 17:19:32

16 A Well, again, if it's an actual allegation 17:19:37
17 of sexual abuse and they're afraid to report the 17:19:39
18 name for fear of retaliation, it is our duty as 17:19:41
19 staff members to still investigate it fully which 17:19:44
20 does include trying to identify the perpetrators. 17:19:48

21 Q And how does that help the victim with 17:19:53
22 respect to protection measures? 17:19:57

23 A If the victim has made a direct statement 17:20:03
24 that -- if it's just a general fear, there's 17:20:06
25 really -- other than separating them, if we know the 17:20:14

1 aggressor -- if we don't know who the aggressor is, 17:20:16
2 it's difficult to determine who to separate them 17:20:23
3 from. 17:20:25

4 Q Right. 17:20:29

5 A So we do our best to identify those 17:20:30
6 perpetrators in other means if the victim does not 17:20:31
7 want to tell us. And, then, at that point if we 17:20:34
8 learn the perpetrator's name, for example, then, at 17:20:36
9 that point we would separate them from the victim. 17:20:40

10 Q What about the scenario that I just 17:20:43
11 described where the victim is afraid to identify the 17:20:45
12 perpetrator because they are a gang member and 17:20:48
13 are -- and have affiliates throughout the prison or 17:20:52
14 throughout the dorm? 17:20:56

15 A Again, it's difficult to assess who 17:20:58
16 they're talking about if they don't provide us with 17:21:00
17 who they're talking about. So, I mean, it's 17:21:05
18 difficult for us to do a meaningful investigation 17:21:09
19 when we do not have all of the information. But 17:21:12
20 that does not deter us from conducting an 17:21:15
21 investigation. 17:21:17

22 Q Understood. What protective measures are 17:21:21
23 contemplated? 17:21:24

24 A Other than -- separating the victim from 17:21:25
25 the aggressor. I don't know how else to answer that 17:21:31

1 question other than when we know what the factors 17:21:36
2 are, then we are able to do something about it. But 17:21:40
3 if we don't know what the factors are, it's 17:21:43
4 difficult to put protection measures in place 17:21:46
5 because we don't know who we're trying to protect 17:21:49
6 them from. 17:21:52

7 Q In the case of someone who identifies that 17:21:58
8 the perpetrator is in a gang, is that -- and that is 17:22:00
9 the basis of their fear, is there anything you can 17:22:06
10 do in that circumstance? 17:22:09

11 A Again, if we know who it is. But like you 17:22:11
12 had just mentioned, there are gang members 17:22:15
13 sporadically around our facilities. So to pinpoint 17:22:19
14 or to move that person into an area and ensure that 17:22:23
15 they're not around those specific gang members, 17:22:30
16 that -- and, again, unless we know who it is, it's 17:22:32
17 difficult to do that. 17:22:35

18 Q Is there a conversation that could be had 17:22:36
19 with the alleged victim to help determine what 17:22:41
20 protective measure might be to allow them to be able 17:22:46
21 to identify the perpetrator? 17:22:49

22 A Yes. If and when the victim releases that 17:22:54
23 information or cooperates with that information. If 17:22:58
24 they don't, we have to figure that out with other 17:23:01
25 means. 17:23:05

1	Q	Okay. Maybe my question wasn't clear.	17:23:06
2		I'm trying to understand if the victim can be a	17:23:08
3		partner in identifying protection measures so that	17:23:10
4		they can participate.	17:23:15
5	A	That's tricky because we do have offenders	17:23:18
6		that make allegations that are not true to	17:23:22
7		manipulate the moving system in our agency to get	17:23:25
8		assigned to areas that they prefer to be assigned	17:23:32
9		to. So there's a great deal of manipulation with	17:23:36
10		the PREA process, as far as moves are concerns.	17:23:42
11	Q	If protection measures are discussed with	17:23:53
12		an alleged victim who fears identifying the	17:23:58
13		perpetrators, would that be documented anywhere in	17:24:00
14		the investigation?	17:24:04
15	A	It should be, yes.	17:24:05
16	Q	If we look at down here -- whoops -- at G,	17:24:15
17		Subsection G, is this the subsection that deals with	17:24:20
18		investigations?	17:24:25
19		And number two, under G, says that the	17:24:29
20		local SART's responsible for the administration --	17:24:33
21		I'm sorry, the administrative investigation while	17:24:37
22		allegations of sexual abuse or sexual harassment,	17:24:39
23		and then references Attachment 4 to be completed.	17:24:44
24		That suggests to me that completing Attachment 4 is	17:24:49
25		step one in the investigation process. Is that	17:24:53

1 accurate? 17:24:57

2 A Yes. That would be the allegation 17:24:58

3 response checklist. 17:24:59

4 Q Let's look at that checklist. Scrolling 17:25:09

5 down to page 38. Is this the form four or 17:25:10

6 Attachment 4 that's referenced in Subsection G, 17:25:14

7 number two, as the first step in the investigation 17:25:17

8 process? 17:25:19

9 A Yes. That's a checklist to ensure -- you 17:25:22

10 asked me earlier if there was training on how to 17:25:27

11 advise the investigators to proceed with the 17:25:32

12 investigation. And this is the minimum of what they 17:25:35

13 need to do. This is their instruction sheet. 17:25:37

14 Q Okay. And do you see in the fifth box 17:25:41

15 down, as part of the instruction sheet, "Recover, 17:25:45

16 download, and document any video monitoring 17:25:50

17 recording"? 17:25:52

18 A Yes. 17:25:57

19 Q And then in the same box, "The disk will 17:25:58

20 be identified using the corresponding incident 17:26:00

21 report number, and stored securely"? 17:26:00

22 A Yes. 17:26:04

23 Q And is that part of the investigation 17:26:04

24 process that SART investigators are trained to 17:26:07

25 follow? 17:26:11

1 A Yes. 17:26:12

2 Q Okay. And by video monitoring recording, 17:26:13

3 does that reference cameras? 17:26:18

4 A Yes. 17:26:24

5 Q Okay. So that if there was a camera and 17:26:25

6 they -- this form is being filled out, they would 17:26:28

7 check yes; correct? 17:26:30

8 A If, indeed, they've completed that 17:26:33

9 portion, yes, if there was a video to view. 17:26:36

10 Q Okay. If there's a video to be viewed, 17:26:42

11 they would mark yes, and then follow the procedure 17:26:45

12 that's laid out here identifying it and storing it 17:26:47

13 securely; right? 17:26:51

14 A Yes. 17:26:52

15 Q And if for some reason the video 17:26:54

16 malfunctions, is that perhaps where they would 17:26:58

17 document that in -- or you would expect they would 17:27:02

18 document that in the comment box? 17:27:05

19 A Yes. 17:27:08

20 Q Okay. I'm going to jump to Attachment 6. 17:27:09

21 And this sheet, this should -- when should this be 17:27:29

22 filled out? 17:27:37

23 MR. CHALMERS: Counsel, just for the 17:27:42

24 record, this sheet is what? What are we 17:27:42

25 referring to? 17:27:44

1 MS. LITTRELL: Attachment 4 -- 17:27:47

2 MR. CHALMERS: Okay. 17:27:48

3 MS. LITTRELL: -- to PREA policy. 17:27:49

4 MR. CHALMERS: Okay. Apologies. I 17:27:50

5 thought you said we moved to a different one. 17:27:52

6 THE WITNESS: Okay. And the question was? 17:27:54

7 MS. LITTRELL: Strike the question. Skip 17:27:56

8 down to the Attachment 6. 17:28:05

9 BY MS. LITTRELL: 17:28:16

10 Q Do you see this document that's at the top 17:28:16

11 marked Attachment 6? 17:28:18

12 A Yes. 17:28:24

13 Q Okay. And what is this document? 17:28:24

14 A This document is the PREA investigative 17:28:26

15 summary. 17:28:28

16 Q Okay. And when is this document required 17:28:33

17 to be filled out? 17:28:35

18 A At the conclusion of the investigation -- 17:28:36

19 administrative investigation. 17:28:40

20 Q And is this the form on which you would -- 17:28:41

21 strike that. 17:28:47

22 Is this the form that GDC policy requires 17:28:47

23 information -- evidence gathered as part of the 17:28:53

24 investigation? 17:28:58

25 A This is a summary that the facility SART 17:29:02

1 investigator completes and turns into the PREA unit 17:29:07
2 for review. 17:29:10
3 Q Okay. Are SART investigators trained to 17:29:12
4 list all of the evidence that they reviewed? 17:29:19
5 A Yes. 17:29:23
6 Q Okay. And then in the summary of 17:29:23
7 investigation, would they include the -- what the 17:29:27
8 evidence showed that helped them arrive at their 17:29:32
9 disposition? 17:29:34
10 A That is the expectation, yes. 17:29:36
11 Q Okay. And just sort of quickly on what is 17:29:40
12 Attachment 7 here, the PREA local procedure 17:29:50
13 directive and coordinated response plan. Are all 17:29:55
14 facilities required to have -- fill in this and have 17:29:58
15 it on hand in their facility? 17:30:01
16 A Yes. 17:30:09
17 Q Is it also kept in GDC -- in the GDC 17:30:10
18 system? 17:30:12
19 A No. This is locally retained. 17:30:18
20 Q So how would the PREA -- the PREA unit, 17:30:27
21 how would you know who all of these positions are 17:30:32
22 filled by? 17:30:37
23 A When we conduct site visits, we may, 17:30:43
24 depending on what the reason for the site visit is, 17:30:46
25 we may request this so it should be provided to us 17:30:48

1 upon request. 17:30:54

2 Q Okay. 17:30:55

3 A But as far as the positions for those 17:30:55

4 titles right there, we keep a spreadsheet in the 17:30:59

5 PREA unit office of all facilities and the persons 17:31:05

6 that are designated in those positions. 17:31:09

7 Q Okay. And then do you -- is there a 17:31:12

8 documentation of when they leave that position and 17:31:15

9 who takes their place? 17:31:17

10 A They are required to let us know as soon 17:31:20

11 as they have a turnover. Sometimes they do not but 17:31:22

12 we request it. About twice a year, the PREA unit 17:31:29

13 will send something out and say, listen, it's time 17:31:35

14 to update your directory. 17:31:38

15 Q This form here, which it says Attachment 9 17:31:53

16 at the top, I think this is what you were 17:31:55

17 referencing before, the sexual abuse incident review 17:31:59

18 check list. Is this part of the review process that 17:32:02

19 is provided if a PREA allegation is substantiated or 17:32:09

20 unsubstantiated? 17:32:16

21 A Correct. 17:32:19

22 Q And this is what does not occur if the 17:32:19

23 disposition is unfounded; correct? 17:32:22

24 A Correct. 17:32:24

25 Q Okay. I'm going to try and move up. I 17:32:27

1 think we missed a couple of forms. I just want 17:32:38
2 to -- we've looked at Attachment 2, which is the 17:32:40
3 PREA victimization. This Attachment 1 is what you 17:32:42
4 referenced that employees sign. And I'm looking for 17:32:48
5 the disposition form. Here we go. It's Attachment 17:32:55
6 number 3, the disposition form. 17:33:01

7 When is this form required to be filled 17:33:10
8 in? 17:33:12

9 A This form's required to be completed every 17:33:13
10 time there is a disposition made on the case. 17:33:15

11 Q At the conclusion of the investigation; 17:33:20
12 correct? 17:33:24

13 A At the con -- it could be at the 17:33:26
14 conclusion of the SART investigation, and the inmate 17:33:28
15 would be served with this. If it had a criminal 17:33:32
16 component and also went to OPS for criminal 17:33:35
17 investigation, when that criminal investigation has 17:33:38
18 been completed, it is also required -- this form is 17:33:41
19 also required to be filled out again and they are 17:33:46
20 supposed to be notified. So the offender is 17:33:50
21 notified every time a decision is made in the 17:33:52
22 investigation. 17:33:54

23 Q And there's a place for the offender's 17:33:57
24 signature down here at the bottom; right? 17:34:00

25 A Yes. 17:34:03

1 Q And is it policy that the offender has an 17:34:04
2 opportunity to review this form and sign on the 17:34:09
3 disposition? 17:34:13
4 A Yes. 17:34:14
5 Q What happens if the offender refuses to 17:34:16
6 sign? 17:34:18
7 A The staff member that is serving this to 17:34:22
8 the offender should notate that the offender refused 17:34:24
9 to sign it, and then place it in the investigative 17:34:27
10 file. 17:34:29
11 Q And should they do that at the time the 17:34:29
12 offender refuses to sign? 17:34:34
13 A Yes. 17:34:36
14 Q Okay. And down at the bottom, there are 17:34:36
15 the definitions. 17:34:39
16 Do you see that? 17:34:41
17 A Yes. 17:34:42
18 Q And the first one is "Unfounded." And it 17:34:43
19 says, "Based on factual evidence SART proved the 17:34:46
20 allegation did not occur"; right? 17:34:49
21 A Correct. 17:34:52
22 Q Okay. What are some examples of factual 17:34:52
23 evidence that would prove an allegation did not 17:35:01
24 occur? 17:35:03
25 A Videotape. If we were able to look at a 17:35:09

1 specific date and a specific time that the victim 17:35:11
2 relayed to us and it shows that something completely 17:35:15
3 opposite occurred, then that would be pretty much 17:35:20
4 proof that it didn't happen. 17:35:24

5 Q Um-hum. 17:35:26

6 A At least at that date in time that they 17:35:26
7 reported that it did. That's our most popular, is 17:35:29
8 video evidence refuting it. We don't tend to use 17:35:33
9 that one very often. 17:35:42

10 Q Use the unfounded disposition? 17:35:48

11 A Right. Just because really the only way 17:35:50
12 we can prove something didn't happen is if we have 17:35:55
13 it either on audio or video. That's the only way we 17:35:57
14 really can prove it didn't happen. 17:36:03

15 Q And if that factual evidence that you're 17:36:07
16 referencing now, so in this example, video evidence 17:36:13
17 proved, should that be notated on this -- on this 17:36:16
18 form? 17:36:20

19 A As far as the explanation? 17:36:24

20 Q Yes. 17:36:27

21 A Can we scroll up a little bit? 17:36:28

22 Q Sure. 17:36:29

23 A No. That is not a requirement on this 17:36:31
24 form. 17:36:33

25 Q Should it be documented somewhere in the 17:36:34

1 documented? 17:37:50

2 A On that previous form that we looked at 17:37:51

3 that's labeled Investigation Summary. 17:37:54

4 Q Okay. And an alleged aggressor's denial 17:37:57

5 is not proof that an allegation didn't occur; 17:38:05

6 correct? 17:38:08

7 A An alleged aggressor's denial? 17:38:08

8 Q Um-hum. That's not proof? 17:38:11

9 A No. That is not enough evidence. 17:38:13

10 Q And alleged victim's inability to identify 17:38:15

11 the aggressor, that's not factual evidence to 17:38:18

12 disprove? 17:38:21

13 A No. 17:38:22

14 Q Okay. Fear of identifying the alleged 17:38:30

15 aggressor, is that proof that the sexual allegation 17:38:31

16 did not occur? 17:38:35

17 A No. 17:38:36

18 Q What about requesting for a lawyer to be 17:38:36

19 present during the investigation or the interview? 17:38:40

20 Does that prove that the allegation did not occur? 17:38:44

21 A No. 17:38:47

22 Q Okay. Are there any additional 17:38:48

23 facility-wide policies that differ in any way from 17:39:00

24 the GDC PREA policy? 17:39:08

25 A Not that I'm aware of. 17:39:14

1 Q Is there additional written regulations or 17:39:18
2 interpretive guidance provided to GD staff -- GDC 17:39:23
3 staff with respect to applying this policy? 17:39:27
4 A Other than the aforementioned training? 17:39:31
5 Q Right. 17:39:35
6 A No, not that I'm aware of. 17:39:36
7 Q Okay. And so my question was written 17:39:39
8 regulation. So I'm going to ask you the same 17:39:42
9 questions about verbal guidance. Is there any 17:39:44
10 verbal rules, regulations, policies, or guidance 17:39:48
11 that supersede this PREA policy? 17:39:51
12 A No. 17:39:59
13 Q Okay. Do facilities have authority to 17:40:00
14 create their own policies or institute their own 17:40:13
15 practices with respect to PREA policy? 17:40:16
16 A They do not have the authority to override 17:40:22
17 any portion of the PREA policy. 17:40:25
18 Q Okay. And what positions within GDC are 17:40:29
19 required to understand, adhere, and apply the PREA 17:40:43
20 policies? 17:40:47
21 A All positions. 17:40:48
22 Q Are some positions held to a higher 17:40:50
23 standard with respect to understanding, adhering, 17:40:52
24 and applying the PREA policy? 17:40:56
25 A No. 17:40:58

1 Q Okay. Other than the training that we 17:40:59
2 have discussed earlier, is there any other training 17:41:13
3 that GDC provides or requires with respect to 17:41:17
4 applying this policy? 17:41:22

5 A When we discuss the OPS, which is the 17:41:28
6 criminal investigation, yes, there's additional 17:41:33
7 training for criminal investigators. 17:41:37

8 Q Okay. But other than the training for 17:41:40
9 criminal investigators and the training that we've 17:41:42
10 already discussed, is there any additional training 17:41:44
11 that GDC provides or requires with respect to 17:41:49
12 applying or understanding this policy? 17:41:53

13 A No. 17:41:56

14 Wait. Wait. Can I -- 17:42:03

15 Q Sure. 17:42:05

16 A I just thought of something. 17:42:06

17 Q Of course. 17:42:07

18 A Volunteers and contractors do have 17:42:08
19 training. It is the same training as employees 17:42:10
20 receive, but that is an additional training. 17:42:13

21 Q Okay. The trainings, the annual PREA 17:42:16
22 training that all GDC employees are required to 17:42:23
23 have, is there any evaluation process in place to 17:42:27
24 ensure that attendees understand the policies? 17:42:33

25 A Yes. That attachment we discussed earlier 17:42:42

1 is an acknowledgment form that they understand the 17:42:44
2 PREA policy. 17:42:48

3 Q But is there a separate evaluation process 17:42:50
4 as part of the training? 17:42:53

5 A No. 17:42:57

6 Q Okay. Same question as to the SART 17:42:58
7 training. Is there any -- is there any evaluation 17:43:00
8 as part of the training to ensure comprehension of 17:43:08
9 the material? 17:43:13

10 A No. They are just required to sign that 17:43:16
11 form when they have completed the training. 17:43:18

12 Q And the line of supervision, can you 17:43:21
13 describe that with respect to the SART members? 17:43:25

14 A The SART member -- the SART members, 17:43:33
15 they're a team. They have all those that we just 17:43:37
16 saw on there with the coordinated response plan 17:43:41
17 which includes a security SART investigator, a 17:43:45
18 mental health representative, a medical 17:43:50
19 representative, a retaliation monitor, and a victim 17:43:53
20 advocate. That's what makes up your SART team. 17:43:59

21 And at each facility, the law requires 17:44:06
22 that we have what's called a PREA compliance manager 17:44:09
23 who oversees the actions of the SART team at each 17:44:12
24 facility. 17:44:16

25 Q Is the PREA compliance manager the 17:44:17

1 supervisor of all of the SART team members? 17:44:23

2 A Not necessarily the supervisor. They play 17:44:25

3 a role such as I do. Like, I don't directly 17:44:28

4 supervise the PREA compliance managers in the 17:44:31

5 facility but I do have oversight over their PREA 17:44:33

6 involvement. 17:44:37

7 Q It sounds like you have the responsibility 17:44:39

8 to ensure the investigations are appropriate but not 17:44:41

9 the authority to do -- to discipline an employee who 17:44:45

10 doesn't follow it. Is that accurate? 17:44:54

11 A I have sufficient authority to have 17:44:57

12 discussions with the wardens which are the appointed 17:45:00

13 authorities at the facility. And if I'd say, 17:45:03

14 listen, this person needs to be counseled for their 17:45:07

15 professional behavior on how they speak to an 17:45:13

16 offender or we need to look at possibly writing this 17:45:15

17 offender up, then I have input to the appointing 17:45:20

18 authority that makes that decision. But I don't 17:45:25

19 make that -- I cannot make that decision. 17:45:28

20 Q And what role does the statewide PREA 17:45:32

21 coordinator have with respect to the investigations? 17:45:36

22 A Oversight. 17:45:43

23 Q Okay. And what is the interval of the 17:45:44

24 oversight function? 17:45:48

25 A Oversight -- speaking to my position, is 17:45:54

1 oversight of all PREA components which that means 17:45:56
2 the investigation process, the training 17:46:00
3 requirements, the advocacy piece, not the medical 17:46:04
4 and mental health treatments, but to -- but 17:46:16
5 referrals, things like that. 17:46:21

6 We review the SAIRT meetings when we do 17:46:25
7 site visits. And there's a built-in audit process 17:46:30
8 where federal certified PREA auditors come in and 17:46:37
9 audit our facilities. 17:46:44

10 Q And -- sorry. 17:46:50

11 A That's okay. And I am responsible for 17:46:51
12 scheduling the audits, doing the audit contracts. 17:46:53
13 I'm responsible for obtaining any grants. So 17:47:00
14 oversight is just all things PREA. 17:47:02

15 Q The SART investigation itself, does the 17:47:05
16 statewide PREA coordinator review all of the PREA 17:47:09
17 investigations? 17:47:14

18 A We have a system in SCRIBE that gives us 17:47:16
19 data points and summaries and access to the incident 17:47:24
20 report module where we can see what information they 17:47:27
21 provided and how they came to their conclusions. 17:47:35
22 But as far as looking at documents, such as witness 17:47:42
23 statements, medical forms, any other forms that 17:47:44
24 belong in the paper file, we would have to do that 17:47:46
25 at the site review. 17:47:48

1 And we do not look at the physical files 17:47:56
2 on every offender just because of manpower, 17:47:58
3 honestly. 17:48:01

4 Q Okay. What is the sort of timeline 17:48:03
5 between when a PREA allegation has reached a final 17:48:07
6 disposition and when the PREA unit reviews that 17:48:14
7 disposition to ensure compliance with the policy? 17:48:23

8 A Generally, if it is -- it does not contain 17:48:28
9 any criminal elements, a SART investigation can be 17:48:30
10 concluded within 30 days. There are those that do 17:48:36
11 linger a little further for different reasons. But 17:48:40
12 generally, it should be done within 30 days. 17:48:46

13 Q And then when would the SART unit take a 17:48:50
14 look at that to review it? 17:48:53

15 A After the conclusion of the investigation, 17:48:57
16 within that 30 days of the conclusion of the 17:49:00
17 investigation. 17:49:03

18 Q Okay. And, again, just to make sure that 17:49:09
19 I understand. There's some things you can't look 17:49:10
20 at, but what are the things that you do look at? 17:49:12

21 A I look at the incident itself. I look at 17:49:15
22 the type of allegation to make sure that the 17:49:18
23 definition -- the PREA definition matches the 17:49:22
24 category that they've put it under, such as 17:49:26
25 inmate-on-inmate assault, inmate-on-inmate 17:49:32

1 harassment, and staff-on-inmate assault, 17:49:36
2 staff-on-inmate harassment, sexual, of course, to 17:49:36
3 make sure they define it and put it in the real 17:49:42
4 categories. 17:49:44

5 If we read an investigation and I, or my 17:49:45
6 staff because my designees do this too, for all 17:49:49
7 three of us look at these investigations. If we 17:49:52
8 cannot determine how someone came to their 17:49:55
9 conclusion, then we send it back for more 17:49:57
10 information. 17:50:06

11 Q Okay. 17:50:06

12 Is it also a part of the policy that if an 17:50:07
13 offender reports a PREA allegation at a former 17:50:15
14 facility, that an investigation is required to be 17:50:21
15 initiated? 17:50:23

16 A Yes. 17:50:24

17 MS. LITTRELL: Okay. If we can take a 17:50:25
18 five-minute break, I'll review my notes. I 17:50:34
19 think that's all the questions I have. But 17:50:36
20 give me a chance just to make sure that that is 17:50:37
21 true. Let's go off the record. 17:50:40

22 VIDEOGRAPHER: Okay. It is 5:50 p.m. We 17:50:42
23 go off the record. 17:50:46

24 (A brief recess is had from 5:50 p.m. to 17:56:02
25 5:57 p.m.) 17:56:02

1 VIDEOGRAPHER: It is the beginning of 17:57:00
2 media number six of the testimony of Grace 17:57:01
3 Atchison. It is 5:57 p.m. We are back on the 17:57:03
4 record. 17:57:06

5 MS. LITTRELL: Ms. Atchison, I do not have 17:57:10
6 any more questions for you at this time. Your 17:57:12
7 attorney may have questions. There's another 17:57:14
8 attorney who's also representing another 17:57:16
9 defendant. He may have questions for you. And 17:57:18
10 I may have some follow-ups after that. But 17:57:20
11 right now, thank you very much for your time. 17:57:22
12 And I'll turn it over to Mr. Chalmers. 17:57:26

13 THE WITNESS: Thank you. 17:57:29

14 MR. HENEFELD: Ms. Atchison, I don't have 17:57:31
15 any questions. I represent Dr. Jackson. I 17:57:32
16 don't have any questions for you today. 17:57:35

17 THE WITNESS: Okay. 17:57:37

18 MR. HENEFELD: Thank you so much. 17:57:38

19 THE WITNESS: Thank you. 17:57:39

20 CROSS EXAMINATION 17:57:40

21 BY MR. CHALMERS: 17:57:41

22 Q I have just a few and hopefully it won't 17:57:41
23 take long. I wanted to clarify one point about the 17:57:43
24 policy 220.09, what we all called the transgender 17:57:51
25 policy earlier today. So that policy has a section 17:57:55

1 related to diagnostic process and a section related 17:58:01
2 to the non-diagnostic process. Do you remember the 17:58:03
3 questions about that? 17:58:06
4 A Yes. 17:58:09
5 Q So Ashley Diamond, as you know, went 17:58:10
6 through the diagnostic process; correct? She was 17:58:14
7 assessed when she came through GDCP? 17:58:17
8 A Yes. 17:58:21
9 Q Okay. And through that process, it was 17:58:22
10 determined that Diamond would be placed at Coastal 17:58:25
11 State Prison; correct? 17:58:28
12 A I believe the process initiated that she 17:58:35
13 would remain at GDCP until her permanent facility 17:58:37
14 was discussed, and then she was ultimately 17:58:45
15 transferred to Coastal where she is now. 17:58:49
16 Q Okay. What I'm getting at is what led to 17:58:52
17 that placement was the -- under 220.09, the 17:58:56
18 diagnostic process; is that right? Am I 17:59:01
19 understanding that right? 17:59:04
20 A Yes. 17:59:05
21 Q Okay. And then, as you understand policy 17:59:06
22 220.09 to work, then, once an offender like that has 17:59:10
23 gone through that process, then goes to the 17:59:15
24 facility, the permanent facility, is it your 17:59:18
25 understanding there would, again, be the same 17:59:21

1 process but just the non-diagnostic process? Or 17:59:24
2 would it be repeated, in other words? 17:59:30
3 A No. 17:59:32
4 Q Okay. That non-diagnostic process, 17:59:33
5 though, could be initiated if an offender first 17:59:37
6 self-reported, for example, as transgender after 17:59:41
7 intake? 17:59:46
8 A Correct. 17:59:48
9 Q After the initial determination whether a 17:59:56
10 transgender offender is placed at a male or female 18:00:02
11 facility, the process that's outlined in policy 18:00:05
12 220.09, is it correct that the Statewide 18:00:07
13 Classification Committee, from that point on, would 18:00:11
14 not have further involvement in placement of the 18:00:15
15 offender? 18:00:21
16 A Correct. 18:00:22
17 Q Would the facilities assistant 18:00:24
18 commissioner that you referred to who makes the 18:00:29
19 ultimate decision, would that level person have the 18:00:31
20 ability to assess placement of a transgender 18:00:35
21 offender at a different facility? 18:00:38
22 A At a different time? 18:00:40
23 Q Yes. 18:00:42
24 A Yes. 18:00:42
25 Q Would you, in your role as the PREA unit 18:00:48

1 person, or in your role on the SCC, would you be 18:00:52
2 involved in that later placement if one was made by 18:00:56
3 the assistant commissioner? 18:01:00
4 A No, not by policy, other than if he were 18:01:01
5 to reach out to me, but no. 18:01:07
6 Q You were asked about what circumstances 18:01:09
7 would lead to a finding of unfounded in a PREA 18:01:10
8 investigation. You're aware that Ashley Diamond 18:01:13
9 repeatedly refused to talk to the PREA team at 18:01:17
10 Coastal? 18:01:21
11 MS. LITTRELL: Objection, misstates the 18:01:22
12 facts. 18:01:24
13 BY MR. CHALMERS: 18:01:24
14 Q Are you aware of that? 18:01:31
15 A Can I answer? 18:01:32
16 Q Yes. 18:01:33
17 A Okay. Yes, I am aware of that. 18:01:36
18 Q What limitations does that place on the 18:01:41
19 investigating team? 18:01:42
20 A It's very difficult because really the 18:01:45
21 first step of investigating is to interview -- 18:01:51
22 conduct interviews, whether that be with the victim 18:01:56
23 or the aggressors, to get their account of what may 18:01:58
24 or may not occur. So when we don't know who that 18:02:04
25 is, it's a lot of investigation work to try to 18:02:07

1 figure out who it is. And sometimes we find it and 18:02:12
2 sometimes we don't. And if we cannot find out who 18:02:17
3 it is, it's almost impossible to do an effective 18:02:20
4 investigation. 18:02:25

5 Q Ashley Diamond's refusals to participate 18:02:34
6 in the investigation process, refusals to provide 18:02:37
7 information, would those be a basis for finding that 18:02:40
8 an allegation is unfounded? 18:02:45

9 A No. 18:02:47

10 MS. LITTRELL: Objection. 18:02:48

11 THE WITNESS: Oh. 18:02:49

12 MR. CHALMERS: Go ahead. 18:02:52

13 MS. LITTRELL: Objection, misstates the 18:02:53
14 record. 18:02:54

15 BY MR. CHALMERS: 18:02:54

16 Q Okay. You can answer. 18:02:54

17 A No. 18:02:56

18 Q Okay. But they would make it difficult or 18:02:56
19 impossible to substantiate an allegation? 18:03:04

20 A Yes. 18:03:07

21 MR. CHALMERS: Okay. Thank you, 18:03:14

22 Ms. Atchison. I don't think I have anything 18:03:15

23 further. And we will read and sign. 18:03:16

24 MS. LITTRELL: I have a few follow-up 18:03:21

25 questions or redirect questions. 18:03:21

1	REDIRECT EXAMINATION	18:03:26
2	BY MS. LITTRELL:	18:03:26
3	Q If a videotape existed that supported the	18:03:26
4	allegations of a PREA violation, would that be	18:03:36
5	evidence that could lead to either an	18:03:42
6	unsubstantiated or perhaps a substantiated PREA	18:03:45
7	violation, even if the victim was unwilling or	18:03:49
8	afraid to participate?	18:03:54
9	A Yes. If there was video evidence	18:04:00
10	corroborating that the allegation is true, that	18:04:02
11	would be a substantiated case.	18:04:06
12	Q And if there was an eye witness to a	18:04:11
13	sexual assault, would that also be another means in	18:04:16
14	which a PREA violation could be substantiated -- or	18:04:19
15	unsubstantiated without the victim providing	18:04:25
16	firsthand testimony?	18:04:31
17	A Yes.	18:04:36
18	Q What about a confession from an alleged	18:04:37
19	aggressor? Would that be evidence of -- that could	18:04:39
20	lead to a substantiated PREA allegation, even if the	18:04:45
21	victim was unwilling or afraid to participate in the	18:04:48
22	PREA process?	18:04:53
23	A It could. The way that we -- and the way	18:04:55
24	the PREA law is written is that there should be no	18:04:58
25	standard higher than the preponderance of evidence	18:05:03

1 in determining a disposition for a PREA case. So if 18:05:06
2 51 percent of the evidence is telling us it likely 18:05:12
3 occurred, we would also substantiate that. 18:05:15
4 If it's 40 -- 50 percent or below, that 18:05:19
5 would be -- lead us more to the path of 18:05:23
6 unsubstantiated. 18:05:29
7 Q And is requesting that an advocate be 18:05:31
8 present during the interview, is that considered not 18:05:34
9 participating? 18:05:50
10 Let me rephrase that. If an alleged 18:05:51
11 victim says that she would like to provide all of 18:05:53
12 the information with respect to the allegation, but 18:05:56
13 she would like to do so in a way that she feels safe 18:05:58
14 and protected, would that be considered not -- or 18:06:05
15 I'm sorry. Would that be considered refusing to 18:06:12
16 participate? 18:06:15
17 MR. CHALMERS: Objection, form. 18:06:20
18 You can answer. 18:06:21
19 THE WITNESS: Okay. I think I'm 18:06:22
20 understanding where this is in this particular 18:06:25
21 case. We can -- investigations are very 18:06:27
22 important that we get it as fast as we possibly 18:06:33
23 can so the information is new and fresh. And 18:06:36
24 waiting on an advocate or an attorney, per se, 18:06:38
25 to accompany the victim may hinder the 18:06:41

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Conducted on July 27, 2022

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1 investigation time frame. 18:06:45

2 MS. LITTRELL: Okay. That's all the 18:06:50

3 questions I have. 18:06:50

4 MR. CHALMERS: Thank you, Ms. Atchison. 18:06:55

5 So we will read and sign. 18:06:56

6 MS. LITTRELL: Let's go off the record, if 18:07:02

7 we could. 18:07:03

8 STENOGRAPHIC REPORTER: Jean-Louis, you're 18:07:13

9 on mute. 18:07:14

10 VIDEOGRAPHER: Sorry. 18:07:15

11 So I was saying that it is the end of the 18:07:24

12 testimony of Grace Atchison. It is 5:07 p.m. 18:07:26

13 We go off the record, 6:07 p.m. I'm sorry. 18:07:32

14 It's late. 18:07:36

15 STENOGRAPHIC REPORTER: Okay. Counsel, 18:07:39

16 same orders? 18:07:40

17 MS. LITTRELL: Yeah. We'll need a rough 18:07:42

18 on this one. And otherwise, standard delivery 18:07:44

19 should be fine. 18:07:48

20 STENOGRAPHIC REPORTER: Okay. 18:07:51

21 MR. CHALMERS: Same for me. Yeah. Same 18:07:54

22 for me. No video. Just a full and exhibits. 18:07:55

23 Thank you. 18:07:58

24 MR. HENEFELD: Same for me, as well. 18:08:00

25 STENOGRAPHIC REPORTER: Mr. Chalmers, 18:08:34

1 Mr. Henefeld, did you also want roughs? 18:08:35

2 MR. HENEFELD: No, I do not need a rough 18:08:38

3 draft. 18:08:40

4 MR. CHALMERS: No, not for me either. 18:08:40

5 Thank you. 18:08:41

6 (The reading and signing of the deposition 18:08:41

7 is not waived.) 18:08:41

8 (At 6:08 p.m. the deposition was 18:08:41

9 concluded.) 18:08:41

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1 State of Maryland

2 Baltimore City

3 I, Dawn A. Hillier, a Notary Public of the
4 State of Maryland, Baltimore City, do hereby certify
5 that the within-named witness personally appeared
6 before me at the time and place herein set out, and
7 after having been first duly sworn by me, according
8 to law, was examined by counsel.

9 I further certify that the examination was
10 recorded stenographically by me and this transcript
11 is a true record of the proceedings. I further
12 certify that I am not of counsel to any of the
13 parties, nor an employee of counsel, nor related to
14 any of the parties, nor in any way interested in the
15 outcome of the action.

16 As witness my hand and seal this 8th day of
17 August, 2022.

18
19 



20
21 Dawn A. Hillier

22
23 My Commission Expires August 14, 2022

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EXHIBIT 15



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Transcript of Grace Atchison

Date: September 15, 2022

Case: Diamond -v- Ward, et al.

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1 UNITED STATES DISTRICT COURT

2 MIDDLE DISTRICT OF GEORGIA

3 MACON DIVISION

4 -----X

5 ASHLEY DIAMOND, :

6 Plaintiff, :

7 v. :Civil Action No:

8 :5:20-CV-00453-MTT

9 TIMOTHY WARD, et al., :

10 Defendants. :

11 -----X

12 DEPOSITION OF GRACE ATCHISON

13 APPEARING REMOTELY FROM MILLEDGEVILLE, GEORGIA

14 THURSDAY, SEPTEMBER 15, 2022

15 10:00 A.M. EST

16
17
18
19
20
21
22
23 Job No.: 460228

24 Pages 1 - 253

25 Reported by: Adrienne Mignano, RPR

Transcript of Grace Atchison

September 15, 2022

2

1 Deposition of GRACE ATCHISON, held via Zoom
2 videoconferencing, pursuant to Notice, before Adrienne
3 M. Mignano, a Notary Public and Registered
4 Professional Reporter in and for the State of New
5 York.

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

ELIZABETH LITTRELL, ESQUIRE

SOUTHERN POVERTY LAW CENTER

150 E. Ponce de Leon Avenue

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404.221.5876

ON BEHALF OF DEFENDANTS:

ROGER A. CHALMERS, ESQUIRE

STATE LAW DEPARTMENT

40 Capitol Square SW

Atlanta, Georgia 30334

404.458.3220

1 A P P E A R A N C E S (Continued)

2

3 ON BEHALF OF DEFENDANT - DR. JAVEL JACKSON

4 PAUL HENEFELD, ESQUIRE

5 HENEFELD & GREEN PC

6 3017 Bolling Way NE

7 Suite 129

8 Atlanta, Georgia 30305

9 404.841.1275

10

11 ALSO PRESENT:

12 Robert Leonard - Videographer

13 Brennan Plummer - Remote Technician

14

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Transcript of Grace Atchison

September 15, 2022

5

1 C O N T E N T S

2 EXAMINATION OF GRACE ATCHISON PAGE

3 By Ms. Littrell 9

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6 E X H I B I T S

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10 Exhibit 2 GDC Sexual Allegation Response Checklist 57

11 Exhibit 3 PREA Investigative Summary 64

12 Exhibit 4 Georgia Department of Corrections SOP 208.06

13 Exhibit 5 Letter dated 5-20-20 93

14 Exhibit 6 SCC Referral Form 108

15 Exhibit 7 E-mail dated 6-5-20 from JPay Services to PREA 112

16 Exhibit 8 SCC Interview with Offender form, page 2 of 3 115

17 Exhibit 9 Letter dated July 20, 2020 121

18 Exhibit 10 E-mail chain, top e-mail dated 7-27-20 123

19 Exhibit 11 Supplemental Report dated 7-3-20 131

20 Exhibit 12 PREA Initial Notification dated 7-3-20 38

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24 Exhibit 16 E-mail chain, top e-mail dated 9-30-20 167

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Earl Thigpen

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Exhibit 24 Georgia Department of Corrections SOP 220.09	245

Transcript of Grace Atchison

September 15, 2022

7

1 REMOTE TECH: Thank you to everyone
2 for attending this proceeding remotely, which we
3 anticipate will run smoothly. Please remember
4 to speak slowly and do your best not to talk
5 over one another.

6 Please be aware that we are recording
7 this proceeding for backup purposes. Any
8 off-the-record discussions should be had away
9 from the computer. Please remember to mute your
10 mic for those conversations.

11 Please have your video enabled to
12 help the reporter identify who is speaking. If
13 you are unable to connect with video and are
14 connecting via phone, please identify yourself
15 each time before speaking.

16 I apologize in advance for any
17 technical-related interruptions. Thank you.

18 THE VIDEOGRAPHER: Here begins Video 10:00:04
19 File Number 1 in the video deposition of Grace 10:00:05
20 Atchison in the matter of Diamond versus Ward, 10:00:08
21 et al., in the United States District Court for 10:00:11
22 the District of Georgia, Macon Division, Case 10:00:14
23 Number 5:20-cv-00453-MTT. 10:00:17

24 Today's date is September 15th, 2022. 10:00:24
25 The time on my video monitor is 10:00 a.m. 10:00:28

Transcript of Grace Atchison

September 15, 2022

8

1	Eastern Time.	10:00:32
2	My name is Robert Leonard. I'm the	10:00:33
3	video specialist. I represent Planet Depos.	10:00:35
4	This deposition is being taken via Zoom online.	10:00:39
5	Will counsel please identify	10:00:41
6	themselves verbally and state who they	10:00:43
7	represent.	10:00:45
8	MS. LITTRELL: Beth Littrell	10:00:47
9	representing the plaintiff, Ashley Diamond.	10:00:48
10	MR. HENEFELD: Paul Henefeld,	10:00:52
11	representing defendant Jackson.	10:00:52
12	MR. CHALMERS: Roger Chalmers,	10:00:56
13	representing the deponent Grace Atchison and all	10:00:57
14	of the other named defendants other than	10:01:01
15	Dr. Jackson.	10:01:03
16	THE VIDEOGRAPHER: The court reporter	10:01:04
17	today is Adrienne Mignano, she also represents	10:01:05
18	Planet Depos.	10:01:08
19	Will the court reporter please swear	10:01:08
20	in the witness.	10:01:11
21		
22		
23		
24		
25		

Transcript of Grace Atchison

September 15, 2022

9

1 Whereupon, 10:01:12
2 GRACE ATCHISON, 10:01:12
3 being first duly sworn or affirmed to testify to 10:01:12
4 the truth, the whole truth, and nothing but the 10:01:12
5 truth, was examined and testified as follows: 10:01:12
6 EXAMINATION BY COUNSEL FOR THE PLAINTIFF 10:01:12
7 BY MS. LITTRELL: 10:01:26
8 Q Good morning, Ms. Atchison. Thank 10:01:26
9 you for joining us again. I know we've met 10:01:28
10 before. But for the record, I'm going to go 10:01:32
11 ahead and introduce myself. My name is Beth 10:01:33
12 Littrell. I'm with the Southern Poverty Law 10:01:35
13 Center and I represent the plaintiff, Ashley 10:01:37
14 Diamond. 10:01:40
15 Can you say your name and spell it 10:01:40
16 for the court reporter. 10:01:42
17 A Grace Atchison. G-R-A-C-E and 10:01:45
18 A-T-C-H-I-S-O-N. 10:01:50
19 Q Thank you. And it appears that you 10:01:56
20 are testifying from the same place that you were 10:01:58
21 testifying before with the great wood 10:02:02
22 background. Is that your home? 10:02:05
23 A It is, yes. 10:02:06
24 Q And where -- what city is that in? 10:02:08
25 A Milledgeville. 10:02:11

Transcript of Grace Atchison

September 15, 2022

10

1 Q And so I know we've run down this 10:02:13
2 list before, but for the record and just as a 10:02:15
3 reminder, because we're taking the deposition 10:02:18
4 remotely and depositions in general have some 10:02:21
5 rules, I just want to remind you of those and 10:02:24
6 get your agreement. All of your answers have to 10:02:27
7 be verbal. Will you agree to give your answers 10:02:31
8 verbally, no head shakes or nods or uh-uhs, that 10:02:35
9 sort of thing? Will you give it your best shot? 10:02:38
10 A Yes. 10:02:41
11 Q Okay. We have to be very mindful not 10:02:43
12 to speak over each other because we actually cut 10:02:45
13 each other off because it's video, and so I'm 10:02:48
14 going to do my best not to interrupt you. Will 10:02:51
15 you agree to wait for me to finish my question 10:02:54
16 before you start your answer? 10:02:57
17 A Yes. 10:02:58
18 Q And if you don't understand my 10:02:59
19 question, will you tell me? 10:03:00
20 A Yes. 10:03:01
21 Q If you answer the question, I'll 10:03:03
22 presume that you understand it, so let me know 10:03:07
23 if you don't understand my question. Will you 10:03:11
24 agree to keep your camera at this angle and on 10:03:14
25 during the deposition? 10:03:18

Transcript of Grace Atchison

September 15, 2022

11

1	A	Yes.	10:03:19
2	Q	And you understand that this video	10:03:19
3		is -- this deposition is being recorded, right?	10:03:21
4	A	Yes.	10:03:25
5	Q	And that it can be used in this case	10:03:25
6		and at trial?	10:03:27
7	A	Yes.	10:03:29
8	Q	Do you agree not to communicate with	10:03:32
9		anyone else by any means while we're on the	10:03:34
10		record?	10:03:37
11	A	Yes.	10:03:38
12	Q	Do you have any other programs or	10:03:38
13		electronic devices up or in the room?	10:03:40
14	A	I need to turn my cell phone off --	10:03:47
15		both of my phones. And then that will be it.	10:03:49
16		Okay, that one is off. Okay.	10:03:52
17	Q	And no e-mail programs or anything	10:03:59
18		like that that will pop up?	10:04:03
19	A	Let me close these out real quick.	10:04:04
20	Q	Thank you.	10:04:07
21	A	Okay. The only thing on my screen is	10:04:20
22		Zoom at this point.	10:04:26
23	Q	Perfect. If for some reason some	10:04:27
24		Internet robot pops in, pops up, will you let me	10:04:30
25		know that something has just popped up on your	10:04:32

Transcript of Grace Atchison

September 15, 2022

12

1 screen? 10:04:34

2 A I will. 10:04:34

3 Q And if someone comes into the room, I 10:04:35

4 presume that you -- you may, I don't know. Do 10:04:39

5 you have family in the house with you right now? 10:04:41

6 A No, I'm here by myself. But at 10:04:43

7 5:00-ish is when they start coming. 10:04:46

8 Q Okay. Well, if for some reason 10:04:48

9 somebody walks in the room, just let us know. 10:04:50

10 We'll go off the record for a minute and let you 10:04:51

11 take care of business. Will you promise to do 10:04:55

12 that? 10:04:57

13 A I will. I do. 10:04:57

14 Q And then the last thing, if you start 10:05:00

15 to have any connection issues, will you agree -- 10:05:03

16 like an audio lag or a video freeze either on my 10:05:05

17 side or if you know it's on your side, will you 10:05:10

18 agree to let us know? 10:05:12

19 A Yes. 10:05:14

20 Q And then just if you lose connection 10:05:14

21 or anything, get in touch with your attorney and 10:05:16

22 he will make sure that you get the proper link 10:05:19

23 to get back online. 10:05:21

24 All right. So at the beginning of 10:05:23

25 this, you took -- agreed to the oath that was 10:05:24

Transcript of Grace Atchison

September 15, 2022

13

1 provided to you. Do you remember doing that -- 10:05:30

2 A Yes. 10:05:33

3 Q -- at the beginning of this? Yes. 10:05:33

4 Is there any reason that you would 10:05:35

5 not be able to give complete, honest answers to 10:05:36

6 my questions today? 10:05:39

7 A No, not that I am aware of. 10:05:40

8 Q Okay. You haven't been drinking this 10:05:45

9 morning or on any medications, anything like 10:05:47

10 that? 10:05:49

11 A No. 10:05:50

12 Q Okay. So let's just start with a 10:05:50

13 clear understanding of your position. What is 10:05:55

14 the title of your position, your current 10:05:59

15 position at Georgia Department of Corrections? 10:06:02

16 A I am the statewide PREA coordinator. 10:06:04

17 Q And how long have you been in that 10:06:09

18 position? 10:06:10

19 A Since 2017, about five years this 10:06:11

20 month. 10:06:20

21 Q And before you became the PREA -- 10:06:21

22 statewide PREA coordinator, did you have any 10:06:22

23 other position at Georgia Department of 10:06:26

24 Corrections? 10:06:29

25 A Yes. I have -- prior to being the 10:06:29

Transcript of Grace Atchison

September 15, 2022

14

1 PREA coordinator, I worked in facilities 10:06:33
2 operations under developmental assignment for 10:06:36
3 special projects, and before that I worked 10:06:40
4 inside the facility, mainly doing administrative 10:06:42
5 work. 10:06:46

6 Q Okay. Before you became the PREA 10:06:48
7 coordinator -- the statewide PREA coordinator, 10:06:55
8 the roles -- the positions that you just talked 10:06:55
9 about, did they have any connection to PREA and 10:06:58
10 enforcing PREA? 10:07:07

11 A Reporting information for our COMSAT 10:07:09
12 reports, but as far as digging deep into PREA, 10:07:13
13 my position did not do that. 10:07:16

14 Q And so how long, collectively, were 10:07:20
15 you in the roles that you described before you 10:07:23
16 became the PREA statewide coordinator? 10:07:28

17 A I have 22 years of service. For 10:07:30
18 developmental assignment, I believe that was a 10:07:40
19 five-year -- from 2012 to 2017, I believe, was a 10:07:43
20 five-year position. And before that, I was at 10:07:49
21 Baldwin state prison doing administrative work. 10:07:54

22 MR. CHALMERS: Everyone, I'm sorry to 10:07:59
23 interrupt. If I shut down and go off screen, 10:08:02
24 can you hold on for me. I'm getting a message 10:08:04
25 my computer is going to restart. I think I can 10:08:07

Transcript of Grace Atchison

September 15, 2022

15

1 stop it, but if it goes off, please don't go on 10:08:11
2 without me and I'll join right back in. Thank 10:08:18
3 you. 10:08:20

4 MS. LITTRELL: Okay. 10:08:20

5 Q Ms. Atchison, in the position at -- 10:08:21
6 you said at Baldwin was an administrative 10:08:24
7 position. Did that -- what was that title? You 10:08:27
8 may have said it and I apologize. 10:08:30

9 A It was the warden's secretary. 10:08:32

10 Q I see, okay. Did you ever serve in 10:08:35
11 the role of PREA compliance manager at any 10:08:38
12 facility? 10:08:41

13 A No. 10:08:41

14 Q What training were you provided, 10:08:43
15 either before or when you became the PREA -- 10:08:44
16 statewide PREA compliance manager, if any? 10:08:50

17 A Sharon Shaver was the PREA 10:08:56
18 coordinator at the time. She is the one that 10:08:59
19 developed the policies and implemented PREA 10:09:01
20 initially when it -- the standards came out. 10:09:05
21 And she trained me one on one with -- and then 10:09:08
22 our basic PREA training, of course. 10:09:13

23 Q And how long did you get trained by 10:09:16
24 Ms. Shaver? 10:09:20

25 A It was an ongoing training so I would 10:09:24

1 say the full time. She retired last year so I 10:09:27
2 would say four years because any time something 10:09:30
3 came up, I would ask her or -- and she would 10:09:34
4 clarify for me. So it was an ongoing. 10:09:39

5 Q So was that before you were the 10:09:42
6 statewide PREA coordinator, you were getting 10:09:45
7 trained by her in the four years prior, or was 10:09:48
8 that four years after you got the PREA job? 10:09:50

9 A Four years after. 10:09:53

10 Q Okay. Do you have any other 10:09:56
11 qualifications that you think prepared you for 10:09:59
12 this role, either in terms of certifications or 10:10:03
13 education, anything like that that you can 10:10:07
14 share? 10:10:09

15 A Education-wise, I have a degree in 10:10:12
16 English literature and secondary education, but 10:10:16
17 mostly what's prepared me for this role is being 10:10:20
18 in a facility and being with corrections for 22 10:10:23
19 years. 10:10:26

20 Q Okay. In terms of preparing for this 10:10:28
21 deposition -- for the prior deposition where we 10:10:34
22 met before, what percentage of time, as the 10:10:39
23 statewide PREA coordinator, would you say you've 10:10:43
24 spent preparing to answer questions about GDC 10:10:47
25 transgender classification policy, the PREA 10:10:51

1 policies, and how those policies were applied to 10:10:54
2 Ashley Diamond this year, 2022? What percentage 10:10:56
3 of time? 10:11:00
4 MR. CHALMERS: Objection. Form. You 10:11:02
5 can answer. 10:11:03
6 A Quite a bit. I mean, I don't know 10:11:06
7 that I can put a time frame on it. Depositions, 10:11:08
8 information gathering, if I could estimate it, 10:11:14
9 maybe a month. But I really don't know. 10:11:20
10 Q What I'm trying to clarify, you know, 10:11:25
11 is there was -- the number 30 is some testimony 10:11:27
12 that you gave before, 30 percent of your time -- 10:11:35
13 A Okay. 10:11:40
14 Q -- it's been said, sort of preparing 10:11:40
15 on this case. I don't want to put words in your 10:11:40
16 mouth. I just want to make sure that that's 10:11:42
17 accurate. So would you say that that's 10:11:44
18 accurate, about 30 percent of your time has been 10:11:46
19 spent on this case over the past few years? 10:11:48
20 A I would say that's fair. 10:11:51
21 Q Okay. 10:11:53
22 A Yes. 10:11:53
23 Q Have you discussed Ms. Diamond's 10:11:59
24 sexual assaults and sexual abuse allegations 10:12:02
25 with Dr. Jackson? 10:12:06

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1 A Not that I recall. 10:12:13

2 Q What about Dr. Lewis? 10:12:16

3 A Not specifically Diamond that I can 10:12:22

4 recall. 10:12:27

5 Q Okay. What about Ahmed Holt? 10:12:29

6 A No. 10:12:32

7 Q Did you speak with Commissioner Ward 10:12:36

8 about Ms. Diamond's sexual assault and sexual 10:12:38

9 abuse allegations? 10:12:41

10 A No. 10:12:42

11 Q Did you ever talk to Warden Benton 10:12:44

12 about Ms. Diamond's sexual assault allegations? 10:12:46

13 A Yes, just to ensure that the 10:12:50

14 investigations were completed. If the 10:12:52

15 allegations came into my office, I would filter 10:12:54

16 it back down to Mr. Benton and his team. 10:12:59

17 Q And would the same be true for Warden 10:13:02

18 Ford? Did you ever communicate with him about 10:13:04

19 Ms. Diamond's PREA allegations? 10:13:08

20 A Oh, at GDCP, it would be the same 10:13:11

21 situation as Mr. Benton, yes, through making 10:13:14

22 sure an investigation was completed. 10:13:17

23 Q Okay. I want to talk a little bit 10:13:20

24 about the transgender classification and housing 10:13:22

25 policy, 220.09. Are you familiar with that 10:13:26

1	policy?	10:13:32
2	A Yes.	10:13:33
3	Q Okay. And do you agree that we can	10:13:33
4	reference it as transgender policy?	10:13:36
5	A Yes.	10:13:39
6	Q Just for shorthand, and we'll know	10:13:40
7	what each other are talking about.	10:13:42
8	At some point you received a grant to	10:13:43
9	hire a third-party experienced PREA team to help	10:13:49
10	create this policy. Did I get that right?	10:13:54
11	A Correct. The Moss Group.	10:13:57
12	Q Okay. And were they -- did they	10:14:01
13	draft the policy or were they consultants? Tell	10:14:04
14	me what their role was.	10:14:09
15	A Both consultant and drafting of the	10:14:10
16	policy. We had PAT teams, which is a Process	10:14:13
17	Action Team, from their -- from The Moss Group's	10:14:17
18	organization as well as GDC, subject matter	10:14:23
19	experts.	10:14:27
20	Q And so the PAT all worked together or	10:14:29
21	the PAT was a GDC group that interacted with	10:14:32
22	Moss consulting?	10:14:39
23	A Really, I was the point of contact	10:14:40
24	for The Moss Group, myself and my analyst	10:14:43
25	Chester Hofer, from PREA, but we would	10:14:49

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1 occasionally have meetings with the entire group 10:14:52

2 to go over the policy and make any 10:14:55

3 recommendations or changes or approvals. 10:14:59

4 Q And was The Moss Group a -- did you 10:15:03

5 consider them to have expertise in corrections 10:15:08

6 policies? 10:15:12

7 A Yes. 10:15:14

8 Q And in choosing The Moss Group, were 10:15:15

9 you provided information that they had 10:15:19

10 particular expertise around transgender and 10:15:24

11 intersex offenders and policy with relation 10:15:27

12 thereto? 10:15:31

13 A Yes. I believe with the contract, we 10:15:31

14 had to -- we had for them to give us examples of 10:15:33

15 previous work. So all of that was considered 10:15:37

16 when choosing the candidate. 10:15:40

17 Q Okay. And through this process, did 10:15:44

18 The Moss Group advise that decisions about where 10:15:50

19 to place transgender people should be made by a 10:15:54

20 multidisciplinary committee? 10:15:57

21 A Yes. 10:15:59

22 Q And that resulted in what we see in 10:16:01

23 the transgender policy referenced as the 10:16:03

24 Statewide Classification Committee? 10:16:07

25 A I'd like to rephrase that a little 10:16:09

1 bit. Not decisions -- recommendations. The 10:16:11
2 final decision would have been the 10:16:14
3 commissioner's designee. 10:16:16
4 Q But it's true that The Moss Group 10:16:22
5 advised that there should be a committee that is 10:16:25
6 comprised of different department heads who 10:16:33
7 recommend and otherwise provide information to 10:16:41
8 help inform that final decision; is that 10:16:43
9 accurate? 10:16:46
10 A Yes. 10:16:47
11 Q Okay. And that includes somebody 10:16:47
12 from the medical department, right? 10:16:52
13 A Yes. 10:16:54
14 Q Someone from the mental health 10:16:55
15 department? 10:16:57
16 A Yes. 10:16:57
17 Q And someone from the PREA unit, 10:16:58
18 right? 10:16:59
19 A Yes. 10:16:59
20 Q And what did you understand the role 10:17:03
21 of the PREA unit to be in relation to the 10:17:04
22 Statewide Classification Committee and housing 10:17:11
23 decisions? 10:17:14
24 A We interviewed the GDCP, usually, but 10:17:15
25 whoever notified us that they had an offender 10:17:22

1 that identified as transgender would send the 10:17:26
2 information to the PREA unit, and we would 10:17:29
3 interview the offender and complete our portion 10:17:31
4 of that classification form. And then we would 10:17:34
5 forward it on to the next committee member. 10:17:38

6 Q Okay. Did the PREA unit have any 10:17:42
7 other role with respect to housing decisions for 10:17:46
8 a transgender or an intersex offender other than 10:17:48
9 the initial statewide classification 10:17:52
10 recommendation? 10:17:55

11 A No. 10:17:56

12 Q To your knowledge, was Commissioner 10:18:02
13 Ward involved in the creation of the policy? 10:18:03

14 A I recall him being at one meeting, I 10:18:08
15 believe, but as far as the detailed work, no. 10:18:12

16 Q Do you know whether he reviewed it, 10:18:19
17 the policy? 10:18:25

18 A I believe in -- if I -- I believe 10:18:25
19 that the meeting he attended was the final draft 10:18:28
20 of the policy. 10:18:32

21 Q Do you recall whether he made any 10:18:34
22 recommendations for revisions or had any 10:18:37
23 concerns with the policy? 10:18:40

24 A I don't recall. 10:18:41

25 Q And is it your understanding, based 10:18:48

1 on the interactions with The Moss Group in 10:18:51
2 developing the transgender policy, that the 10:18:54
3 Statewide Classification Committee served a 10:18:58
4 substantive role? Do you know what I mean by 10:19:05
5 that? They weren't just a formality. There was 10:19:08
6 a need for that. Is that right? 10:19:11
7 A Yes. 10:19:14
8 MR. CHALMERS: Objection. Form. 10:19:20
9 THE WITNESS: Oh, sorry. 10:19:21
10 Q And that's true, would you say, for 10:19:25
11 the policy itself, that it serves a need and 10:19:26
12 that it's -- as opposed to being an 10:19:32
13 administrative kind of checklist? 10:19:35
14 A Yes. 10:19:41
15 MR. CHALMERS: Same -- Ms. Atchison, 10:19:42
16 if you can just give me a little bit of time -- 10:19:43
17 THE WITNESS: Okay. 10:19:50
18 MR. CHALMERS: -- in case I do have 10:19:50
19 objection but ... same objection as to form. 10:19:52
20 Q And the reason for the policy, as I 10:19:54
21 understand it, so please correct me, was to 10:19:57
22 ensure that transgender and intersex offenders 10:20:00
23 are safely housed; is that right? 10:20:04
24 A Partially, yes. Another piece of 10:20:08
25 that was we wanted to make sure that we were 10:20:11

1 following the PREA standard and considering 10:20:14
2 their own perception of sexual safety for their 10:20:18
3 housing. And we also wanted to make sure that 10:20:22
4 we had a process in place where they weren't 10:20:25
5 being overlooked, that we actually did look at 10:20:29
6 them individually to make a housing decision. 10:20:33
7 Q So is it fair to say that following 10:20:36
8 this policy is important to achieve the 10:20:39
9 objectives? 10:20:42
10 A Yes. 10:20:44
11 Q Does this policy dictate whether or 10:20:47
12 not a transgender person in GDC care can get 10:20:50
13 items that they may need to treat symptoms of 10:20:57
14 gender dysphoria? 10:21:00
15 A That would -- I believe the reason -- 10:21:02
16 how we handle that is we refer it to the policy 10:21:08
17 on any mental health policies as far as that's 10:21:14
18 concerned, and then at that point the mental 10:21:18
19 health subject matter experts would take over 10:21:20
20 that. 10:21:23
21 Q Okay. But the policy itself doesn't 10:21:23
22 create a bar or a prohibition on providing 10:21:26
23 whatever treatments someone who is suffering 10:21:33
24 from gender dysphoria needs; is that right? 10:21:38
25 A No. 10:21:40

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1 MR. CHALMERS: Objection. 10:21:42

2 THE WITNESS: Oh, sorry. 10:21:42

3 A No. 10:21:42

4 Q Do you recall Ms. Diamond explaining 10:21:46

5 to you, in your initial meeting with her, that 10:21:49

6 she was having problems because she was having 10:21:52

7 facial hair and that she was a wreck because of 10:21:58

8 that? Do you remember that initial conversation 10:22:03

9 that was recorded? 10:22:05

10 A Yes. 10:22:08

11 Q Do you remember her talking about the 10:22:09

12 fact that she had facial hair was causing her -- 10:22:11

13 what she said -- she said that she was a wreck. 10:22:15

14 Do you remember that? 10:22:18

15 A I recall her having issues. Saying 10:22:19

16 she was having issues, yes. 10:22:22

17 Q And do you recall that you identified 10:22:25

18 that as being a mental health concern and that 10:22:29

19 she should talk to her mental health provider 10:22:34

20 about that? Do you remember that? 10:22:37

21 A Yes. 10:22:40

22 Q Where -- and you identified, and I 10:22:43

23 would say correctly, that that could be a 10:22:46

24 symptom of gender dysphoria. And I will go 10:22:49

25 ahead and, you know, say you also acknowledged 10:22:52

1 that you are not a health professional, and I'm 10:22:54
2 wondering -- does that sound right? Do you 10:22:59
3 remember that at all? 10:23:01
4 A Yes. 10:23:02
5 MR. CHALMERS: Objection. Form. 10:23:03
6 A Yes. 10:23:04
7 Q My question is how did you gain that 10:23:05
8 general knowledge about gender dysphoria? When 10:23:09
9 was that information gained? 10:23:12
10 A I don't recall. 10:23:17
11 Q Okay. Could it have been in 10:23:20
12 conversations in the process of drafting this 10:23:21
13 policy with The Moss Group? 10:23:25
14 A I would say yes and then also, any 10:23:29
15 policy that we referenced, I tried to make sure 10:23:33
16 that I was at least knowledgeable of some of the 10:23:36
17 policies that we reference. 10:23:42
18 Q Are you aware of any process that's 10:23:44
19 laid out in the transgender policy in which 10:23:50
20 treatment recommendations from a mental health 10:23:55
21 provider to treat gender dysphoria gets 10:23:58
22 communicated to the facilities division or 10:24:01
23 department? 10:24:05
24 A I do not. 10:24:07
25 Q You -- okay. 10:24:12

1	A	I'm not aware of that. That is not	10:24:12
2		my field.	10:24:15
3	Q	Okay. Do you recall -- or is it true	10:24:18
4		that there is no reference to how mental health	10:24:21
5		or medical treatment providers communicate their	10:24:29
6		treatment recommendations to the facilities	10:24:35
7		division in the policy itself?	10:24:38
8	MR. CHALMERS:	Objection.	10:24:44
9	MR. HENEFELD:	Objection to form.	10:24:44
10	Q	Do you understand the question,	10:24:45
11		Ms. Atchison?	10:24:46
12	A	Yes. I was waiting on them. But no,	10:24:50
13		I'm not aware of the process so I can't answer	10:24:52
14		that question.	10:24:55
15	Q	Okay. If a medical provider or a	10:24:55
16		mental health provider determined that it was	10:25:03
17		medically necessary for a transgender woman to	10:25:07
18		be able to shave more frequently, what policy or	10:25:11
19		practice are you aware of that would ensure that	10:25:16
20		the facility division became aware of that	10:25:24
21		recommendation?	10:25:29
22	MR. HENEFELD:	Same objection.	10:25:32
23	MR. CHALMERS:	Same objection.	10:25:33
24	A	Again, that would be, I guess, on an	10:25:35
25		individual basis handled by that particular	10:25:39

1 department, but I don't know. 10:25:43

2 Q You don't know. Okay. Are you 10:25:46

3 familiar with the term "cisgender"? And I'm 10:25:51

4 going to spell that for the court reporter just 10:25:54

5 in case. It's C-I-S-G-E-N-D-E-R, all one word. 10:25:58

6 Are you familiar with that term, Ms. Atchison? 10:26:02

7 A I believe that means traditionally 10:26:05

8 I'm a female -- if I was born a female, I'm a 10:26:13

9 female, correct? 10:26:18

10 Q So the -- my understanding of 10:26:20

11 cisgender and how I would like to define it for 10:26:21

12 our conversation, it is a person assigned the 10:26:25

13 sex of female at birth whose gender identity 10:26:28

14 aligns with that sex designation. 10:26:32

15 A Yes. 10:26:35

16 Q Which is the opposite of a 10:26:36

17 transgender woman. 10:26:38

18 A Yes. 10:26:42

19 Q Does that make sense now? Yeah. 10:26:42

20 A Uh-huh. 10:26:43

21 Q So a transgender woman would be a 10:26:44

22 person who was assigned male at birth but whose 10:26:47

23 gender identity does not align with that sex 10:26:51

24 designation. Are we on the same page now? 10:26:54

25 A Correct. 10:26:57

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1 Q Okay. So here's my question. Do you 10:26:58
2 agree that it would be inappropriate to house a 10:27:00
3 cisgender woman in a men's prison? 10:27:03
4 MR. CHALMERS: Objection. Form. 10:27:08
5 A Yes. 10:27:13
6 Q And is that based on your experience 10:27:15
7 as a PREA statewide coordinator? 10:27:20
8 A Yes. I would say that the purpose of 10:27:23
9 PREA is to ensure the sexual safety of 10:27:29
10 everybody, of all of our offenders. So yes, 10:27:33
11 that would be one reason. 10:27:38
12 Q Do you agree that it would create an 10:27:40
13 unacceptable risk of sexual assault to place a 10:27:42
14 cisgender woman in a men's prison? 10:27:46
15 MR. CHALMERS: Objection. 10:27:51
16 A Yes. 10:27:53
17 Q So if a cisgender woman was assigned 10:27:56
18 to a men's facility, by accident or otherwise, 10:28:01
19 what actions could be taken to reduce her risk 10:28:05
20 of sexual assault and sexual harassment from 10:28:08
21 male inmates? 10:28:12
22 A That would -- 10:28:16
23 MR. CHALMERS: Objection. Form. 10:28:18
24 THE WITNESS: Okay. 10:28:18
25 MR. CHALMERS: Objection. Form. You 10:28:18

1 can answer. 10:28:20

2 A That would initially be decided by 10:28:20

3 our offender administration unit for initial 10:28:25

4 housing and also for any transfers. 10:28:30

5 Q So in terms of actions that could be 10:28:35

6 taken to reduce the risk, is transfer to a 10:28:38

7 women's facility one of the actions that could 10:28:41

8 be taken to reduce the risk of sexual assault? 10:28:43

9 A Yes. 10:28:47

10 Q Are there safe dorms or safe beds 10:28:50

11 designated in what I understand is called a 10:28:53

12 local PREA compliance directive? Are you 10:28:56

13 familiar with that? 10:28:59

14 A Yes. We have been training to get 10:29:01

15 the -- to get staff not to use those specific 10:29:05

16 terms because it implies that, of course, other 10:29:11

17 dormitories are not safe dorms. But we do refer 10:29:18

18 to it as safe housing. 10:29:21

19 Q Okay. And my understanding is that 10:29:24

20 in some document -- a PREA-related document as 10:29:26

21 to each facility, there is a designated safe 10:29:34

22 dorm -- I don't know if there is one, but 10:29:38

23 there's at least one designated safe dorm; is 10:29:41

24 that right? 10:29:44

25 A There should be, yes, in their 10:29:47

1 coordinated response plan. 10:29:50

2 Q And are there also safe PREA -- in 10:29:52

3 the PREA plan as to each facility, safe beds 10:29:55

4 designated? 10:30:01

5 A Again, as safe housing is -- because 10:30:05

6 it could be a bed, it could be a dorm, it could 10:30:09

7 be a spot closer to the officer station, maybe 10:30:12

8 where a camera is located. So it would be 10:30:18

9 different in every facility, but yes, they 10:30:21

10 should have identified areas. 10:30:23

11 Q And so ensuring that a cisgender 10:30:25

12 woman who was housed with men was placed in one 10:30:30

13 of those safe dorms or safe beds would be -- 10:30:33

14 would you agree that that is another way that 10:30:36

15 potentially her risk of sexual assault would be 10:30:39

16 reduced? 10:30:42

17 A Yes. 10:30:43

18 Q Would ensuring that her doors locked 10:30:46

19 from the inside when there was not a 10:30:49

20 correctional officer available to monitor the 10:30:51

21 door be another way in which she -- we could 10:30:54

22 reduce her risk of sexual assault in a men's 10:30:59

23 housing facility? 10:31:02

24 MR. CHALMERS: Objection. 10:31:04

25 A That question I would refer to 10:31:06

1	facilities operations and security keys and	10:31:08
2	locks. I'm not an expert on that.	10:31:11
3	Q You're an expert on reducing sexual	10:31:14
4	assault in prisons; is that true?	10:31:17
5	MR. CHALMERS: Objection.	10:31:19
6	A Yes.	10:31:19
7	Q Okay.	10:31:19
8	MR. CHALMERS: Objection. And just	10:31:20
9	for the record, Counsel, there has been no	10:31:20
10	expert designation of any kind as you just	10:31:29
11	mentioned.	10:31:32
12	THE REPORTER: I'm sorry, I didn't	10:31:32
13	hear her answer.	10:31:32
14	MS. LITTRELL: What is the last	10:31:32
15	answer that you heard Ms. Atchison say?	10:31:32
16	(Record read.)	10:31:32
17	THE WITNESS: All right. I'm not	10:31:32
18	sure. Roger, I mean --	10:31:32
19	MR. CHALMERS: I've made my	10:32:16
20	objection. You can go ahead and answer. My	10:32:16
21	objection is simply there's been no designation	10:32:16
22	of you as an expert witness in the case and so	10:32:17
23	you are not designated as an expert, but you can	10:32:19
24	answer the question --	10:32:19
25	THE WITNESS: Okay.	10:32:20

1 MR. CHALMERS: -- as best you 10:32:20
2 understand it. 10:32:20
3 A I feel like I am a subject matter 10:32:20
4 expert. 10:32:24
5 Q Thank you. And so based on that 10:32:25
6 expertise, that knowledge, setting aside whether 10:32:28
7 or not the facility itself has those locks or 10:32:33
8 mechanisms, would you agree that ensuring that a 10:32:38
9 cisgender woman who is housed with men had the 10:32:45
10 ability to lock the cell from the inside when 10:32:48
11 COs weren't in the dorm is a way to reduce her 10:32:51
12 risk of sexual assault? 10:32:55
13 MR. CHALMERS: Objection. This is 10:32:58
14 asked and answered. 10:32:58
15 Q Go ahead, Ms. Atchison. 10:33:02
16 A Yes. 10:33:03
17 Q Yeah. And would allowing a cisgender 10:33:06
18 woman to change clothes in a way that men could 10:33:09
19 not view her, would that also, in your opinion, 10:33:12
20 reduce her risk of sexual assault? 10:33:15
21 A Yes. 10:33:18
22 Q Would identifying, removing and 10:33:23
23 disciplining anyone who was seen sneaking into 10:33:26
24 her room be a way to reduce sexual assault? 10:33:31
25 A Yes. 10:33:36

1 Q Would providing her an opportunity to 10:33:38
2 shower at a time when men were not in and around 10:33:40
3 the shower area be a way to reduce her risk of 10:33:44
4 sexual assault? 10:33:50
5 A Yes. 10:33:51
6 Q And if you were informed that a woman 10:33:56
7 who was housed in a men's prison was groped and 10:33:59
8 sexually assaulted when she was walking to pill 10:34:04
9 call or walking to chow hall, what actions can 10:34:09
10 you think of that could be taken to reduce her 10:34:15
11 risk of that activity happening in those places? 10:34:18
12 A Okay. That was a compound question 10:34:25
13 so can we break that down a little bit 10:34:27
14 individually? 10:34:30
15 Q Yeah. Let me ask it this way. If a 10:34:31
16 woman in a men's prison was groped and sexually 10:34:34
17 harassed when she was walking from her dormitory 10:34:41
18 to another location at the facility, would you 10:34:46
19 think that ensuring that she was escorted by 10:34:50
20 security when she had to make those walks would 10:34:55
21 reduce her risk of sexual assault? 10:34:58
22 A Yes. 10:35:01
23 Q Okay. And as the statewide PREA 10:35:04
24 coordinator, do you have the ability to instruct 10:35:08
25 officials at the facility to, for example -- 10:35:10

1 MS. LITTRELL: Well, let me reserve 10:35:16
2 that question. 10:35:20

3 Q Do you agree that a person who has 10:35:21
4 female breasts and who is housed among men is at 10:35:25
5 an increased risk of sexual assault if housed in 10:35:29
6 a men's prison? 10:35:33

7 MR. CHALMERS: Objection. 10:35:36

8 A Yes. 10:35:37

9 Q Going back a little bit now to what 10:35:51
10 we were talking about before with the Statewide 10:35:54
11 Classification Committee, did you expect that 10:35:55
12 the medical director would be knowledgeable 10:35:58
13 about the current standards for treating gender 10:36:00
14 dysphoria? 10:36:03

15 A Yes. 10:36:07

16 Q And the same question with respect to 10:36:10
17 the mental health director as it concerns her 10:36:12
18 role on the Statewide Classification Committee, 10:36:17
19 did you expect that the mental health director 10:36:21
20 would be knowledgeable about the current 10:36:24
21 standards for treating gender dysphoria? 10:36:26

22 A Yes. 10:36:29

23 Q Have you reviewed any completed 10:36:34
24 statewide classification forms in which the 10:36:37
25 statewide classification members filled in their 10:36:43

1	part of the SCC form?	10:36:48
2	A No.	10:36:52
3	Q Have you spoken with Dr. Lewis about	10:36:55
4	her participation on the Statewide	10:36:58
5	Classification Committee since the policy was	10:37:00
6	enacted?	10:37:05
7	A I believe we did have conversations,	10:37:08
8	yes. But I cannot recall what those -- the	10:37:11
9	specifics of that conversation -- or those	10:37:16
10	conversations.	10:37:18
11	Q Do you remember anything about those	10:37:20
12	conversations as it relates to her participation	10:37:22
13	on the Statewide Classification Committee?	10:37:27
14	A I don't recall.	10:37:32
15	Q Have you talked with Ahmed Holt about	10:37:37
16	the Statewide Classification Committee?	10:37:40
17	A Not that I recall.	10:37:44
18	Q Have you ever asked him if he has	10:37:49
19	reviewed the SCC forms that all of the statewide	10:37:51
20	classification members are filling out pursuant	10:37:54
21	to the policy?	10:37:57
22	A No.	10:37:58
23	Q Have you ever talked with Ahmed Holt	10:38:05
24	about Ashley Diamond in relation to the	10:38:07
25	Statewide Classification Committee	10:38:10

1	recommendations?	10:38:12
2	A No.	10:38:13
3	Q Have you talked with Ahmed Holt about	10:38:14
4	transferring Ms. Diamond to a women's facility?	10:38:16
5	A No.	10:38:20
6	Q How many statewide classification	10:38:25
7	forms have you -- or did you fill out last	10:38:30
8	month?	10:38:33
9	A I don't recall as that is one of the	10:38:39
10	duties that my analyst now prepares.	10:38:43
11	Q When did you stop filling out those	10:38:51
12	forms directly and delegate to one of your	10:38:56
13	subordinates?	10:39:01
14	A Several months ago, maybe a year.	10:39:04
15	Q Okay. But in 2021, were you the	10:39:07
16	person responsible to fill out the SCC form or	10:39:11
17	part of the form as it relates to the PREA unit?	10:39:16
18	A Yes.	10:39:20
19	Q And is one SCC form a month -- I'm	10:39:21
20	sorry, a week, I should have said.	10:39:28
21	Is one SCC form a week an approximate	10:39:30
22	number of SCC forms that you would fill out?	10:39:35
23	A It varies. Sometimes we won't get	10:39:40
24	any for several weeks and then we might get two	10:39:47
25	a week or something. So I can't give an	10:39:51

1 accurate number on that. 10:39:54

2 Q Okay. But the number would coincide 10:39:56

3 with the number of transgender intersex 10:40:02

4 offenders who enter GDC custody at diagnostics 10:40:09

5 and identified themselves as transgender or 10:40:14

6 intersex, right? 10:40:19

7 A Yes. 10:40:21

8 Q And did you, last year when you were 10:40:21

9 primarily in charge, fill in your part of the 10:40:25

10 SCC form as to all of the transgender or 10:40:31

11 intersex offenders you were aware of? 10:40:34

12 A I can't specifically say that for 10:40:42

13 others, but I do know as far as Diamond is 10:40:44

14 concerned, I did complete her paperwork. 10:40:46

15 Q And that was in 2019, correct? 10:40:50

16 A Yes. 10:40:53

17 Q And in 2020 do you recall filling in 10:40:55

18 your part -- and by "you," I mean the PREA 10:41:00

19 unit's part -- of the SCC recommendation forms? 10:41:03

20 A I would have to review the forms. 10:41:13

21 I -- I'm not sure. 10:41:14

22 Q You don't recall, as you sit here 10:41:15

23 today, filling in your part of the form for any 10:41:17

24 other transgender or intersex offender except 10:41:20

25 Ms. Diamond? 10:41:24

1 MR. CHALMERS: Objection to form. 10:41:25

2 A I've completed several. I just can't 10:41:26
3 give you a number. 10:41:28

4 Q Do you recall whether any of the 10:41:34
5 transgender or intersex women whose SCC form you 10:41:37
6 completed who said that they preferred to be 10:41:46
7 placed in a women's facility? 10:41:50

8 A I don't recall the number, but that 10:41:56
9 question is on the form. 10:41:58

10 Q Do you recall any answers, beyond 10:41:59
11 Ms. Diamond, in which a transgender or intersex 10:42:01
12 offender said that they would prefer to be 10:42:05
13 placed in a women's facility? 10:42:08

14 MR. CHALMERS: Objection. Form. You 10:42:10
15 can answer. 10:42:11

16 A Not specifically. 10:42:11

17 Q Before the policy -- I'm sorry, 10:42:17
18 before the transgender policy was enacted, do 10:42:20
19 you have any knowledge as to whether any 10:42:24
20 transgender woman was placed in a women's 10:42:26
21 prison? 10:42:30

22 A Not direct knowledge, no. 10:42:31

23 Q Since the policy has been enacted, do 10:42:35
24 you have any knowledge as to whether any 10:42:37
25 transgender woman has been placed in a women's 10:42:39

1 prison? 10:42:43

2 A No. 10:42:43

3 Q Okay. And the same question as to a 10:42:46

4 transgender man being placed in a male facility. 10:42:50

5 Any knowledge of that happening before the 10:42:53

6 policy was enacted? 10:42:55

7 A No. 10:42:56

8 Q And since the policy has been 10:42:59

9 enacted, any knowledge of a transgender man 10:43:01

10 being placed in a men's facility? 10:43:04

11 A No. 10:43:07

12 Q What information were you provided in 10:43:14

13 arriving at your recommendation that Ms. Diamond 10:43:20

14 needed to -- I'm sorry. 10:43:23

15 Were you provided any information 10:43:24

16 that Ms. Diamond needed to be placed in a 10:43:26

17 facility that was near a major hospital? 10:43:29

18 A No. 10:43:31

19 Q Have you had any conversations with 10:43:36

20 anyone in which the topic was discussed 10:43:39

21 regarding Ms. Diamond needing to be near a major 10:43:44

22 hospital? 10:43:50

23 A No. 10:43:50

24 Q Okay. And as far as you know, the 10:44:00

25 statewide classification recommendation for 10:44:02

Transcript of Grace Atchison

September 15, 2022

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1 Ms. Diamond from Dr. Lewis was not filled in; is 10:44:07

2 that right? 10:44:13

3 A I am aware that it was not completed, 10:44:21

4 yes. 10:44:23

5 Q Do you have any information that 10:44:24

6 Dr. Lewis provided her recommendation by any 10:44:26

7 other means to the person who made the decision 10:44:30

8 about where to place Ms. Diamond? 10:44:35

9 A No. 10:44:37

10 Q What's the reason that you were given 10:44:43

11 that Ms. Diamond would be placed in a men's 10:44:45

12 prison? 10:44:52

13 A The process -- I have to refer back 10:44:53

14 to the SCC process -- is when I complete the 10:45:00

15 information, I forward it electronically to the 10:45:05

16 next step. But I -- beyond that. I really 10:45:08

17 can't answer what or if things occurred on that 10:45:10

18 form. 10:45:16

19 Q In terms of what you were told, 10:45:18

20 though, what reason were you told that 10:45:20

21 Ms. Diamond would be placed in a men's facility? 10:45:24

22 A I was not given a reason. 10:45:27

23 Q When did you learn that she was 10:45:33

24 transferred to Coastal State Prison? 10:45:35

25 A I don't recall, but it was shortly -- 10:45:46

Transcript of Grace Atchison
September 15, 2022

1 either shortly before or shortly after she 10:45:47
2 arrived at Coastal. 10:45:50

3 Q And were you provided any reason that 10:45:52
4 Coastal was the facility to which she was 10:45:55
5 transferred? 10:45:59

6 A No. 10:46:00

7 [REDACTED] 10:46:05

8 [REDACTED] 10:46:07

9 [REDACTED] 10:46:10

10 [REDACTED] 10:46:22

11 [REDACTED] 10:46:25

12 [REDACTED] 10:46:27

13 [REDACTED] 10:46:30

14 [REDACTED] 10:46:36

15 [REDACTED] 10:46:39

16 [REDACTED] 10:46:40

17 [REDACTED] 10:46:42

18 [REDACTED] 10:46:45

19 A No, no mention of the camera quality. 10:46:47

20 Q As the statewide PREA coordinator, 10:46:52
21 are you made aware of the placement of cameras 10:46:55
22 in facility? 10:46:59

23 A I'm supposed to be made aware, and 10:47:06
24 eventually at Coastal I was made aware. 10:47:08

25 Q And through what process are you 10:47:11

1 supposed to be made aware of the camera 10:47:14

2 placements in the various facilities? 10:47:17

3 A There is not a specific process but 10:47:20

4 in the policy it says that the PREA coordinator 10:47:23

5 must be consulted. So however they consult me, 10:47:26

6 but there is not a process into which they 10:47:32

7 consult, like a form or anything like that. 10:47:35

8 Q Is it fair to say that the PREA 10:47:37

9 statewide coordinator has a right to know where 10:47:40

10 the cameras are located in facilities? 10:47:43

11 A Absolutely, yes. 10:47:47

12 Q Do you -- is it your experience that 10:47:50

13 the presence of cameras are helpful to reducing 10:47:55

14 the risk of sexual assault? 10:48:01

15 A Yes. 10:48:05

16 Q And are -- and why is that? 10:48:06

17 A As far as cameras reducing sexual 10:48:14

18 assault, it would be a deterrence for -- I mean, 10:48:17

19 if I knew I was going to commit something and I 10:48:22

20 was being filmed, I would not want to do it in 10:48:25

21 that area. 10:48:29

22 Q So would you agree that it's 10:48:32

23 important that those cameras are reviewed if 10:48:34

24 there is a PREA allegation that a sexual assault 10:48:37

25 occurred in a particular area? 10:48:43

Transcript of Grace Atchison
September 15, 2022

1	A Yes.	10:48:46
2	[REDACTED]	10:48:50
3	[REDACTED]	10:48:51
4	[REDACTED]	10:48:56
5	[REDACTED]	10:49:00
6	[REDACTED]	10:49:04
7	[REDACTED]	10:49:05
8	[REDACTED]	10:49:09
9	[REDACTED]	10:49:11
10	[REDACTED]	10:49:16
11	[REDACTED]	10:49:18
12	[REDACTED]	10:49:24
13	[REDACTED]	10:49:31
14	[REDACTED]	10:49:37
15	[REDACTED]	10:49:43
16	[REDACTED]	10:49:46
17	[REDACTED]	10:49:50
18	[REDACTED]	10:49:54
19	[REDACTED]	10:49:58
20	[REDACTED]	10:50:00
21	[REDACTED]	10:50:05
22	[REDACTED]	10:50:09
23	[REDACTED]	10:50:12
24	[REDACTED]	10:50:16
25	[REDACTED] I	10:50:19

Transcript of Grace Atchison
September 15, 2022

1	[REDACTED]	10:50:22
2	[REDACTED]	10:50:30
3	[REDACTED]	10:50:34
4	Q Do you have any personal knowledge of	10:50:43
5	the procedure for ensuring that video evidence	10:50:45
6	is properly preserved when litigation is	10:50:48
7	anticipated?	10:50:52
8	A It is supposed to be collected as	10:50:54
9	evidence in every case, not just with	10:50:58
10	litigation.	10:51:02
11	Q Whose responsibility is it to ensure	10:51:08
12	that video recordings that would have captured	10:51:12
13	information that's relevant to a PREA	10:51:18
14	disposition is preserved?	10:51:21
15	A That would depend on the first	10:51:26
16	responder protocol. Whoever the first responder	10:51:27
17	is, is the one that is responsible for	10:51:31
18	protecting the evidence. But as far as	10:51:36
19	investigation-wise, the SART, local SART	10:51:39
20	investigator should take that as evidence into	10:51:43
21	their case.	10:51:49
22	Q Is there anything in GDC policy that	10:51:57
23	expressly prohibits a facility from allowing a	10:52:01
24	victim's attorney to be on a speakerphone during	10:52:04
25	an interview with a PREA victim?	10:52:08

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1 MR. CHALMERS: Objection. Form. 10:52:12
2 Counsel, are you asking about 220.09 or any 10:52:14
3 policy? 10:52:17
4 MS. LITTRELL: I'm asking if she's 10:52:17
5 aware of any GDC policy that expressly prohibits 10:52:19
6 a facility from allowing a victim's attorney to 10:52:24
7 be on a speakerphone during an interview with 10:52:27
8 that PREA victim. 10:52:30
9 A Not that I'm aware of. 10:52:32
10 Q And did you ever speak to 10:52:46
11 Commissioner Ward about Ms. Ashley Diamond? 10:52:51
12 A Not that I recall. 10:52:58
13 Q Do you recall ever speaking with 10:53:05
14 Robert Toole about whether it would be 10:53:07
15 appropriate to make changes to Ms. Diamond's 10:53:08
16 housing placement? 10:53:12
17 A No. 10:53:13
18 Q Do you recall speaking with Mr. Holt 10:53:13
19 about whether it would be appropriate to make 10:53:15
20 changes to Ms. Diamond's housing placement? 10:53:19
21 A No. 10:53:21
22 Q Have you been made aware of any 10:53:22
23 treatment -- 10:53:27
24 MS. LITTRELL: I'm sorry, let me 10:53:29
25 start that again. 10:53:30

1 Q Have you been made aware whether any 10:53:31
2 medical providers have recommended that 10:53:35
3 Ms. Diamond be transferred out of Coastal prison 10:53:40
4 for her safety? 10:53:44
5 A No. 10:53:45
6 Q You testified earlier, or it's my 10:53:53
7 understanding, that you oversee SART teams but 10:53:57
8 that you don't supervise them. Does that sound 10:54:00
9 right? 10:54:03
10 A Correct. 10:54:03
11 Q Could you define the difference 10:54:06
12 between oversight and supervision in this 10:54:07
13 context for me. 10:54:10
14 A Oversight of the PREA program is what 10:54:11
15 I'm responsible for, as far as making sure that 10:54:15
16 they -- as far as that's concerned, the case is 10:54:20
17 investigated and forwarded to the appropriate 10:54:25
18 investigative bodies. Direct supervision would 10:54:28
19 mean that I am there with them, guiding them, 10:54:32
20 looking at every piece of paper that they sign, 10:54:37
21 that I'm approving their time and their 10:54:41
22 vacation. So I don't directly supervise the 10:54:45
23 SART members. 10:54:49
24 Q But PREA reports and PREA files come 10:54:51
25 into your office; is that right? 10:54:56

Transcript of Grace Atchison

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1 A We have Scribe, which is our 10:54:58
2 database, and they are required to enter those 10:55:01
3 allegations into Scribe, and it is initiated 10:55:06
4 with an incident report. 10:55:09
5 Q Okay. And there are other forms that 10:55:11
6 are required to be filled out as part of the 10:55:15
7 investigative process; is that right? 10:55:18
8 A Yes, depending on the nature of the 10:55:20
9 allegation. 10:55:23
10 Q And one of those forms is the SART 10:55:29
11 checklist. Are you familiar with that? 10:55:31
12 A Yes. 10:55:33
13 Q Do you have access to review the SART 10:55:34
14 checklist with respect to any particular PREA 10:55:37
15 investigation? 10:55:42
16 A Yes, in the database now. But I need 10:55:45
17 to clarify that we have just upgraded our 10:55:48
18 database throughout the years to be able to 10:55:52
19 capture more information as the years have gone 10:55:56
20 on. So, for example, just this month we have a 10:56:00
21 document upload section now, where we did not 10:56:05
22 have that before, such as witness statements, 10:56:08
23 any medical forms, use of force, what -- 10:56:12
24 whatever the case calls for. Now we have the 10:56:16
25 capability of the facilities to upload that 10:56:19

1 documentation. 10:56:21

2 Q And so prior to the upgrade that you 10:56:24

3 just discussed, how would you be able to 10:56:28

4 complete your oversight process if you could 10:56:38

5 not -- if you did not have access to the forms 10:56:42

6 that were required to be filled out? 10:56:45

7 A Specifically, the PREA compliance 10:56:49

8 manager at every facility would be responsible 10:56:51

9 for looking at every case specifically. The 10:56:54

10 PREA office is comprised of three employees, and 10:57:00

11 we have 1,200 cases a year. We cannot 10:57:09

12 physically review 1,200 cases. 10:57:12

13 Q Who ensures that the PREA compliance 10:57:16

14 manager at the individual facilities is doing 10:57:19

15 their job? 10:57:23

16 A That would be me. 10:57:25

17 Q And the forms that are required to be 10:57:35

18 filled out in PREA are required to be filled out 10:57:37

19 in order to ensure a proper investigation. Is 10:57:40

20 that right? 10:57:44

21 A Yes. 10:57:45

22 Q It's your responsibility to detect 10:57:48

23 any issues in a PREA investigation. Is that 10:57:50

24 right? 10:57:53

25 A There is a process called the 10:57:54

1 "incident review process." And that's required 10:57:57
2 for the facility, namely, the executives at the 10:58:02
3 facility -- it's a different team than the SART 10:58:07
4 team -- to review every case -- investigative 10:58:11
5 case to see if housing changes need to be made, 10:58:14
6 if GAIN contributed, if their LGBT status may 10:58:19
7 have been an issue. That's when the incident 10:58:26
8 review team would identify those. 10:58:28

9 Q All right. And that is S-A-I-R-T? 10:58:32
10 Is that the shorthand for that, S-A-I-R-T? 10:58:37

11 A Yes. 10:58:41

12 Q And they only do -- take the steps 10:58:44
13 that you just outlined if a PREA disposition is 10:58:48
14 anything other than unfounded, correct? 10:58:56

15 A Correct. 10:58:59

16 Q So if a PREA investigation results in 10:59:01
17 an unfounded disposition, none of those efforts 10:59:07
18 that you just described that the S-A-I-R-T takes 10:59:12
19 are conducted, right? 10:59:16

20 A Correct. 10:59:19

21 Q When you receive a PREA report 10:59:28
22 directly from an offender, does the PREA unit 10:59:30
23 take any additional steps to ensure a proper 10:59:36
24 investigation? 10:59:39

25 A If we receive the initial report -- 10:59:42

1 any report, we filter it back down to the 10:59:44
2 facility unless it is against the warden or a 10:59:48
3 higher authority at that facility, and then we 10:59:53
4 would forward it to OPS directly. But for most 10:59:56
5 cases it is filtered back down to the SART 11:00:00
6 investigation team as protocol. 11:00:03

7 Q By "filter" it, do you mean send it 11:00:06
8 to? 11:00:09

9 A Yes. 11:00:10

10 Q And then do you treat that direct 11:00:11
11 report to PREA any differently than you would a 11:00:15
12 review of a PREA investigation completed after 11:00:22
13 the fact? 11:00:27

14 MR. CHALMERS: Objection. Form. You 11:00:30
15 can answer. 11:00:31

16 A Can you repeat that question? 11:00:32

17 Q My understanding is that there's -- 11:00:36
18 well, let's just say there's two ways -- at 11:00:39
19 least two ways in which a PREA can be reported. 11:00:42
20 One would be a direct report at the facility, 11:00:45
21 correct? 11:00:48

22 A Yes. 11:00:48

23 Q And when that happens, the 11:00:50
24 investigation should be initiated and completed 11:00:53
25 by the facility, the SART team at the facility, 11:00:58

1 right? 11:01:02

2 A Yes. 11:01:03

3 Q And then that's sent to PREA -- the 11:01:03

4 PREA unit after it's completed? 11:01:05

5 A Yeah, it's entered into the Scribe 11:01:08

6 database and we're able to see the incident 11:01:10

7 report and what we call the PREA Scribe module. 11:01:13

8 Excuse me. I have a little bit of a sinus 11:01:16

9 problem. But -- okay, where was I? It goes 11:01:24

10 into the Scribe database. The incident report 11:01:28

11 in the database triggers the PREA Scribe report, 11:01:32

12 which that will give us the information for the 11:01:36

13 SART checklist and for the SSV. It -- 11:01:41

14 Q I'm sorry, I'm just going to ask you 11:01:48

15 to define what SSV stands for. 11:01:49

16 A It's the Sexual Survey of 11:01:52

17 Victimization form, and it is -- that's the 11:01:52

18 information that we have to give to BJA, which 11:01:58

19 is the Bureau of Justice -- that organization 11:02:03

20 for reporting annually, we have to give that SSV 11:02:10

21 information to. 11:02:14

22 Q Okay. 11:02:15

23 A So instead of previous years, where 11:02:16

24 we've had to gather information manually, we now 11:02:19

25 have built that into the database so that it 11:02:23

1 tracks it automatically. So we have the 11:02:27
2 capability of looking at that. And those PREA 11:02:31
3 allegations are reviewed by at least one of us, 11:02:34
4 mainly the analyst in the PREA unit. 11:02:39

5 Q Okay. And so that's -- that happens 11:02:45
6 when the report is directly at the facility, but 11:02:51
7 there's also a means for an offender to send an 11:02:54
8 e-mail or call the hotline and report a PREA 11:03:01
9 allegation, and that goes directly to the PREA 11:03:04
10 unit; is that right? 11:03:08

11 A Yes. 11:03:09

12 Q And so my original question was 11:03:11
13 trying to understand whether, as a result of 11:03:13
14 getting the report directly, the PREA unit does 11:03:15
15 anything different with respect to ensuring that 11:03:20
16 a proper investigation is completed. 11:03:22

17 A No. All investigations are 11:03:24
18 treated -- all allegations are required to be 11:03:26
19 investigated, and they are all important. 11:03:29

20 Q Okay. Let me ask the technician to 11:03:35
21 pull up a document I want to ask you about. And 11:03:37
22 that document should be referenced and was 11:03:41
23 pre-marked as DEF10637411. 11:03:46

24 And I'd like to ask the court 11:03:53
25 reporter to mark it as Atchison (Fact) 11:03:57

1 Exhibit 1. 11:04:03

2 REMOTE TECH: Sure. One moment. 11:04:03

3 (Atchison (Fact) Exhibit 1 marked for 11:04:03

4 identification and attached to the transcript.) 11:04:03

5 REMOTE TECH: Could you state that 11:04:17

6 Bates number again, Counsel? 11:04:19

7 MS. LITTRELL: 10637411. And if you 11:04:22

8 could, I'd like to, Mr. Plummer, ask you to -- 11:04:26

9 before you pull the document up, drop a link to 11:04:31

10 it in the Chat so that opposing counsel has 11:04:36

11 access to a copy of the document. 11:04:40

12 REMOTE TECH: Okay. I think I 11:04:43

13 just -- 11:04:43

14 MR. CHALMERS: I see the -- you know, 11:04:45

15 I see the -- we have a drive up, but just 11:04:47

16 putting it in the drive is a quicker way for me 11:04:50

17 to access it. 11:04:54

18 REMOTE TECH: It should be heading up 11:04:57

19 into the drive now and be up there momentarily. 11:04:57

20 MR. CHALMERS: Okay. Thanks. 11:04:59

21 Q Ms. Atchison, can you see the 11:05:04

22 document that's on the screen now? 11:05:06

23 A Yes. 11:05:08

24 Q And have you ever seen this document 11:05:09

25 before? 11:05:11

1 A Yes. 11:05:11

2 Q What is this document? 11:05:13

3 A This is the updated -- because I 11:05:15

4 see -- let me close out these windows right here 11:05:17

5 so I can see the effective date -- of 6-23-22, 11:05:19

6 and it is the upgraded Investigative File 11:05:24

7 Summary Checklist, which is now required for all 11:05:30

8 investigations, to have this information below 11:05:36

9 in the investigative file. 11:05:39

10 Q We can look at the PREA policy in a 11:05:44

11 little bit. Let me make sure that I understand 11:05:48

12 your testimony. Is it -- is your testimony that 11:05:51

13 this summary checklist is new? Is that right? 11:05:59

14 The summary checklist is new, correct? 11:06:05

15 A For the Investigative File Summary 11:06:09

16 Checklist is new, yes. 11:06:12

17 Q Okay. But these attachments that are 11:06:15

18 referenced are not new; is that right? 11:06:18

19 A They are different from the policy 11:06:22

20 that -- at the time of Diamond's arrival. Every 11:06:25

21 year we review and make changes to our policy if 11:06:33

22 needed. And we had a group come in and look at 11:06:39

23 our investigations and give us pointers on how 11:06:46

24 to improve that. So we implemented that into 11:06:49

25 our policy. 11:06:51

1 Q So during -- for the PREA allegations 11:06:54
2 that are the subject of this lawsuit, was there 11:06:59
3 an Initial Notification Form that was required 11:07:08
4 to be filled in by the SART team? 11:07:10
5 A Yes. 11:07:13
6 Q Was there an Investigative Summary 11:07:14
7 form that was required to be filled in by the 11:07:17
8 SART team? 11:07:20
9 A Yes. 11:07:20
10 Q Was there a PREA Disposition Offender 11:07:22
11 Notification Form that was required to be filled 11:07:25
12 in by the SART team? 11:07:27
13 A Yes. 11:07:28
14 Q Was there a Retaliation Monitoring 11:07:29
15 Checklist that was required to be filled out by 11:07:32
16 the SART team? 11:07:34
17 A Yes. 11:07:35
18 Q And was there a Sexual Abuse Incident 11:07:35
19 Review Checklist that was required to be filled 11:07:38
20 out by the SART team? 11:07:43
21 A I would have to look. I believe so, 11:07:48
22 but my policy updates are confusing me right 11:07:50
23 now. So I need to look at it. 11:07:55
24 Q Let's -- you can take this down now 11:07:57
25 and let's look at one so I can ask you a 11:08:00

1 question. 11:08:06

2 MS. LITTRELL: Can you please bring 11:08:07

3 up what has been pre-marked DEF -- it's either 11:08:08

4 0948 or just 948. 11:08:13

5 REMOTE TECH: One moment. 11:08:20

6 MS. LITTRELL: I'll ask the court 11:08:20

7 reporter to mark this as Atchison (Fact) 11:08:21

8 Exhibit 2. 11:08:24

9 (Atchison (Fact) Exhibit 2 marked for 11:08:28

10 identification and attached to the transcript.) 11:08:28

11 Q Ms. Atchison, can you see the 11:08:28

12 document on the screen? 11:08:51

13 A Yes. 11:08:52

14 Q And is this the -- a document that 11:08:53

15 was required to be filled out by the SART team 11:08:54

16 when Ms. Diamond's sexual assault allegations 11:08:59

17 that are the subject of this lawsuit were -- 11:09:03

18 took place? 11:09:09

19 A Yes. 11:09:14

20 Q Okay. 11:09:16

21 MS. LITTRELL: Can you zoom out just 11:09:16

22 a little bit so we can see the whole thing. 11:09:18

23 Okay. 11:09:21

24 Q And this checklist, is it policy that 11:09:21

25 this checklist would be filled out at the 11:09:33

1 beginning of a SART investigation? 11:09:37

2 A I would say throughout the SART 11:09:46

3 investigation most of this information is 11:09:49

4 required to be completed at the beginning, yes. 11:09:56

5 Like disciplinary action, for example, though, 11:10:01

6 that would -- may come later. So it's a 11:10:04

7 document for the ongoing investigation. 11:10:09

8 Q And what about the box that says 11:10:13

9 "Recover, download, and document any video 11:10:17

10 monitoring recording"? Would you expect that to 11:10:19

11 be filled in earlier in the investigation? 11:10:22

12 A All right. Where are we? 11:10:30

13 Q It starts with "Recover, download, 11:10:31

14 and document." 11:10:33

15 A Okay. "Recover, download, and 11:10:35

16 document." 11:10:37

17 Yes. Near the beginning, yes, I 11:10:37

18 would say. 11:10:44

19 Q And scroll down to the bottom. This 11:10:46

20 is a particular document that was filled out. 11:10:51

21 We can look at it again, but I'll submit that it 11:10:53

22 was on -- in relation to a series of sexual 11:10:57

23 assaults that Ms. Diamond alleged occurred in 11:11:01

24 September. The -- PREA's compliance manager 11:11:04

25 appears to be Tamara Cantera. Do you know who 11:11:10

1 that is? 11:11:15

2 A Yes. 11:11:18

3 Q And is that a GDC employee? 11:11:18

4 A I believe so. 11:11:24

5 Q Is a PREA compliance manager supposed 11:11:27

6 to be a GDC employee? 11:11:30

7 A Not necessarily. It doesn't go 11:11:35

8 specific into actual roles and -- or actual 11:11:38

9 positions having mandatory PREA roles. It's 11:11:43

10 really at the warden's discretion who they put 11:11:48

11 on their team. 11:11:52

12 Q So it could be -- an outside 11:11:53

13 contractor could be a PREA -- a GDC PREA 11:11:56

14 compliance manager? 11:12:01

15 A Yes. 11:12:03

16 Q And how do you ensure, as the 11:12:03

17 statewide PREA coordinator, that that outside 11:12:04

18 contractor has been properly trained to ensure a 11:12:08

19 proper investigation? 11:12:12

20 A All of the SART members, including 11:12:15

21 the PREA compliance manager, are required to 11:12:18

22 take SART training each year that is delivered 11:12:21

23 by my team. And they are also -- as far as, 11:12:26

24 like, the SART investigator, they are required 11:12:31

25 to take specialized investigation training. 11:12:33

1 Medical and mental health members are as well. 11:12:36
2 So there's different trainings for different 11:12:41
3 roles. 11:12:44
4 Q Okay. It's my understanding that the 11:12:44
5 way that the PREA compliance manager ensures 11:12:48
6 that all the PREA compliance -- by this I mean 11:12:53
7 your role -- is to ensure that the facility 11:12:59
8 compliance managers have been properly trained, 11:13:01
9 is that they sign up and certify that they have 11:13:05
10 been to a SART training -- the appropriate SART 11:13:11
11 training, and that goes in their employee file. 11:13:15
12 Did I get that wrong? 11:13:18
13 MR. CHALMERS: Objection. Form. 11:13:28
14 A Yes, sort of, because there's a 11:13:28
15 difference between their PREA training -- which 11:13:30
16 is the general training that all employees are 11:13:32
17 required to have, and they have to sign an 11:13:35
18 acknowledgment that they understand that 11:13:38
19 training, and that is placed in their employee 11:13:40
20 file. The SART training is kept on a roster in 11:13:42
21 the PREA units. Because we deliver that 11:13:47
22 training, we maintain those rosters but they 11:13:52
23 don't get a certificate or anything and they 11:13:56
24 just are on the roster as completing the course. 11:13:58
25 So as far as it going in the file, I 11:14:04

1 needed to clarify that. 11:14:08

2 Q Do you have any personal knowledge 11:14:09

3 that Ms. Cantera completed GDC's SART training 11:14:11

4 as required of a PREA compliance manager? 11:14:17

5 A I don't recall specifically. I would 11:14:23

6 have to look at the SART roster. 11:14:24

7 Q Could you direct Ms. Cantera, as an 11:14:33

8 outside contractor, as to how to perform her 11:14:36

9 duties in relation to her role as the compliance 11:14:41

10 manager? 11:14:46

11 A Yes. Now, if she is medical or 11:14:47

12 mental health, not specific duties but as the 11:14:49

13 role of a PREA team member, yes. 11:14:53

14 Q And the roles on the SART team, are 11:14:55

15 they supposed to be distinct roles? 11:14:57

16 A Yes. 11:15:03

17 Q Such that the SART investigator is 11:15:04

18 not also supposed to be the PREA compliance 11:15:10

19 manager; is that right? 11:15:13

20 A Ideally, yes. 11:15:15

21 Q And the PREA compliance manager is 11:15:18

22 also -- should not also serve in the role of the 11:15:21

23 mental health advocate? 11:15:25

24 A No. 11:15:27

25 Q So the SART team can combine roles? 11:15:31

1 A Their used to be a SART leader and a 11:15:37
2 PREA compliance manager, but we have eliminated 11:15:40
3 the SART leader. Those roles sometimes were 11:15:45
4 held by the same person, which didn't make sense 11:15:49
5 because essentially the PREA compliance manager 11:15:53
6 is the SART leader. So we eliminated that. But 11:15:57
7 other than that, they should all be different 11:16:01
8 employees. 11:16:04
9 Q Is there a document at each facility 11:16:08
10 that identifies the SART team members? 11:16:12
11 A Yes. 11:16:17
12 Q What is that called? 11:16:18
13 A There should be a coordinated 11:16:20
14 response plan for each facility. 11:16:22
15 Q And that lists the SART team members, 11:16:29
16 correct? 11:16:33
17 A Yes. And their contact information 11:16:33
18 and their titles. 11:16:36
19 Q Okay. And if those titles change, 11:16:37
20 that document should be updated, right? 11:16:42
21 A Yes. 11:16:45
22 MS. LITTRELL: Mr. Chalmers, we'll 11:16:49
23 renew our requests to receive a copy of that 11:16:51
24 document so that we can determine who the SART 11:16:54
25 team members were supposed to be at Coastal 11:16:56

1 State Prison during Ms. Diamond's incarceration. 11:17:00

2 You can take this down now. 11:17:04

3 MR. CHALMERS: Counsel, if we get to 11:17:07

4 the next natural breaking point, why don't we 11:17:08

5 take a five or ten-minute break. 11:17:11

6 MS. LITTRELL: Okay. 11:17:15

7 Q So, Ms. Atchison, that document that 11:17:16

8 we just looked at, which has been marked as 11:17:19

9 Exhibit 2 in this deposition, as a PREA 11:17:22

10 compliance -- statewide PREA compliance 11:17:26

11 director, I'm forgetting your title. Tell me 11:17:32

12 again. Statewide PREA compliance -- 11:17:34

13 A I almost forgot it. Coordinator. 11:17:37

14 Statewide PREA coordinator. 11:17:40

15 Q Thank you. Did you have access to 11:17:40

16 review that checklist in reviewing PREA 11:17:44

17 investigations? 11:17:49

18 A Specifically that one I can't comment 11:17:51

19 on, but we do have the capabilities of looking 11:17:53

20 at the electronic version of that form in the 11:17:56

21 Scribe module. 11:18:01

22 MS. LITTRELL: And then if -- let me 11:18:04

23 get you, Mr. Plummer, to pull up the document 11:18:08

24 that has been pre-marked DEF106372240. 11:18:12

25

Transcript of Grace Atchison

September 15, 2022

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1 (Atchison (Fact) Exhibit 3 marked for 11:18:19
2 identification and attached to the transcript.) 11:18:19
3 MS. LITTRELL: And I show that 11:18:28
4 opposing counsel has access to the document. 11:18:31
5 MR. CHALMERS: Counsel, when you give 11:18:39
6 that number, you're not referring to a Bates 11:18:41
7 number, you're referring to your own numbering 11:18:43
8 system, presumably? 11:18:49
9 MS. LITTRELL: I thought that this 11:18:49
10 was a Bates number, but -- 11:18:50
11 MR. CHALMERS: I don't think we're in 11:18:53
12 the -- 11:18:53
13 MS. LITTRELL: -- were we looking at 11:18:55
14 the entire -- 11:18:55
15 MR. CHALMERS: We've produced a lot 11:18:57
16 of documents, but I don't think we're in the 11:18:59
17 10 millions. I'm just wondering what that 11:19:01
18 numbering is. And I didn't see a number on your 11:19:05
19 Exhibit 1. Sorry, I didn't see a Bates number 11:19:07
20 on your Exhibit 1. It's not critical. I just 11:19:10
21 want to make sure I understand what you're 11:19:13
22 referring to when you say that DEF number. 11:19:16
23 MS. LITTRELL: I appreciate the 11:19:19
24 clarification, and I thought these had been 11:19:21
25 produced by defendants and were part of the 11:19:24

1 production and should have -- were Bates stamped 11:19:27
2 by the defendants. I see -- I am not seeing 11:19:30
3 that Bates number on here. And I also don't see 11:19:32
4 a plaintiff's number on here. So thank you for 11:19:38
5 clarifying. Let me ask my questions 11:19:41
6 accordingly. 11:19:43

7 Q Ms. Atchison, have you seen this 11:19:45
8 document before? 11:19:47

9 A Yes. 11:19:51

10 Q Okay. And what is this document? 11:19:53

11 A This is the PREA investigative 11:19:58
12 summary. Again, this is a revised version that 11:20:00
13 was effective in June of '22. There was one 11:20:03
14 also before this, but I'm not sure what the -- 11:20:07
15 if we changed -- I'd have to look at a 11:20:11
16 side-by-side comparison, but this is the most 11:20:14
17 updated one. 11:20:17

18 Q Okay. But you don't recall any 11:20:18
19 substantive changes as you sit here today? 11:20:21

20 A Can we scroll through the whole 11:20:24
21 document. 11:20:26

22 Yeah, I would like to see a 11:20:32
23 side-by-side comparison because I think we 11:20:34
24 added, like, evidence gathered, if you scroll 11:20:37
25 down. We added more information so that we were 11:20:41

1 capturing everything we needed to capture for 11:20:45
2 the standards. 11:20:48

3 Q Okay. And we'll look at -- we 11:20:49
4 perhaps will look at a document that was filled 11:20:53
5 in at the time of Ms. Diamond's allegations, but 11:20:58
6 just generally speaking, does this -- 11:21:03

7 MS. LITTRELL: And if you'll give us 11:21:06
8 a wider view for a minute. There we go. 11:21:08

9 Q Generally speaking, the information 11:21:10
10 that's captured in this PREA Investigative 11:21:14
11 Summary that is now the attachment in place, is 11:21:16
12 this, generally speaking, the information that 11:21:23
13 you -- that was captured to summarize the PREA 11:21:26
14 investigation in 2021? 11:21:31

15 MR. CHALMERS: Objection to form. 11:21:38

16 A Yes. 11:21:39

17 Q And in this document, I see a summary 11:21:40
18 of the investigation and there's some 11:21:45
19 information that is provided, which is, "What 11:21:47
20 was the allegation? What steps were taken to 11:21:53
21 investigate the allegation?" Do you see that? 11:21:57

22 A Yes. 11:21:59

23 Q Okay. There are five steps -- or 11:22:00
24 five questions that are listed. Is that the 11:22:03
25 information that should be provided in the 11:22:09

1 Summary of Investigation? 11:22:12

2 A Yes. 11:22:14

3 Q And was that the information that 11:22:16

4 should have been provided in the Summary of 11:22:21

5 Investigation during the time in which 11:22:23

6 Ms. Diamond was incarcerated at GDC, in 2020 and 11:22:26

7 2021? 11:22:32

8 MR. CHALMERS: Objection. 11:22:36

9 A Yes. 11:22:36

10 Q Okay. 11:22:37

11 A But may I clarify? That's why I 11:22:37

12 wanted to look at the side-by-side because I 11:22:41

13 don't know if we added this information, because 11:22:44

14 we weren't always capturing that. So at the 11:22:47

15 time, it may not have been a specific 11:22:51

16 requirement until this updated form came out. 11:22:53

17 Q Okay. 11:23:01

18 Who was responsible to train the SART 11:23:02

19 teams to fill in the forms that were required of 11:23:06

20 PREA? 11:23:10

21 A The policy and they received that 11:23:12

22 specialized investigative training. 11:23:15

23 Q Are you aware of whether or not the 11:23:23

24 SART team had information about what to put in 11:23:27

25 the box for the Summary of Investigation in 11:23:34

1 2021? 11:23:40

2 A I would have to review the policy at 11:23:43

3 that time. So I'm not sure. 11:23:45

4 Q Okay. 11:23:48

5 MS. LITTRELL: You can take this 11:23:56

6 down. I've just got two more questions, and 11:23:57

7 then we'll take a break. 11:23:59

8 A Can I add something to that? 11:24:02

9 Q You can, sure. 11:24:05

10 A Okay. In our SART trainings, we do 11:24:06

11 break it down as to what we expect to be in an 11:24:09

12 investigative file. 11:24:14

13 Q Okay. Thank you. 11:24:15

14 When is the PREA unit required to 11:24:27

15 review a PREA file that has been disposed, fully 11:24:27

16 investigated and come to a disposition? Is 11:24:33

17 there a time period? 11:24:37

18 A Not specifically, but like I said, we 11:24:38

19 do look at the Scribe module, which is just 11:24:41

20 really a snapshot, and if anything jumps out at 11:24:43

21 us, then we'll go and review the file at the 11:24:50

22 facility or we'll have them e-mail us the whole 11:24:55

23 file, specifically in staff-on-inmate abuse and 11:24:59

24 inmate-on-inmate abuse, is what we focus on 11:25:05

25 primarily. 11:25:09

1	Q	Okay. So you have the ability to	11:25:10
2		request the entire investigative file at any	11:25:11
3		time?	11:25:15
4	A	Yes.	11:25:15
5	Q	Okay. Did you review all of Ashley	11:25:25
6		Diamond's PREA reports?	11:25:26
7	A	Yes.	11:25:31
8	Q	Did you review the entire file as to	11:25:34
9		all of Ms. Diamond's PREA reports?	11:25:37
10	A	Yes.	11:25:41
11		MS. LITTRELL: I think now is a good	11:25:42
12		time for us to take a short break if that works	11:25:50
13		for everybody else. It works for me.	11:25:54
14		THE WITNESS: Uh-huh.	11:25:56
15		MR. CHALMERS: Yes, works fine.	11:25:57
16		THE VIDEOGRAPHER: We're going off	11:25:58
17		the record at 11:26 a.m. Eastern Time.	11:25:59
18		(A recess was taken.)	11:26:02
19		THE VIDEOGRAPHER: We're going back	11:42:15
20		on the record at 11:42 a.m. Eastern Time.	11:42:16
21		BY MS. LITTRELL:	11:42:19
22	Q	Ms. Atchison, you're familiar with	11:42:22
23		the PREA policy, which is GDC SOP 208 point --	11:42:24
24		is it 08 or 06? Sorry.	11:42:32
25	A	06.	11:42:37

1	Q	06. Thank you. And -- thank you for	11:42:38
2		correcting me. And the answer to that question,	11:42:42
3		are you familiar with the GDC PREA policy SOP	11:42:45
4		208.06?	11:42:51
5	A	Yes.	11:42:55
6	Q	All right. Allegations of	11:42:55
7		unconsented or coerced sexual activity is a PREA	11:42:56
8		violation; is that correct?	11:43:05
9	A	Yes.	11:43:07
10	Q	By contrast, allegations of	11:43:08
11		consensual or not coerced sexual activity is not	11:43:12
12		a violation of PREA, correct?	11:43:19
13	A	When staff is involved, yes, it is a	11:43:21
14		violation of PREA.	11:43:25
15	Q	Thank you for that clarification.	11:43:27
16		Very important. But as to offender-and-offender	11:43:29
17		sexual activity, if it's -- if there's no	11:43:36
18		allegation that it was coerced or	11:43:41
19		non-consensual, that is not a PREA violation,	11:43:45
20		right?	11:43:48
21	A	Correct.	11:43:49
22	Q	But getting back to what is a PREA	11:43:52
23		violation with respect to inmate and -- or, I'm	11:43:54
24		sorry, offender-and-offender activity, we talk	11:44:01
25		about sexual activity that includes penetration,	11:44:06

1 correct? 11:44:09

2 A Yes. 11:44:09

3 Q That would be a PREA violation? 11:44:11

4 A Yes. 11:44:13

5 Q And oral sex? 11:44:14

6 A Yes. 11:44:18

7 Q That would be a PREA violation? 11:44:19

8 A (No verbal response.) 11:44:21

9 Q Okay. What about attempted sexual 11:44:22

10 assault? Is that a PREA violation? 11:44:29

11 A Yes, depending on the circumstances. 11:44:32

12 If they touched them inappropriately, yes. 11:44:34

13 Q Okay. If someone, for example, 11:44:38

14 ripped off an inmate's clothes and tried to 11:44:43

15 touch their genitalia, would that be considered 11:44:47

16 a PREA violation? 11:44:51

17 A Yes. 11:44:53

18 Q Is an allegation of, let's say for 11:44:59

19 example, rape -- an allegation of rape -- is 11:45:03

20 that a potentially criminal action? 11:45:07

21 A Yes. 11:45:09

22 MR. CHALMERS: Objection. Form. 11:45:12

23 Q Is it your understanding that a 11:45:16

24 non-consensual sexual activity in which someone 11:45:19

25 was forced to give someone else oral sex, is it 11:45:26

1 your understanding that that would be a criminal 11:45:29
2 action? 11:45:32

3 MR. CHALMERS: Objection. Same. You 11:45:33
4 can answer. 11:45:34

5 A Yes. 11:45:35

6 Q And as part of the PREA policy, 11:45:39
7 there's a requirement that potentially criminal 11:45:44
8 activity be elevated to OPS; is that right? 11:45:50

9 A Yes. 11:45:57

10 Q And so as a PREA coordinator, are you 11:46:00
11 provided some training to know what is 11:46:03
12 potentially criminal behavior? 11:46:06

13 A Yes. 11:46:09

14 Q Is an attempted rape potentially 11:46:16
15 criminal? Do you know? 11:46:20

16 A Yes. 11:46:22

17 MS. LITTRELL: Can we -- at this time 11:46:23
18 I would like to ask the tech to pull up what has 11:46:24
19 been pre-marked -- I had this up just one second 11:46:32
20 ago, hang on -- DEF001362 and ask the court 11:46:41
21 reporter to mark that as Exhibit 3. 11:46:53

22 REMOTE TECH: I'm seeing just 1362. 11:47:01

23 MS. LITTRELL: 1362, great. 11:47:04

24 REMOTE TECH: One moment. 11:47:05

25 MS. LITTRELL: Let's see what the 11:47:05

1 Bates stamp says. 11:47:07

2 Can someone please just check my math 11:47:21

3 and ensure that I'm not getting ahead of myself. 11:47:23

4 Are we on Exhibit 3 or 4? We're on Exhibit 4. 11:47:27

5 REMOTE TECH: This will be 4, yes. 11:47:32

6 MS. LITTRELL: Okay. Oh, there's 3. 11:47:34

7 Thank you. All right. 11:47:34

8 (Atchison (Fact) Exhibit 4 marked for 11:47:34

9 identification and attached to the transcript.) 11:47:34

10 Q Ms. Atchison, have you seen this 11:47:41

11 document before? 11:47:44

12 A Yes. 11:47:46

13 Q And is this the GDC SOP 208.06, the 11:47:47

14 GDC PREA policy we were just talking about? 11:47:55

15 A Yes. 11:47:59

16 Q Let's scroll down to page -- let's 11:48:03

17 start with page 38. All right. 11:48:10

18 MS. LITTRELL: And I want to say for 11:48:12

19 the record, Mr. Chalmers, it is possible that 11:48:19

20 someone from my office downloaded the documents 11:48:22

21 we were just looking at that were marked Exhibit 11:48:25

22 number, I believe, 1 and 3 that started with 106 11:48:27

23 from -- directly from GDC, and that's where 11:48:36

24 those numbers come from. Those are not SPLC 11:48:40

25 identifiers. And so I want to just say for the 11:48:45

1 record that's my best guess as to what those 11:48:48
2 documents were. And now I want to look at the 11:48:51
3 attachments that were in place as files or forms 11:48:56
4 that are associated with the 208.06 at the time 11:49:04
5 Ms. Diamond was incarcerated at GDC and alleged 11:49:09
6 assaults that are the subject of this lawsuit. 11:49:15
7 Q So do you now see on the screen what 11:49:20
8 at the top says "Attachment 4," Ms. Atchison? 11:49:22
9 A Yes. 11:49:28
10 Q Okay, great. 11:49:29
11 MS. LITTRELL: And can we zoom out to 11:49:29
12 be able to see this in its entirety. Here we 11:49:32
13 go. 11:49:38
14 Q And this is the Sexual Allegation 11:49:38
15 Response Checklist, correct? 11:49:40
16 A Correct. 11:49:46
17 Q And we looked at this filled in a 11:49:47
18 moment ago and talked about Ms. Cantera, who 11:49:49
19 signed as the PREA compliance manager. Is this 11:49:54
20 an accurate representation or is it the form 11:49:56
21 that was in place in 2020, as far as you know? 11:50:00
22 A To the best of my knowledge, yes. 11:50:06
23 Q And this is a form that is required 11:50:10
24 to be filled out in every allegation -- every 11:50:14
25 PREA allegation; is that right? 11:50:18

1 A Yes. 11:50:21

2 Q Okay. All right. 11:50:22

3 MS. LITTRELL: And now, if you'll 11:50:24

4 take us to page 45. 11:50:26

5 Q And, Ms. Atchison, does this appear 11:50:27

6 to be the form that was in place at the time of 11:50:36

7 the events underlying this lawsuit that has at 11:50:39

8 the top "PREA Investigative Summary"? 11:50:44

9 A Yes. May we go back to the last 11:50:50

10 exhibit? 11:50:53

11 Q In order for? 11:50:57

12 A I want to clarify if they are -- I 11:50:58

13 believe the question was is this required to be 11:51:00

14 filled out on all allegations? 11:51:04

15 Q Yes, the SART checklist. 11:51:08

16 A Yeah, I need to clarify something on 11:51:11

17 that, if we could pull it back up. 11:51:14

18 MR. CHALMERS: Okay. So when you're 11:51:20

19 saying "last exhibit," do you mean Attachment 4 11:51:21

20 on this exhibit? 11:51:23

21 THE WITNESS: Yes, sir, the sexual 11:51:25

22 abuse checklist. 11:51:26

23 Q So on page 38? 11:51:28

24 A Yes. I believe not -- this is only 11:51:35

25 completed for sexual abuse allegations, not 11:51:38

1 sexual harassment. 11:51:42

2 Q Very good. And thank you for that 11:51:48

3 clarification. That makes sense. Thank you. 11:51:50

4 Great. So then we looked at page 45, 11:51:53

5 which is Attachment 6. This is the 11:51:57

6 investigative summary that was in place at the 11:52:04

7 time. And I see here that there -- the 11:52:08

8 difference between this and what's in place now 11:52:14

9 is that, as you had suggested, in the Summary of 11:52:18

10 Investigation, the form does not lay out the 11:52:23

11 questions that should be answered in this box, 11:52:27

12 right? 11:52:30

13 A Correct. 11:52:31

14 Q But your testimony earlier was that 11:52:31

15 the training that is provided to SART, the SART 11:52:34

16 team, would provide them information that should 11:52:37

17 allow them to know what information goes into 11:52:40

18 this Summary of Investigation, right? 11:52:45

19 A Yes. 11:52:47

20 MS. LITTRELL: And let's go to the 11:52:49

21 next page, please. 11:52:50

22 Q Do you recognize this form? 11:52:52

23 A Yes. 11:53:01

24 Q And is this -- we talked earlier -- 11:53:03

25 you mentioned there was a document in each 11:53:05

1 facility that should identify the names of the 11:53:08
2 people who are on the SART team. Is this a 11:53:11
3 document that you're referring to? 11:53:17
4 A Yes, the coordinated response plan. 11:53:18
5 MS. LITTRELL: Can you go to the next 11:53:25
6 page, please. And the next page. Okay. Let's 11:53:27
7 look at the next page, please. 11:53:37
8 Q Okay. This is on page 49 of this 11:53:38
9 document. At the top it says, "Sexual Abuse 11:53:46
10 Incident Review Checklist." Is this document -- 11:53:49
11 MS. LITTRELL: Can we see the whole 11:53:53
12 document? 11:53:55
13 Q We can zoom in if you need to, but 11:53:55
14 I'm going to presume, Ms. Atchison, that you 11:53:58
15 have some familiarity with the forms that are 11:54:01
16 associated with this policy. Is that true? 11:54:03
17 A Yes. 11:54:07
18 Q Okay. And so this form, is this the 11:54:08
19 form that gets filled out if a PREA allegation 11:54:13
20 is marked anything but unfounded at the 11:54:18
21 conclusion of the investigation? 11:54:22
22 A Yes, for abuse cases. 11:54:26
23 Q Okay. Meaning it is not filled out 11:54:30
24 for sexual harassment allegations. 11:54:32
25 A Correct. 11:54:35

1 Q And the name at the top, "Offender 11:54:37
2 Name," is that a victim or alleged perpetrator 11:54:40
3 that should be filled in there? 11:54:43

4 A Yes, that should be victim. 11:54:51

5 Q And the types of questions that are 11:54:56
6 asked -- let's see, let me -- can you just 11:54:57
7 describe what the sexual abuse incident review 11:55:03
8 team does with respect to this form? 11:55:08

9 A We make sure that they answer those 11:55:14
10 questions, was -- did they enter the incident 11:55:19
11 report according to the policy; did they see 11:55:22
12 anything that would prevent, detect or respond 11:55:27
13 to any sexual abuse; did any of these 11:55:31
14 identifying factors, such as race, ethnicity, 11:55:35
15 gender identity, LGBTI, did that contribute; 11:55:39
16 physical barriers; staffing levels; and then, of 11:55:46
17 course, video technology. 11:55:54

18 Q And so by -- would you agree that by 11:55:56
19 ensuring that this investigation after the fact 11:55:59
20 takes place, that the objective is to 11:56:06
21 identify -- one of the objectives is to identify 11:56:08
22 any problems with the victim's sexual safety 11:56:14
23 that can be remedied by the facility? 11:56:22

24 MR. CHALMERS: Objection. Form. 11:56:27

25 A Yes. 11:56:28

1 Q And does this also help to ensure 11:56:29
2 that the PREA investigation was conducted 11:56:32
3 according to the PREA policy? 11:56:36

4 A Yes. 11:56:40

5 Q And it allows -- it's an opportunity 11:56:42
6 for the SART team to ensure that they are 11:56:48
7 properly filling out all of the forms when it 11:56:53
8 comes to sexual assault allegations, correct? 11:56:57

9 A This particular form is for the 11:57:01
10 sexual abuse incident review, the SAIRT. So 11:57:05
11 this is the body that's over the SART team, this 11:57:12
12 is the next check and balance from the SART 11:57:16
13 team. 11:57:19

14 Q I want to find out who that is, but 11:57:20
15 I'm just wanting to ensure that the questions 11:57:23
16 that are asked, so, for example, "Was the 11:57:25
17 incident report entered into Scribe," if the 11:57:27
18 answer is no, is part of the objective of this 11:57:31
19 review to ensure that the next time a PREA 11:57:35
20 report is investigated that an incident report, 11:57:41
21 in fact, is entered into Scribe? 11:57:45

22 A This is the purpose of that form, 11:57:48
23 yes. 11:57:49

24 Q It helps to correct behavior of the 11:57:51
25 SART team to ensure that a proper investigation 11:57:54

1 is conducted; is that right? 11:57:58

2 A Yes. 11:58:00

3 Q And it helps to determine whether 11:58:02

4 there are any particular vulnerabilities about 11:58:04

5 the victim, so in terms of question 3; is that 11:58:09

6 right? 11:58:15

7 A Yes. 11:58:16

8 Q Okay. And it helps, I would imagine, 11:58:18

9 the PREA unit track whether members of a 11:58:20

10 particular race, ethnicity, gender identity, 11:58:26

11 et cetera, are being targeted more often so that 11:58:29

12 you can adjust accordingly. 11:58:32

13 A For data points, yes, uh-huh. 11:58:35

14 Q It also allows, especially with 11:58:38

15 number 4, an ability to determine whether there 11:58:42

16 are any problems in the area in which the sexual 11:58:47

17 assault allegation took place that can be 11:58:51

18 adjusted to make that area safer from sexual 11:58:53

19 assault, right? 11:58:58

20 A Yes. 11:59:00

21 Q Okay. All right. Let's see, what 11:59:04

22 page are we on? 11:59:05

23 MS. LITTRELL: Let's go to the next 11:59:05

24 page and see if there's any forms to ask about. 11:59:09

25 Q Okay. And we're just going to look 11:59:16

1 at this form. This may have been one that we 11:59:18
2 looked at earlier that is the new form, but this 11:59:21
3 was the form that was in place at the time. 11:59:22
4 The question is, is this the PREA 11:59:24
5 Initial Notification Form that was in place at 11:59:26
6 the time the events underlying this lawsuit took 11:59:30
7 place? 11:59:34
8 THE WITNESS: Can we scroll up to the 11:59:35
9 effective date of this attachment? 11:59:36
10 A Yes. 11:59:41
11 Q Okay. And this is -- is this a form 11:59:42
12 that's required to be filled out in every 11:59:45
13 allegation of sexual assault? 11:59:48
14 A Yes. 11:59:49
15 Q Let's see. And if you look to 11:59:52
16 page 6 -- I'm sorry, page 25. Down at the 11:59:53
17 bottom of page 25, there is a subsection that 12:00:09
18 begins with G. Do you see that? 12:00:14
19 A Yes. 12:00:17
20 Q Okay. And number 2 under G, the 12:00:18
21 first line says, "The local SART is responsible 12:00:24
22 for the administrative investigation of all 12:00:27
23 sexual abuse or sexual harassment," and then 12:00:27
24 says, "Attachment 4" -- which we looked at 12:00:31
25 earlier from page 38 of this document, which is 12:00:35

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1 the Sexual Allegation Response Checklist, "will 12:00:38

2 be completed for all PREA allegations." 12:00:42

3 So this just confirms what your 12:00:44

4 testimony was, that it's a requirement that the 12:00:46

5 Sexual Allegation Response Checklist, 12:00:49

6 Attachment 4, should be completed for all PREA 12:00:49

7 allegations. 12:00:56

8 MR. CHALMERS: Objection. Form. 12:00:58

9 Sorry. Were you finished, Counsel? 12:01:00

10 MS. LITTRELL: I'll stop there and 12:01:05

11 see if the question is clear. 12:01:06

12 MR. CHALMERS: Objection. Form. 12:01:07

13 A So yes. 12:01:12

14 Q Okay. 12:01:18

15 MS. LITTRELL: Will you scroll down 12:01:18

16 to the next -- slightly so we can see number 3. 12:01:20

17 Okay. And number 2, please, at the same time. 12:01:25

18 Great. 12:01:33

19 Q The last sentence says, "If the 12:01:33

20 allegation is criminal in nature" -- no, I'm 12:01:35

21 sorry. That's not what I want to ask. I want 12:01:40

22 to ask about 3.a. "Where sexual abuse is 12:01:43

23 alleged" -- no, 3 itself. I'm trying to find 12:01:46

24 out who the regional SAC is. 12:01:50

25 So "Appointing authorities or their 12:01:52

1 designees shall report all allegations of sexual 12:01:52
2 assault with penetration and those with 12:01:56
3 immediate and clear evidence of physical contact 12:02:04
4 to their regional director." Who is that? 12:02:07
5 A The regional director would be the 12:02:10
6 supervisor over the wardens in that region. 12:02:12
7 Q Okay. And the "Regional SAC," what 12:02:15
8 does SAC stand for? 12:02:18
9 A Special agent in charge. 12:02:20
10 Q And is that an OPS person or is that 12:02:22
11 a GDC person? I don't know if those two are 12:02:27
12 different, but, like, tell me who that -- where 12:02:31
13 that falls in the hierarchy of GDC? 12:02:32
14 A Sure. It's an OPS criminal 12:02:36
15 investigator outside of the facility. 12:02:39
16 Q Okay. And then the next person that 12:02:42
17 must be reported, if there's allegations of 12:02:43
18 sexual assault with penetration and those with 12:02:46
19 immediate clear evidence of physical contact, is 12:02:50
20 yourself at this moment, right? 12:02:52
21 A Yes. 12:02:54
22 Q That position. All right. And 12:02:55
23 this -- just to be clear, it's all allegations 12:02:57
24 of sexual assault with penetration, correct? 12:03:00
25 A Yes. 12:03:04

1 Q So before disposition is made, if the 12:03:04
2 allegation involves penetration, then all of 12:03:09
3 these people must be reported -- this 12:03:13
4 information should be reported to them, correct? 12:03:20
5 A Yes. 12:03:22
6 Q And then down at 3.b., "Agents and 12:03:26
7 investigators shall gather and preserve direct 12:03:31
8 and circumstantial evidence, including any 12:03:35
9 available electronic monitoring data." 12:03:36
10 Does "investigators" in this sentence 12:03:39
11 mean SART investigators? 12:03:42
12 A In this sentence it could be either 12:03:45
13 but with the "agents" preceding that, I would 12:03:47
14 assume it would be OPS investigations, is what 12:03:50
15 this specific paragraph is referring to. 12:03:54
16 Q Do you know that for sure or are you 12:03:57
17 guessing based on reading it right now? 12:03:59
18 A Yeah, let me read the whole thing. 12:04:03
19 (Witness reviewing document.) 12:04:13
20 Yes, this should be either/or, 12:04:13
21 whoever is investigating it. Whether that be 12:04:15
22 the SART or that be the OPS. 12:04:20
23 Q And is that either/or and? 12:04:24
24 A Either/or and, yes. 12:04:28
25 Q Got it. And then do you understand 12:04:30

1 that available monitoring data to mean video -- 12:04:32
2 to include video recording devices? 12:04:34

3 A Yes. 12:04:39

4 Q And do you understand circumstantial 12:04:40
5 evidence to include evidence that would be 12:04:43
6 helpful to determine whether or not the 12:04:48
7 allegation is true? 12:04:52

8 A Yes. 12:04:58

9 MS. LITTRELL: All right. Let's see. 12:05:00
10 On page 15 -- page 15. And scroll down to 12:05:02
11 subsection h., please. Okay. 12:05:15

12 Q Do you see there where it says, "An 12:05:23
13 administrative and/or criminal investigation 12:05:25
14 shall be completed for all allegations of sexual 12:05:26
15 abuse and harassment?" The next sentence is 12:05:31
16 what I want to ask you about. "Allegations that 12:05:34
17 involve potentially criminal behavior will be 12:05:36
18 referred for investigation to OPS." Is that 12:05:39
19 your understanding of PREA policy? 12:05:42

20 A Yes. 12:05:46

21 MS. LITTRELL: Can you go to page 20, 12:05:49
22 please. 12:05:51

23 Q And, Ms. Atchison, do you train or 12:05:51
24 are you involved in the training of SART team 12:05:58
25 members? 12:06:02

1	A	Yes.	12:06:03
2	Q	And do you train them to follow this	12:06:04
3		policy?	12:06:07
4	A	Yes.	12:06:11
5	Q	Under D.2., is this the form that is	12:06:26
6		contemplated in the transgender policy to	12:06:36
7		determine whether a transgender or intersex	12:06:44
8		offender's safety needs to be reassessed?	12:06:50
9	A	The policy -- this policy, 208.06,	12:06:55
10		does have a special section for transgender	12:06:59
11		offenders, that they shall be reassessed twice	12:07:05
12		yearly, and that is directly from the PREA	12:07:09
13		standards and the law itself.	12:07:16
14	Q	Is there any connection between the	12:07:20
15		transgender policy and PREA with respect to	12:07:24
16		safety reassessments?	12:07:28
17	A	There should not be any conflicts.	12:07:31
18		They should both say that, the same thing, as	12:07:33
19		far as the twice annually.	12:07:37
20	Q	And when the transgender policy	12:07:39
21		refers to safety reassessment, is it referring	12:07:41
22		to completing the PREA Sexual Victim/Sexual	12:07:47
23		Aggressor Classification Screening Instrument	12:07:55
24		that is identified here in D.2.?	12:07:58
25	A	Yes.	12:08:01

1	Q	Is there any other process that is	12:08:02
2		undertaken, pursuant to the transgender policy,	12:08:08
3		to assess a transgender or intersex offender's	12:08:13
4		safety reassessment?	12:08:20
5	A	Is there any -- can you repeat that?	12:08:25
6	Q	Is there any additional documentation	12:08:27
7		that needs to be filled out with respect to	12:08:35
8		ensuring that the safety reassessment that's	12:08:39
9		contemplated in the transgender policy is	12:08:43
10		completed?	12:08:47
11	A	No, no additional.	12:08:47
12	Q	Okay.	12:08:56
13		MS. LITTRELL: All right. Let's look	12:08:56
14		at page 21 and number 5.	12:08:57
15	Q	This is a requirement that the	12:09:05
16		warden/superintendent is required to designate a	12:09:07
17		safe bed -- I'm sorry, a safe dorm or dorms or	12:09:14
18		safe bed or beds "for offenders identified as	12:09:17
19		highly vulnerable to sexual abuse." Do you see	12:09:21
20		that?	12:09:29
21	A	Yes.	12:09:29
22	Q	And that's what we were talking about	12:09:29
23		earlier when we were talking about actions that	12:09:31
24		can be taken to reduce the risk of sexual	12:09:33
25		assault; is that right?	12:09:36

1	A	Yes.	12:09:38
2	Q	And those safe dorms or safe beds are	12:09:42
3		identified in this PREA Local Procedure	12:09:46
4		Directive and Coordinated Response Plan, right?	12:09:47
5	A	Yes.	12:09:52
6	Q	Have you seen Coastal's PREA Local	12:09:54
7		Procedure Directive and Coordinated Response	12:09:57
8		Plan?	12:09:57
9	A	At some point I've reviewed them all.	12:10:03
10		I can't tell you when I reviewed it, but I did	12:10:07
11		review it. And they are reviewed every three	12:10:10
12		years by the federal auditor as well.	12:10:17
13	Q	Okay.	12:10:26
14	MS. LITTRELL:	Scroll down to	12:10:26
15		number 7 on the same page.	12:10:27
16	Q	And it says, "Placement and	12:10:32
17		programming assignments for each transgender or	12:10:36
18		intersex offender shall be reassessed no less	12:10:40
19		than every six months to review any threats" to	12:10:45
20		their sexual safety.	12:10:48
21	Do you understand this to require		12:10:51
22		anything other than filling out the PREA	12:10:53
23		classification designation form?	12:10:58
24	A	This is to complete the risk	12:11:06
25		screening assessment form only.	12:11:09

1	Q	Is that the form that we were just	12:11:15
2		talking about from page 20, number 2, the risk	12:11:19
3		assessment?	12:11:23
4	A	Yes.	12:11:24
5	Q	Okay.	12:11:26
6		MS. LITTRELL: Just scroll up. Maybe	12:11:31
7		we can just look at that form and make sure that	12:11:31
8		we're just talking about the same thing. Scroll	12:11:35
9		to page 20, and we want to look at subsection 2.	12:11:38
10		Great.	12:11:46
11		So this is Attachment 2. Let's see	12:11:46
12		if we can find Attachment 2. I bet it's on	12:11:51
13		about page 36. And we'll go up one more. Okay.	12:11:55
14	Q	So this is the PREA Victim/Sexual	12:12:01
15		Aggressor Classification Screening Instrument,	12:12:08
16		right?	12:12:12
17	A	Yes.	12:12:13
18	Q	Required to be filled out when anyone	12:12:13
19		comes into the GDC system, right?	12:12:17
20	A	Yes.	12:12:20
21	Q	And with respect to transgender and	12:12:21
22		intersex offenders, this is required to be	12:12:24
23		filled out twice annually?	12:12:26
24	A	Yes.	12:12:29
25	Q	And after any incident of sexual	12:12:32

1 abuse? 12:12:36

2 A Yes. 12:12:39

3 Q Okay. Is there anything else that 12:12:40

4 you know of that occurs with respect to 12:12:43

5 reassessing the safety of a transgender and a 12:12:48

6 sex offender other than filling out this form? 12:12:52

7 A You broke up there a little bit. Can 12:12:56

8 you repeat that? 12:12:58

9 Q Yes. Are you aware of anything other 12:12:59

10 than filling out this form that GDC requires to 12:13:01

11 be undertaken for transgender and intersex 12:13:07

12 offenders to reassess their safety? 12:13:16

13 A No. 12:13:19

14 Q Okay. On page 26 -- we've already 12:13:20

15 looked at that. Sorry. 12:13:35

16 Let's look at page 27. You might 12:13:49

17 want to look at subsection 5, or number 5. Do 12:13:52

18 you see where it says "For investigations of 12:13:57

19 allegations of sexual abuse, the Department 12:13:59

20 shall follow a uniform evidence protocol that 12:14:02

21 maximizes the potential for obtaining usable 12:14:06

22 physical evidence," and I won't read the rest. 12:14:09

23 But is it your understanding that that includes 12:14:14

24 preserving video recordings? 12:14:17

25 A I would have to look at SOP 103.06, 12:14:22

1 which it references, but I know that in PREA 12:14:29
2 trainings we do explain that. 12:14:32

3 Q Explain what? 12:14:37

4 A The preservation of evidence as far 12:14:38
5 as looking at video, advising the offender not 12:14:41
6 to destroy any physical evidence, like brushing 12:14:49
7 their teeth or taking a shower, things of that 12:14:53
8 nature. We do that in the SART trainings. But 12:14:54
9 as far as 103.06, I'd have to look at it. 12:14:57

10 Q Fair enough. 12:15:01

11 In the SART trainings do you teach 12:15:02
12 the importance of preserving video evidence? 12:15:04

13 A Yes. 12:15:14

14 MS. LITTRELL: You can take this down 12:15:14
15 now. Thanks. 12:15:14

16 Q It's my understanding that mental 12:15:31
17 health evaluations are a part of the PREA 12:15:33
18 process. Is that right? 12:15:36

19 A Yes. In cases where the offender has 12:15:38
20 claimed prior sexual abuse or any -- well, prior 12:15:44
21 sexual abuse, and then they are forwarded for a 12:15:50
22 mental health evaluation. 12:15:54

23 Q So someone who alleges that they are 12:15:57
24 a victim of a PREA assault for the first time, 12:16:00
25 is there any requirement in the PREA policy that 12:16:02

1	they be provided a mental health consultation?	12:16:06
2	A Yes, I believe so.	12:16:15
3	Q Okay. And is it your understanding	12:16:19
4	that the mental health consultation is separate	12:16:21
5	from the PREA investigation?	12:16:26
6	A Yes.	12:16:29
7	Q Is that because it serves a different	12:16:31
8	function than the PREA investigation itself?	12:16:33
9	A I would refer that to the mental	12:16:38
10	health subject matter expert.	12:16:40
11	Q Okay. But the mental health	12:16:44
12	consultation that is provided to a PREA victim	12:16:48
13	is not, as far as you know, required to be an	12:16:54
14	investigative tool for the SART team?	12:17:01
15	A Not that I'm aware of.	12:17:05
16	Q Okay.	12:17:09
17	Third-party PREA reports are	12:17:17
18	expressly allowed and authorized under the PREA	12:17:21
19	policy, correct?	12:17:29
20	A Yes.	12:17:29
21	Q Okay. Is there any written	12:17:34
22	prohibition on speaking with the third-party	12:17:43
23	reporter to determine if they have additional	12:17:53
24	information?	12:17:56
25	A No.	12:18:04

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1 Q And so if a PREA -- if you received a 12:18:05
2 third-party PREA report, let's just say, for 12:18:11
3 example, from a family member who provided 12:18:16
4 information that their loved one was the victim 12:18:22
5 of sexual assault, that their loved one was 12:18:27
6 afraid to report it because they were afraid of 12:18:31
7 retaliation but that they told them the names of 12:18:34
8 three witnesses, is there any prohibition 12:18:37
9 against contacting that family member to find 12:18:42
10 out the names of those witnesses? 12:18:45
11 A No prohibitions. 12:18:48
12 MS. LITTRELL: All right. I'm going 12:18:56
13 to get you to pull up now, Mr. Plummer, what 12:18:58
14 should be marked support document 57-7. 12:19:03
15 REMOTE TECH: One moment. 12:19:05
16 (Atchison (Fact) Exhibit 5 marked for 12:19:05
17 identification and attached to the transcript.) 12:19:05
18 MS. LITTRELL: Sorry, give me just 12:19:11
19 one minute. I'm having a little computer 12:20:09
20 trouble over here. 12:20:09
21 (Pause) 12:20:09
22 I'm sorry, can we go off the record 12:20:09
23 for a minute? My computer is freezing on me. 12:20:37
24 Can we just take a five-minute break? 12:20:37
25 THE VIDEOGRAPHER: We're going off 12:20:41

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1 the record at 12:20 p.m. Eastern Time. 12:20:42

2 (A luncheon recess was taken.) 12:20:45

3 THE VIDEOGRAPHER: We're going back 01:02:19

4 on the record at 1:02 p.m. Eastern Time. 01:02:20

5 BY MS. LITTRELL: 01:02:23

6 Q Good afternoon now, everyone, and 01:02:27

7 Ms. Atchison. We were looking at a document 01:02:28

8 that's been marked Exhibit number 5. 01:02:32

9 MS. LITTRELL: And I'll ask the tech 01:02:36

10 to please bring that document up again. 01:02:38

11 REMOTE TECH: One moment. 01:02:46

12 Q Ms. Atchison, can you see the 01:03:10

13 document that's on your screen? 01:03:12

14 A Yes. 01:03:14

15 Q Okay. And have you seen this 01:03:16

16 document before? 01:03:17

17 A Yes. 01:03:19

18 Q Okay. Okay. And this is a letter 01:03:21

19 that was sent directly to the -- it was sent to 01:03:23

20 a number of people but also directly to the PREA 01:03:27

21 office, the PREA unit. Do you recall that? 01:03:30

22 A Yes. 01:03:34

23 Q And I want to -- it's dated May 20, 01:03:36

24 2020, and I want to call your attention to the 01:03:40

25 bottom of page 1. Do you see the last sentence 01:03:46

1 where it says that Ms. Diamond has endured 01:03:55
2 sexual harassment and assault at GDCP and 01:04:01
3 remains at risk of severe -- I'm sorry, remains 01:04:05
4 at severe risk of assault? 01:04:06
5 And then the next sentence is what I 01:04:07
6 want to ask you about, where it says, "Equally 01:04:10
7 worrisome, the perpetrators of this sexual 01:04:12
8 violence have been other incarcerated people as 01:04:16
9 well as GDC staff." Do you see that there? 01:04:20
10 A Yes. 01:04:23
11 Q Did you see that -- the allegation 01:04:24
12 that Ms. Diamond had been sexually harassed or 01:04:28
13 assaulted by other incarcerated people when this 01:04:31
14 letter came to your office back in May? 01:04:35
15 A Are you asking if I was previously 01:04:41
16 aware of these allegations before this letter? 01:04:43
17 Q No. I'm asking if you read this -- 01:04:46
18 that part of the letter. 01:04:47
19 A Oh, yes. 01:04:50
20 Q Okay. And what did you do to ensure 01:04:51
21 that an investigation was initiated to determine 01:04:54
22 the details of this allegation of sexual assault 01:04:59
23 by incarcerated people? 01:05:06
24 A It was forwarded to Warden Benton to 01:05:07
25 have the SART team to investigate. 01:05:11

1 Q Okay. And so just to orient you in 01:05:16
2 terms of time, Ms. Diamond was transferred to 01:05:19
3 Coastal, which is where Warden Benton is the 01:05:23
4 warden, in June. So -- 01:05:27
5 A Oh, okay. 01:05:29
6 Q And it may be that this letter was 01:05:29
7 forwarded to Warden Benton, but I want to just 01:05:33
8 give you an opportunity to ensure we have the 01:05:38
9 right information on the record. The steps that 01:05:42
10 you recall taking in response to this letter are 01:05:47
11 what? 01:05:49
12 A Yes. Sorry, my -- I was incorrect 01:05:51
13 with that time frame. This particular 01:05:55
14 allegation, if I'm clear, is the one filed 01:05:59
15 against GDCP -- 01:06:02
16 Q Okay. 01:06:05
17 A -- correct? If I could look at the 01:06:06
18 document to see. 01:06:08
19 Q It's in the sentence before. 01:06:10
20 A Oh, Georgia Di- -- okay. Yes, sorry. 01:06:16
21 That would have been forwarded to the warden of 01:06:18
22 GDCP and to LaChesha Smith, who was the PREA 01:06:21
23 compliance manager at the time. 01:06:29
24 Q Okay. Is it your testimony that you 01:06:30
25 did forward this to GDCP when you received it? 01:06:33

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1	A	Yes.	01:06:37
2	Q	And do you recall when in time, in	01:06:39
3		relation to when you received it, that you	01:06:42
4		forwarded this to GDCP?	01:06:45
5	A	Immediately upon receipt.	01:06:48
6	Q	Okay. And what did you do	01:06:49
7		specifically to ensure that allegations of	01:06:52
8		sexual assault by other incarcerated people was	01:06:56
9		properly investigated?	01:07:00
10	A	Any time I get an allegation, I	01:07:02
11		forward it to the facility immediately for SART	01:07:05
12		investigation.	01:07:09
13	Q	Do you recall asking Ms. Smith about	01:07:10
14		whether Ms. Diamond had been -- whether she had	01:07:17
15		started an investigation into whether there were	01:07:21
16		sexual assaults by incarcerated people --	01:07:24
17	A	Yes.	01:07:28
18	Q	-- against Ms. Diamond?	01:07:28
19		And what did she say about that?	01:07:31
20	A	If I recall correctly, the first	01:07:34
21		allegation against the nurse was already under	01:07:38
22		investigation, and there was another allegation,	01:07:43
23		I believe, pertaining to this correspondence	01:07:50
24		here, this letter, where the investigation had	01:07:54
25		not been initiated until I received it and sent	01:07:58

1 it to her and advised her to complete an 01:08:03
2 investigation. 01:08:07

3 Q Do you recall specifically that you 01:08:08
4 directed her to open an investigation into 01:08:10
5 allegations of sexual assault by incarcerated 01:08:15
6 people against Ms. Diamond, as this letter 01:08:19
7 alleges? 01:08:22

8 A I want to say they were staff. I 01:08:28
9 would have to look back at the records to see 01:08:31
10 what I forwarded to be able to speak the entire 01:08:34
11 truth on that. 01:08:37

12 Q But you agree that this is a 01:08:42
13 third-party PREA report? 01:08:44

14 A Yes. 01:08:45

15 MS. LITTRELL: Okay. Let's scroll a 01:08:47
16 little bit to see the additional information. 01:08:49

17 Q Okay. So the sexual assaults that 01:08:56
18 are detailed here, one is the GDC staff member 01:09:00
19 on March 10th. Do you see that? 01:09:05

20 MR. CHALMERS: Objection. Form. You 01:09:09
21 can answer. 01:09:12

22 A Okay. To the PREA complaint filed on 01:09:12
23 March 13th -- oh, okay, now we're down here at 01:09:19
24 March 10th, okay. Okay. Nurse Lucas, yes. 01:09:22

25 Q So that's one of the detail -- that's 01:09:26

1 not an incarcerated person, in terms of the 01:09:30
2 allegation, correct? 01:09:32

3 A Correct. 01:09:34

4 Q Okay. And then underneath that you 01:09:35
5 see there's details of an alleged sexual assault 01:09:37
6 and harassment by officer -- in here it says 01:09:41
7 Arethiea Smith. Do you see that? 01:09:48

8 A Yes. 01:09:52

9 Q And that would be an allegation of 01:09:52
10 sexual abuse by a staff member, correct? 01:09:54

11 A Correct. 01:09:58

12 Q Are you aware of whether there are -- 01:10:00
13 there were PREA investigations undertaken with 01:10:03
14 respect to these two staff members? 01:10:08

15 A Yes. 01:10:14

16 Q And are you aware of whether there 01:10:15
17 was a PREA investigation initiated into the 01:10:16
18 sexual assault by other offenders that's also 01:10:20
19 alleged in this document? 01:10:24

20 A I would have to look back at the 01:10:27
21 records as far as offender to offender, yes. 01:10:29

22 Q But you don't recall whether or not 01:10:32
23 there is any PREA alle- -- a PREA investigation 01:10:35
24 was opened? 01:10:38

25 A Not specifically. Because there were 01:10:40

1 several of Diamond's allegations, they're kind 01:10:44
2 of running together for me right now. So I 01:10:50
3 would have to look at the individual documents 01:10:52
4 to testify truthfully on that. 01:10:54

5 Q Okay. But you have the authority to 01:10:56
6 direct Ms. Smith, as the PREA compliance 01:10:58
7 manager, to open an investigation into an 01:11:03
8 allegation of sexual assault, correct? 01:11:07

9 A Yes. 01:11:11

10 Q And in your role as an oversight 01:11:14
11 person and in your role as the PREA 01:11:20
12 compliance -- statewide PREA compliance manager, 01:11:23
13 you have the obligation to ensure that PREA 01:11:27
14 investigations are opened when an allegation 01:11:30
15 comes to your attention, correct? 01:11:34

16 A Yes. 01:11:35

17 Q Okay. Would you agree that the 01:11:47
18 purpose of a third-party PREA reporting process 01:11:49
19 is to ensure that an investigation is commenced 01:11:51
20 notwithstanding that the victim may be hesitant 01:11:55
21 to report directly? 01:11:59

22 A Yes. 01:12:01

23 Q You were at the hearing in May in 01:12:08
24 which testimony was provided on two days, 01:12:12
25 May 12th and May 13th. Do you recall being at 01:12:14

1	that hearing?	01:12:17
2	A Yes.	01:12:18
3	Q Do you recall hearing Ms. Diamond	01:12:20
4	testify?	01:12:22
5	A I do not recall specifically.	01:12:29
6	Q Do you recall whether you were at the	01:12:32
7	hearing from the beginning of the hearing until	01:12:35
8	the end of the first day?	01:12:38
9	A Yes, I believe so.	01:12:42
10	Q Do you recall -- maybe this will	01:12:49
11	refresh your recollection -- that Ms. Diamond	01:12:51
12	testified that she was raped within the first	01:12:52
13	couple of nights in her cell while she was	01:12:55
14	sleeping. Do you remember that testimony in any	01:12:59
15	way, shape or form?	01:13:01
16	A I do not.	01:13:02
17	Q Do you recall whether, after that	01:13:06
18	hearing, you contacted Ms. Smith or whoever the	01:13:09
19	PREA compliance manager was at GDCP to ensure	01:13:14
20	that a PREA investigation into this serious	01:13:20
21	allegation of sexual assault was conducted?	01:13:23
22	A I recall correspondence to Ms. Smith	01:13:27
23	to initiate an investigation, but I'm not sure	01:13:31
24	if that was before or after the hearing. But I	01:13:35
25	do know it would have been immediately upon my	01:13:39

1 receipt of the information. 01:13:42

2 Q Okay. Do you recall -- 01:13:47

3 MS. LITTRELL: Let me step back. 01:13:51

4 Q The allegation that I have just 01:13:53

5 relayed that Ms. Diamond testified about that 01:13:55

6 she was raped in her cell by a cell mate, would 01:13:58

7 you agree that that allegation is criminal in 01:14:02

8 nature? 01:14:04

9 A Yes. 01:14:05

10 Q And it would be possible to determine 01:14:10

11 who the alleged perpetrator of that alleged 01:14:12

12 sexual assault by looking at institutional 01:14:17

13 records, correct? 01:14:22

14 MR. CHALMERS: Objection. Form. 01:14:27

15 A Can you rephrase that -- I mean, can 01:14:28

16 you rephrase that? 01:14:28

17 Q Uh-huh. The allegation Ms. Diamond 01:14:35

18 testified about was that it happened with- -- at 01:14:38

19 GDCP within a few days of her arrival and it was 01:14:42

20 in her cell by her cell mate while she was 01:14:47

21 sleeping. Is that enough information for a PREA 01:14:51

22 investigator to determine the name of the 01:14:54

23 alleged perpetrator? 01:14:59

24 A Not necessarily. If they're not -- 01:15:04

25 if she named an aggressor, yes, but if she did 01:15:07

1 not, then we would have to go through further 01:15:12
2 means to identify the alleged aggressor. 01:15:16

3 Q And what means would that entail? 01:15:18

4 A It would be different with -- unique 01:15:21
5 to the individual case. If there was video, we 01:15:25
6 would look at that. Any evidence that we could 01:15:29
7 look at to determine the identity, we should 01:15:33
8 have reviewed that. 01:15:37

9 Q So in this particular set of 01:15:39
10 allegations, is it possible that the SART team 01:15:42
11 could find out what cell Ms. Diamond was 01:15:48
12 assigned to within the first few days of her 01:15:52
13 arrival at GDCP? 01:15:56

14 MR. CHALMERS: Objection. Form. 01:15:59

15 A The cell assignment would have been 01:16:02
16 documented via computer Scribe assignment. 01:16:04

17 Q And does the SART investigation -- 01:16:08
18 the SART team have access to that information? 01:16:12

19 A I believe so. 01:16:17

20 Q And the cell -- the other person who 01:16:21
21 was assigned to Ms. Diamond's cell, would that 01:16:24
22 information be available to the SART team? 01:16:27

23 A Yes, the housing assignment would be 01:16:33
24 available. 01:16:36

25 Q At the hearing on May 12th, when 01:16:41

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1 Ms. Diamond was testifying, do you recall her 01:16:42
2 testifying about a sexual -- sorry, a second 01:16:48
3 sexual assault in which she was rescued by an 01:16:53
4 offender by the name of Daryl Smith? 01:16:57

5 A I recall the -- hearing of that 01:17:01
6 situation. Whether it was her testimony, I'm 01:17:06
7 not sure, but I do recall the situation. 01:17:10

8 Q And the testimony was that both she 01:17:15
9 and Daryl Smith went to LaChesha Smith's office 01:17:17
10 to report it. Does that sound familiar? 01:17:23

11 A I don't recall. 01:17:27

12 Q Did you initiate a PREA investigation 01:17:29
13 into the allegation that Ms. Diamond had been 01:17:32
14 sexually assaulted at GDCP, was rescued by 01:17:37
15 another offender and that the two of them went 01:17:42
16 into Ms. Smith's office to report it? 01:17:46

17 A Did I request an investigation based 01:17:51
18 on those specifics? 01:17:55

19 Q Yes, ma'am. 01:17:57

20 A I can't recall, but if I received an 01:17:58
21 allegation, I would have requested an 01:18:00
22 investigation if one had not already been 01:18:02
23 initiated. 01:18:05

24 Q After the hearing did you initiate an 01:18:06
25 investigation based on Ms. Diamond's testimony? 01:18:11

1 A I can't recall any new investigative 01:18:21
2 information from the hearing. 01:18:23

3 Q Did you have the ability to request 01:18:25
4 that the PREA compliance manager at GDCP open an 01:18:27
5 investigation based on what you heard at the 01:18:33
6 hearing? 01:18:36

7 A I wouldn't say based on what I heard 01:18:37
8 at the hearing, but I do remember correspondence 01:18:39
9 with LaChesha Smith about initiating 01:18:42
10 investigations. 01:18:47

11 Q So the question is do you have the 01:18:48
12 ability to request that LaChesha Smith open an 01:18:49
13 investigation based on testimony that you heard 01:18:54
14 from an offender about a sexual assault while in 01:18:56
15 custody? 01:19:00

16 A Yes. 01:19:01

17 Q Okay. Do you specifically recall 01:19:05
18 talking with LaChesha Smith about this 01:19:07
19 allegation that I just described? 01:19:09

20 A With? 01:19:17

21 Q Well, either with the rape that was 01:19:19
22 alleged to have occurred in her cell or the 01:19:22
23 assault in which Ms. Diamond and another 01:19:26
24 offender went directly to Ms. Smith's office to 01:19:29
25 report it? 01:19:33

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1 A As I stated earlier, I recall the 01:19:38
2 staff allegations, not necessarily the offender 01:19:42
3 allegation. I would have to look back at the 01:19:45
4 specific documents to answer that question. 01:19:47
5 Q Okay. So you don't recall a 01:19:49
6 conversation with LaChesha Smith about these two 01:19:50
7 alleged assaults? 01:19:55
8 A I do not. 01:19:57
9 Q Okay. Do you recall -- 01:20:00
10 MS. LITTRELL: You can take this 01:20:03
11 down. 01:20:04
12 Q Do you recall directing LaChesha 01:20:04
13 Smith to redo the facility classification 01:20:12
14 document -- part of the document that's 01:20:16
15 associated with the FCC forms? 01:20:21
16 A Yes. 01:20:24
17 Q And do you recall receiving from her 01:20:28
18 a new FCC, Facility Classification Committee, 01:20:32
19 form in which that was properly filled out? 01:20:39
20 A I remember the correspondence. I'm 01:20:46
21 not sure if it was with LaChesha Smith or 01:20:49
22 Theresa Thornton, who was the deputy of Care and 01:20:53
23 Treatment at the time, but I do recall returning 01:20:57
24 the SCC form to the facility to redo it. 01:20:59
25 Q Okay. Do you recall receiving a 01:21:03

1 redone classification form from GDGP? 01:21:09

2 A Yes. 01:21:14

3 Q Do you recall that that arrived or 01:21:14

4 was dated November 25th, 2019? 01:21:17

5 A I would have to see the document to 01:21:21

6 answer that. 01:21:23

7 Q Hold on one second. Let me see if I 01:21:36

8 can pull that up. 01:21:38

9 Let's circle back to that and keep 01:21:39

10 talking. But you have no reason to dis- -- you 01:21:42

11 have no information that the date was not 01:21:45

12 November 25th, 2019, right? 01:21:48

13 A Yes, that's -- 01:21:51

14 MR. CHALMERS: Objection. Objection 01:21:53

15 to form. 01:21:54

16 Q Do you recall that in the form -- the 01:21:56

17 corrected or the amended form that you received 01:22:00

18 in November, do you recall that Ms. Diamond's 01:22:09

19 preference was for placement in a female 01:22:14

20 facility? 01:22:20

21 A Again, I would have to look at the 01:22:22

22 documentation to answer that because -- oh, 01:22:23

23 sorry. Sorry, I had a phone call. I've ignored 01:22:34

24 it. 01:22:38

25 Q Ms. Atchison, can I get you to turn 01:22:38

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1 your phone off -- 01:22:41

2 A I did. 01:22:42

3 Q -- or on silent. And turn it down so 01:22:42

4 you can't see any text messages. 01:22:44

5 A Yeah, it's face down. 01:22:47

6 Q Okay, great. 01:22:48

7 A Okay, I'm sorry. I got sidetracked. 01:22:49

8 What was the question? 01:22:52

9 Q Let me see if we can pull it up. 01:22:55

10 MS. LITTRELL: Let me get the tech to 01:22:57

11 pull up what has been pre-marked DEF04643. 01:23:01

12 I'm sorry, DEF004642 is the form that 01:23:12

13 we need to look at. 01:23:30

14 REMOTE TECH: Okay. One moment. 01:23:31

15 MS. LITTRELL: Thank you. 01:23:31

16 (Atchison (Fact) Exhibit 6 marked for 01:23:31

17 identification and attached to the transcript.) 01:23:31

18 Q There we go. We'll take a look at 01:24:17

19 this together and see if I remembered my date 01:24:17

20 correctly. 01:24:17

21 Do you see the document that's on 01:24:17

22 your screen, Ms. Atchison? 01:24:19

23 A Yes. 01:24:20

24 Q And this is a form that is a part of 01:24:21

25 the Statewide Classification Committee referral 01:24:26

1 process, and this -- which is Attachment 1. Up 01:24:31
2 at the top is the "Facility Classification 01:24:32
3 Committee" form, right? 01:24:34
4 A Yes. 01:24:36
5 Q Okay. And then this -- and this is a 01:24:38
6 questionnaire that the facility classification 01:24:39
7 chairperson is required to fill out for 01:24:44
8 transgender and intersex offenders, right? 01:24:47
9 A Yes. 01:24:52
10 Q And do you see, where it asks "What 01:24:52
11 facility-type does the offender prefer," that 01:24:55
12 the box is marked "Female Facility"? 01:25:01
13 A Yes. 01:25:06
14 Q Okay. And if we'll scroll down to 01:25:06
15 the bottom, do you see the date on which this 01:25:06
16 was filled out is 11-25-19? You need to -- 01:25:08
17 A Yes. Sorry. 01:25:18
18 Q Okay. 01:25:18
19 MR. CHALMERS: Objection. Form. 01:25:18
20 Q And do you see that the date next to 01:25:20
21 the warden's signature is 11-25-19? 01:25:24
22 A Yes. 01:25:30
23 Q And do you see that the 01:25:31
24 recommendation from the FCC is to place the 01:25:32
25 offender in a female facility? 01:25:35

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1 A Yes. 01:25:40

2 Q And do you see the warden's signature 01:25:41

3 is concurring in that recommendation? 01:25:44

4 A Yes. 01:25:48

5 Q Does this form indicate to you that 01:25:51

6 on 11-25 Ms. Diamond had made a decision that 01:25:54

7 she would prefer to be placed in a female 01:26:04

8 facility? 01:26:07

9 A Yes. This form says that. 01:26:09

10 Q Okay. And this may have been 01:26:15

11 pursuant to an interview that LaChesha Smith had 01:26:18

12 with Ms. Diamond after the conversation that you 01:26:23

13 had with Ms. Diamond that was recorded, right? 01:26:28

14 MR. CHALMERS: Objection. Calls for 01:26:32

15 speculation. 01:26:33

16 Q Go ahead, Ms. Atchison. Ms. Smith -- 01:26:34

17 you're muted. 01:26:34

18 THE WITNESS: Oh, I can answer? 01:26:39

19 MR. CHALMERS: Yes. 01:26:44

20 THE WITNESS: Okay. 01:26:45

21 A I would have to look at the day -- I 01:26:47

22 know there was a video interview, I'm not sure 01:26:50

23 of the exact date of that -- and then the date 01:26:53

24 of this -- that LaChesha signed this piece of 01:26:55

25 paper and see if that was before or after. But 01:27:01

1 I'm not sure if it was before or after. 01:27:04

2 Q But you have no information that 01:27:07

3 Ms. Smith did not have a conversation with 01:27:08

4 Ms. Diamond to arrive at her recommendation, 01:27:11

5 right? 01:27:14

6 MR. CHALMERS: Objection. Calls for 01:27:17

7 speculation. You can answer. 01:27:18

8 MS. LITTRELL: I'm asking if she has 01:27:20

9 any personal -- 01:27:21

10 Q Sorry, let's just make sure it's 01:27:22

11 clear. I'm asking you if you have any personal 01:27:22

12 knowledge that Ms. Smith did not speak with 01:27:25

13 Ms. Diamond to arrive at her recommendation that 01:27:28

14 is reflected on this form. 01:27:33

15 MR. CHALMERS: Same objection. You 01:27:36

16 can answer. 01:27:37

17 A No. 01:27:38

18 Q Okay. And so that if this form was 01:27:41

19 filled out after the conversation that was 01:27:43

20 reported, that you had with Ms. Diamond, this 01:27:45

21 form could indicate that Ms. Diamond had changed 01:27:50

22 her position about being okay in a male -- being 01:27:53

23 placed in a male facility? 01:28:00

24 MR. CHALMERS: Objection. Form. You 01:28:03

25 can answer. 01:28:04

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1 A If this was completed following an 01:28:05
2 interview after I had completed my portion of 01:28:09
3 the SCC, then yes. 01:28:13
4 Q Okay. 01:28:17
5 MS. LITTRELL: You can take this down 01:28:17
6 and if you would pull up what's pre-marked 01:28:20
7 DEF_030304. 01:28:24
8 Q Do you recognize -- 01:29:03
9 MS. LITTRELL: And please mark this 01:29:03
10 as Exhibit -- whatever number is next in line. 01:29:05
11 I apologize, I'm losing my track. What number 01:29:09
12 is this? 01:29:12
13 REMOTE TECH: It's 7. 01:29:13
14 MS. LITTRELL: Okay. 01:29:14
15 (ATchison (Fact) Exhibit 7 marked for 01:29:14
16 identification and attached to the transcript.) 01:29:14
17 Q Have you seen this document before, 01:29:15
18 Ms. Atchison? 01:29:16
19 A I believe so. Yes. 01:29:20
20 MR. CHALMERS: Counsel, can you -- I 01:29:25
21 don't have it yet, but -- 01:29:26
22 MS. LITTRELL: Okay. 01:29:27
23 MR. CHALMERS: -- can you show her 01:29:27
24 the full document, please. I don't have access 01:29:28
25 to it yet. Thanks. 01:29:31

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1 Q You can zoom out, I guess, so you can 01:29:45
2 see that there's nothing below the language that 01:29:46
3 you see here except for the DEF number and now 01:29:48
4 the exhibit. Now we're going to zoom back in 01:29:52
5 just to be able to read it. 01:29:55
6 You see that this is an e-mail to the 01:29:57
7 PREA unit from -- through JPay, correct? 01:29:59
8 A Correct. 01:30:06
9 Q And it appears to be sent by Ashley 01:30:07
10 Diamond, right? 01:30:09
11 A Correct. 01:30:11
12 Q Okay. And it was sent on June 5th, 01:30:11
13 2020, right? 01:30:15
14 A Yes. 01:30:16
15 Q Okay. And this would have come to 01:30:18
16 the PREA unit, right? 01:30:20
17 A Yes. 01:30:24
18 Q And do you get the e-mails that come 01:30:25
19 to the address that's listed up top here? 01:30:27
20 A Someone from my unit will get them. 01:30:32
21 Usually it's my analyst, Mr. Hofer. He checks 01:30:34
22 the PREA e-mail daily. 01:30:40
23 Q Okay. And do you consider this a 01:30:43
24 report of a sexual assault? 01:30:46
25 A Who has faced multiple sexual 01:30:57

1 assaults, yes. 01:31:00

2 Q What steps did you take to ensure 01:31:02

3 that a PREA investigation was initiated after 01:31:04

4 you received this e-mail? 01:31:08

5 A I do not recall the specific steps. 01:31:13

6 I would have to go back to my documentation, my 01:31:18

7 e-mails or -- as you see, it is not very 01:31:21

8 specific in this e-mail. So I would have 01:31:28

9 forwarded this to the SART team for follow-up. 01:31:30

10 Q Okay. Do you recall forwarding this 01:31:35

11 to the SART team for follow-up? 01:31:38

12 A I do not recall specifically. Again, 01:31:40

13 I would have to look back at my records. 01:31:42

14 Q What is the process or the protocol 01:31:46

15 when the facility receives a forwarded PREA 01:31:50

16 report from your unit? 01:31:57

17 A The procedure in this particular case 01:32:01

18 should have been interviewing Diamond and seeing 01:32:04

19 if there were additional allegations from the 01:32:07

20 one she has already reported. And if there were 01:32:12

21 additional allegations, then a new investigation 01:32:17

22 should be initiated for each new allegation. 01:32:21

23 Q Okay. And do you see that the last 01:32:26

24 sentence is a request to be assessed for female 01:32:29

25 facility placement? 01:32:33

1 A Yes. 01:32:35

2 Q Okay. What steps were taken to 01:32:36

3 provide Ms. Diamond with a reassessment for a 01:32:43

4 female facility placement, to your knowledge? 01:32:48

5 A Nothing. 01:32:51

6 Q Okay. 01:32:54

7 MS. LITTRELL: You can take this 01:32:54

8 down. Thank you. And please pull up and mark 01:32:55

9 as Exhibit 8 what's been pre-marked DEF_0388. 01:32:57

10 (Atchison (Fact) Exhibit 8 marked for 01:33:02

11 identification and attached to the transcript.) 01:33:02

12 MS. LITTRELL: Mr. Chalmers, do you 01:33:29

13 have this doc? 01:33:31

14 MR. CHALMERS: I don't have it yet, 01:33:34

15 but you can go ahead. It will come up in a 01:33:35

16 second. 01:33:39

17 MS. LITTRELL: All right. 01:33:39

18 Q Ms. Atchison, can you see the 01:33:39

19 document that's on your screen? 01:33:42

20 A Yes. 01:33:45

21 Q And this is -- again, up at the top 01:33:47

22 it says, "Attachment 1," and it's "SCC Interview 01:33:50

23 with Offender." Do you see that? 01:33:55

24 A Yes. 01:33:57

25 Q Does this appear to be the same form 01:33:59

1 that we talked about earlier in relation to the 01:34:01
2 form that was filled out by LaChesha Smith on 01:34:10
3 November -- or dated November 25th, 2019? 01:34:13
4 A This would be -- should be page 2 of 01:34:18
5 that document. The section Ms. Smith completed 01:34:20
6 should have been page 1 of the same attachment. 01:34:27
7 Q Okay. I think we need to see the 01:34:30
8 whole document to be able to make sure we're 01:34:31
9 looking at the right thing. It should have 01:34:37
10 been, you say, page 2 of Attachment 1? 01:34:50
11 A Yes, this is page 2 of 3. So the 01:34:54
12 first page should have been Ms. Smith's -- 01:34:57
13 Q Okay. 01:35:04
14 A -- form. 01:35:04
15 Q And then page 2 appears to have been 01:35:04
16 filled out by G. Pepin. Do you see that down 01:35:09
17 there at the bottom? 01:35:13
18 A Yes. 01:35:15
19 Q And it's dated June 16th, 2020, 01:35:15
20 right? 01:35:18
21 A Yes. 01:35:20
22 Q Okay. If you scroll up a little bit, 01:35:21
23 you'll see the recommendation for housing. 01:35:24
24 On number 3, where it asks "Would you 01:35:40
25 feel safer being housed in a male or female 01:35:43

1 facility," do you see that it's marked "Female
2 Facility"?

3 A Yes. 01:35:51

4 Q And so that if this -- this document 01:35:51
5 was the result -- if this document was the 01:35:56
6 result of an interview with Ms. Diamond, that 01:35:58
7 would in- -- this form would indicate that 01:36:02
8 Ms. Diamond indicated a preference to be housed 01:36:04
9 in a female facility on June 16th -- on or 01:36:08
10 around June 16th, 2020, right? 01:36:12

11 A For the record, I need to say that I 01:36:15
12 do not recognize this particular document. I 01:36:17
13 don't know that I have ever seen it. And there 01:36:20
14 are no procedures in the transgender policy to 01:36:22
15 go back and reassess the male or female facility 01:36:28
16 assignment. I mean, once it's done initially, 01:36:34
17 there's not a process to go back. So I'm not 01:36:37
18 sure why there is another form completed in 2020 01:36:42
19 in June when Diamond arrived in 2019. 01:36:46

20 Q Could this have been filled out when 01:36:55
21 she arrived at Coastal in June 2020? 01:36:58

22 A I'm not sure who Pepin is so I don't 01:37:01
23 know, but I don't recall seeing this form. 01:37:08

24 Q Okay. Seeing this form now, does 01:37:11
25 this indicate to you that Ms. Diamond indicated 01:37:15

1 a preference to be placed in a female facility 01:37:19
2 on or about June 16th, 2020? 01:37:22
3 A Yes. 01:37:26
4 Q Okay. And do you see that under 01:37:28
5 number 5, it appears to be a firsthand -- 01:37:30
6 firsthand information, where it says, "I've been 01:37:33
7 in a room by myself. I would like to be in a 01:37:39
8 room by myself (if possible). Example (because 01:37:42
9 I have breasts and the way I use the restroom)." 01:37:45
10 Do you see that? 01:37:48
11 A I see it, yes. 01:37:50
12 Q Does that suggest to you that the 01:37:52
13 person -- that the offender who is being 01:37:53
14 questioned on this document is the person who 01:37:59
15 filled out that information? 01:38:03
16 MR. CHALMERS: Objection. Form. 01:38:08
17 This all calls for speculation so objection. 01:38:09
18 Form. 01:38:11
19 MS. LITTRELL: Uh-huh. 01:38:12
20 A Yeah, I'm not sure I can answer that 01:38:13
21 since this is the first time I'm seeing this 01:38:15
22 document. 01:38:18
23 Q I'm just -- the question is does it 01:38:19
24 appear to be filled out by the offender because 01:38:22
25 it says "I've been in a room by myself"? 01:38:28

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1	MR. CHALMERS: Objection. Form.	01:38:32
2	A They -- I can't say because I'm not	01:38:33
3	sure if the staff member was filling it out and	01:38:37
4	didn't put quotation marks in there to -- I	01:38:40
5	don't know who filled out this form.	01:38:46
6	Q Does this suggest to you that the	01:38:48
7	offender was interviewed?	01:38:49
8	MR. CHALMERS: Objection.	01:38:52
9	A Again, I can't say.	01:38:54
10	Q It doesn't suggest to you that the	01:38:55
11	information that's on here is the result of a	01:38:58
12	conversation with the offender?	01:39:01
13	MR. CHALMERS: Objection.	01:39:05
14	A I would assume that it was an	01:39:05
15	interview, but with your question does it appear	01:39:07
16	that the offender filled it out makes me	01:39:10
17	question whether it is or is not an interview.	01:39:13
18	So I'm not sure.	01:39:16
19	MS. LITTRELL: Can you scroll down	01:39:20
20	some, please.	01:39:21
21	Q You see that this document is in	01:39:22
22	relation to Ashley Diamond, right?	01:39:25
23	A Yes.	01:39:29
24	Q Okay. Do you have any information	01:39:29
25	that Ms. Pepin is not associated with Coastal	01:39:33

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1 State Prison? 01:39:39

2 A I'm not sure where Pepin is from. 01:39:41

3 Q Okay. Who should be filling out the 01:39:44

4 SCC forms? 01:39:47

5 A The classification chairperson at the 01:39:48

6 facility. 01:39:51

7 Q Is it possible that Ms. Pepin is the 01:39:54

8 classification person at Coastal State Prison 01:39:57

9 at -- or was on the date on which this document 01:40:00

10 was filled out? 01:40:03

11 A It's possible. 01:40:04

12 MS. LITTRELL: Can you scroll out so 01:40:07

13 I can see the entire document. 01:40:08

14 Q Do you have any reason to believe 01:40:10

15 that this document is not what it appears to be? 01:40:15

16 MR. CHALMERS: Objection. Form. 01:40:19

17 A No. 01:40:20

18 Q Okay. 01:40:22

19 MS. LITTRELL: You can take this 01:40:23

20 document down now. 01:40:24

21 Q Should that form that we just looked 01:40:37

22 at, that was marked Exhibit 8, have been 01:40:40

23 communicated to you for any reason? 01:40:43

24 A That is a bit confusing because that 01:40:51

25 specific form done in June should have not been 01:40:55

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1 done because there had been one done at GDCP. 01:40:58

2 Q Okay. It was -- it appears it was 01:41:03

3 done. 01:41:04

4 A Right, and -- but there's not a 01:41:05

5 policy that says they have to notify me of a 01:41:07

6 second one. But yes, I would have preferred to 01:41:12

7 be notified for that. 01:41:16

8 Q Who else -- where else would that 01:41:17

9 document have been sent if not to the PREA unit? 01:41:21

10 A Well, the policy says when it is 01:41:27

11 completed, it is forwarded to the PREA unit. 01:41:29

12 MS. LITTRELL: Let's look at what was 01:41:34

13 marked by the Court -- or for the Court's 01:41:38

14 purposes ECF 57-10. 01:41:40

15 (Atchison (Fact) Exhibit 9 marked for 01:41:43

16 identification and attached to the transcript.) 01:41:43

17 MR. CHALMERS: For clarification, 01:41:59

18 Counsel, you're referring to the Docket Entry 01:42:01

19 57-10? 01:42:03

20 MS. LITTRELL: The docket, uh-huh. 01:42:06

21 MR. CHALMERS: Okay. 01:42:06

22 MS. LITTRELL: That's correct. 01:42:06

23 My computer is getting a little 01:42:07

24 overloaded. Give me one second, please. Here 01:42:07

25 we go. 01:42:07

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1 Q All right. Ms. Atchison, do you see 01:42:52
2 the document that's on your screen? 01:42:54
3 A Yes. 01:42:56
4 Q Okay. You received this letter 01:42:57
5 directly, correct? 01:42:59
6 A There were a series. I would have to 01:43:00
7 go back and look at my records, but I know that 01:43:08
8 I did not receive some of these until later on, 01:43:11
9 where the SPLC had attached the previous 01:43:17
10 allegation letters that you guys have sent. So 01:43:23
11 it -- it's my testimony that after about the 01:43:27
12 second one, I didn't -- I had not received the 01:43:31
13 information prior to that. But, yes, I have 01:43:35
14 received this eventually. 01:43:38
15 Q Okay. You see that it was sent 01:43:40
16 directly to the address that goes to the PREA 01:43:42
17 unit, right? 01:43:46
18 A Right. 01:43:47
19 Q Okay. So that means somebody within 01:43:47
20 the PREA unit -- that's either you or the two 01:43:49
21 people who work with you -- would have received 01:43:53
22 this, right? 01:43:54
23 A Not necessarily. Our mail comes 01:43:55
24 through our mail room -- our central office mail 01:43:57
25 room, and they would have received it. But I do 01:44:01

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1 not recall and my staff -- I have asked them 01:44:04
2 since, did they sign for any certified letters 01:44:08
3 at the time, and we did not. So that tells me 01:44:12
4 that it didn't reach the PREA unit those 01:44:15
5 particular times. 01:44:21
6 Q Okay. 01:44:23
7 MS. LITTRELL: I'm going to ask the 01:44:23
8 tech to bring up what's been marked DEF5647. 01:44:25
9 We'll look at that and then we'll get back to 01:44:30
10 this one. 01:44:34
11 (Atchison (Fact) Exhibit 10 marked 01:44:34
12 for identification and attached to the 01:44:34
13 transcript.) 01:44:34
14 MS. LITTRELL: Let's mark this one 01:44:37
15 Exhibit 9, please. 01:44:38
16 MR. CHALMERS: I'm sorry, 5647? 01:44:46
17 MS. LITTRELL: Yes. 01:44:48
18 MR. CHALMERS: It will be -- I think 01:44:57
19 it will be Exhibit 10. 01:44:57
20 REMOTE TECH: I don't see that in my 01:44:59
21 folder. I'm going to have to go download that. 01:45:01
22 MS. LITTRELL: All right. 01:45:19
23 REMOTE TECH: Just a moment. 01:45:19
24 MS. LITTRELL: Let me ask you -- 01:45:19
25 let's pull the document back up. We can ask 01:45:20

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1 Diego to go into the documents in Ms. Atchison's 01:45:25
2 folder and pull up 4 -- 5647 for me, and we'll 01:45:30
3 get back in just a second. For some reason it 01:45:36
4 didn't get uploaded, I guess. 01:45:39
5 REMOTE TECH: I've got it now. I'm 01:45:41
6 marking it. 01:45:43
7 MS. LITTRELL: Okay. Wonderful. 01:45:44
8 Q Do you see this document? 01:46:05
9 MS. LITTRELL: I'm sorry, Roger, I'll 01:46:07
10 give you a second. 01:46:09
11 A Yes. 01:46:10
12 Q Okay. Do you see that this is from 01:46:11
13 Chester Hofer to Grace Atchison and Bennett 01:46:13
14 Right? 01:46:21
15 A Yes. 01:46:23
16 Q Who is Chester Hofer? 01:46:23
17 A Chester Hofer is the PREA analyst for 01:46:26
18 the department. 01:46:28
19 Q Okay. And the date on this is 01:46:29
20 July 27th, correct? 01:46:31
21 A Yes. 01:46:32
22 Q And it says, "Got another one," 01:46:35
23 right? 01:46:38
24 A Uh-huh, yes. 01:46:39
25 Q And at the top, it's "Third PREA 01:46:41

1 Notice - Ashley Diamond with enclosures." Do 01:46:45
2 you see that? 01:46:48
3 A Yes. 01:46:48
4 MS. LITTRELL: And scroll down just a 01:46:49
5 little, please. And we'll go ahead and scroll 01:46:51
6 down a little bit more. Please stop there. 01:46:56
7 Q All right. Do you see that this is 01:47:00
8 from maya.rajaratnam@splcenter.org? 01:47:02
9 A Yes. 01:47:15
10 Q Okay. And this went directly to the 01:47:15
11 "PREA.report" on July 24th, right? 01:47:17
12 A Yes. 01:47:20
13 Q Okay. And if you'll scroll up, it 01:47:20
14 looks like it was forwarded to you from Keir 01:47:22
15 Chapple with the Georgia Office of Victim 01:47:27
16 Services on July 24th, right? 01:47:29
17 A Yes. 01:47:32
18 Q Okay. And, again, the letter is a 01:47:37
19 PREA letter from Ashley Diamond, and I think if 01:47:38
20 you scroll up again, you'll see "Third PREA 01:47:42
21 Notice" is the attachment. 01:47:46
22 MS. LITTRELL: So if we can go back 01:47:48
23 to Exhibit number 9. Yeah, 9? 01:47:51
24 Q Do you see how the subject is "Third 01:47:52
25 Notice of Constitutional and PREA Violations on 01:48:01

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1	Behalf of Ashley Diamond"?	01:48:03
2	A Yes.	01:48:05
3	Q Does this refresh your recollection	01:48:05
4	that you received this directly on or about July	01:48:07
5	24th?	01:48:10
6	A Yes.	01:48:12
7	Q And this, you would agree, is a	01:48:19
8	third-party PREA report?	01:48:20
9	A Yes.	01:48:22
10	Q And it says that "We write to notify	01:48:25
11	the GDC of another sexual assault against our	01:48:28
12	client Ms. Diamond," and it provides the date on	01:48:31
13	which the alleged assault took place, right,	01:48:35
14	July 3rd, 2020?	01:48:36
15	A Yes.	01:48:38
16	MS. LITTRELL: Okay. Scroll down to	01:48:38
17	the next page, please. There we go.	01:48:42
18	Q Do you see the heading that says	01:48:48
19	"Ms. Diamond was sexually assaulted on July 20th	01:48:50
20	and continues to fear for her safety"?	01:48:55
21	A Yes, July 3rd, 2020. Yes.	01:48:57
22	Q Does this refresh your recollection	01:49:00
23	that you received this letter?	01:49:02
24	A Yes. I do recall this.	01:49:14
25	Q What did you do after you received	01:49:16

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1 this letter? 01:49:17

2 A Again, I would have to look at my 01:49:21

3 records, but I would have forwarded this to the 01:49:23

4 facility for investigation, SART investigation. 01:49:26

5 Q The paragraph under the heading 01:49:35

6 identifies the date on which the alleged attack 01:49:37

7 took place, right? 01:49:41

8 A Yes. 01:49:42

9 Q And then it provides information. 01:49:44

10 The first piece of information is that the 01:49:45

11 person who perpetrated was from another 01:49:50

12 dormitory, right? 01:49:56

13 A Yes. 01:49:57

14 Q And it says that this person "was let 01:49:59

15 into Ms. Diamond's dormitory by a GDC officer," 01:50:01

16 right? 01:50:07

17 A Yes. 01:50:07

18 Q Okay. And then that the "attacker 01:50:08

19 walked around the dormitory talking with other 01:50:11

20 people for about an hour." And then 01:50:15

21 "Ms. Diamond was standing with a group of people 01:50:16

22 and eventually turned to go back to her room and 01:50:19

23 her attacker followed and entered the room 01:50:22

24 behind her." And then it describes the details 01:50:25

25 of the alleged attack, right? 01:50:28

1	A	Yes.	01:50:33
2	Q	Okay. And "Two other incarcerated	01:50:34
3		people were able to intervene and stop the	01:50:38
4		attack," right?	01:50:41
5	A	According to the allegation.	01:50:42
6		THE WITNESS: Is Roger still on?	01:50:45
7		MR. CHALMERS: I'm here.	01:50:48
8		THE WITNESS: Oh, okay. I just	01:50:50
9		didn't see you in the -- in the window. Okay.	01:50:51
10	A	Sorry.	01:50:52
11	Q	Would you agree that the details	01:50:54
12		provided are sufficient allegation of a PREA	01:50:57
13		violation?	01:51:00
14	A	Yes.	01:51:03
15	Q	Okay. And would you agree that if	01:51:04
16		there is video recording of the dormitory, that	01:51:12
17		it could have captured a GDC officer allowing	01:51:14
18		someone into the dorm?	01:51:19
19		MR. CHALMERS: Objection.	01:51:23
20	Q	It's possible that a video recording	01:51:25
21		could have captured a GDC officer unlocking the	01:51:27
22		door, presuming it was supposed to be locked,	01:51:33
23		and allowing someone into the dorm from another	01:51:35
24		dormitory?	01:51:40
25		MR. CHALMERS: Objection.	01:51:42

1 A Yes. But I want to say for the 01:51:42
2 record a lot of these allegations we did not get 01:51:44
3 until months after the fact. So some of that 01:51:47
4 video would not be retrievable after that set 01:51:51
5 period of time. But it is possible that the 01:51:55
6 video captured this allegation. 01:51:58
7 Q Okay. We just looked at the date on 01:52:01
8 which this was provided to you, which was 01:52:04
9 July 24th, right? 01:52:07
10 A Right. And yes, that should have 01:52:08
11 been captured. 01:52:09
12 THE WITNESS: Sorry, Roger. 01:52:09
13 Q And it's also possible that the video 01:52:15
14 recording would show somebody who came into the 01:52:17
15 dorm, walking around for an hour and then 01:52:22
16 following Ms. Diamond into her room, right? 01:52:24
17 MR. CHALMERS: Objection. 01:52:27
18 A It's possible if the cameras were 01:52:33
19 pointed in that particular direction, yes. 01:52:35
20 Q And to the extent that two 01:52:39
21 incarcerated people were able to intervene and 01:52:41
22 stop the attack, that might have also been 01:52:44
23 captured on video camera, right? 01:52:47
24 MR. CHALMERS: Objection. 01:52:51
25 A It's possible, yes. 01:52:51

1 Q Other than forwarding this to the 01:52:57
2 facility, what other steps did you take after 01:52:59
3 receiving this letter to ensure that a proper 01:53:02
4 investigation was conducted? 01:53:06

5 A Specifically, I can't go -- I can't 01:53:10
6 recall the details of it, but typically, or 01:53:14
7 always, when we -- the PREA unit receives an 01:53:18
8 allegation -- a PREA allegation, we log it on a 01:53:23
9 PREA Allegation Log and we keep that for our 01:53:27
10 records in the PREA unit. So once we have sent 01:53:31
11 it to the facility to initiate an investigation, 01:53:37
12 we use that spreadsheet to follow through with 01:53:40
13 the remainder of the investigation process. 01:53:44

14 Q Okay. Do you recall reviewing the 01:53:50
15 PREA file with respect to the July 3rd 01:53:55
16 investigation? 01:54:02

17 A At some point after the receipt of 01:54:05
18 the SPLC letters, I made a trip to Coastal State 01:54:09
19 Prison to look at all of Diamond's allegations 01:54:15
20 and investigation files. 01:54:20

21 Q Okay. Do you recall that there was 01:54:24
22 no SART checklist that was completed for this 01:54:30
23 PREA allegation? 01:54:35

24 A I would have to look back at my notes 01:54:39
25 from the site visit, if there are notes from the 01:54:41

1 site visit, to see what recommendations I made, 01:54:47
2 but I can't recall. 01:54:49

3 Q Yeah, and, I'm sorry, I read my own 01:54:51
4 question wrong. 01:54:53

5 Are you aware -- if you were aware 01:54:54
6 that there was not a SART checklist completed, 01:55:01
7 you have the ability to direct the SART team to 01:55:05
8 ensure that a checklist is completed, right? 01:55:08

9 A Correct. 01:55:13

10 Q Okay. And you have the ability to 01:55:14
11 direct SART to be sure to request and review the 01:55:17
12 video from that day? 01:55:20

13 A Yes. 01:55:22

14 MS. LITTRELL: I want to make sure 01:55:28
15 that -- let's see if we have -- yes, we do -- 01:55:28
16 have DEF and pull up for us DEF_1070 now, 01:55:32
17 please. 01:55:37

18 (Atchison (Fact) Exhibit 11 marked 01:55:37
19 for identification and attached to the 01:55:37
20 transcript.) 01:55:37

21 Q Can you see the document that's on 01:56:15
22 the screen, Ms. Atchison? 01:56:16

23 A Yes. It's blurry, but I see it. 01:56:18

24 Q Can you see that it says 01:56:21
25 "Supplemental Report"? 01:56:21

1 A Yes. 01:56:24

2 MR. CHALMERS: Counsel, can you just 01:56:27

3 let her see the full document. I only see part 01:56:28

4 of it on my screen, and it is a bit faint. 01:56:31

5 MS. LITTRELL: Is that the entire 01:56:41

6 document? Let's make sure that we scroll all 01:56:42

7 the way to the bottom, please. Okay. And back 01:56:45

8 up to the top now. 01:56:49

9 Q Okay. Are you satisfied that this is 01:56:51

10 a Georgia Department of Corrections PREA form, 01:56:53

11 Ms. Atchison? 01:56:58

12 A Yes. I feel there are more pages to 01:56:59

13 this document, but that is a Supplemental Report 01:57:04

14 for GDC. 01:57:08

15 Q Is a Supplemental Report a form 01:57:11

16 that's filled out in Scribe? 01:57:15

17 A Yes. 01:57:19

18 Q Do you see at the top it says 01:57:21

19 "Printed by Carl Betterson" on November 24th, 01:57:22

20 2020? 01:57:27

21 A Yes. 01:57:27

22 Q Who is Carl Betterson? 01:57:28

23 A Carl was the PREA compliance manager 01:57:31

24 at Coastal State Prison. 01:57:36

25 Q So this indicates that he printed 01:57:39

1 this form, right? 01:57:41

2 A Yes. 01:57:42

3 Q This appears to describe a sexual 01:57:43

4 assault allegation on 7-3-2020, so July 3rd, 01:57:46

5 2020, right? 01:57:53

6 A Yes. 01:57:54

7 Q And that's a sexual assault 01:57:57

8 allegation that was -- we just read the details 01:58:00

9 of in the form of a third-party PREA report, 01:58:06

10 right? 01:58:10

11 A We scrolled through it pretty quickly 01:58:10

12 so I didn't read all of the allegation. If we 01:58:13

13 could go back down, I will. 01:58:17

14 Q Do you mean on this document or on 01:58:19

15 the letter we just looked at? 01:58:22

16 A This document. 01:58:24

17 Q Okay. 01:58:25

18 MS. LITTRELL: Scroll down on this 01:58:25

19 document. 01:58:27

20 A That's the -- that's where the 01:58:27

21 question -- what the question was for, right? 01:58:30

22 MS. LITTRELL: Can you stop there, 01:58:32

23 please. 01:58:33

24 Q Yes. 01:58:33

25 A Okay. 01:58:34

1 Q The only information in here, it says 01:58:38
2 that "Offender Diamond stated she was touched by 01:58:40
3 another offender in the dormitory. Offender 01:58:43
4 Diamond stated that she did not want to talk 01:58:47
5 about the incident, would not identify the 01:58:50
6 alleged aggressor." Do you see that? 01:58:52
7 A Yes. 01:58:55
8 Q Do you have any information -- do you 01:58:56
9 have any information that more than one sexual 01:58:59
10 assault took place with respect to Ms. Diamond 01:59:02
11 on July 3rd? 01:59:05
12 MR. CHALMERS: Objection. Form. You 01:59:09
13 can answer. 01:59:10
14 A No. 01:59:10
15 Q Okay. So is it safe to assume, if 01:59:11
16 this is the only PREA record that we have 01:59:19
17 regarding a July -- 01:59:22
18 MS. LITTRELL: Strike that. 01:59:23
19 Q We have other PREA records, but they 01:59:24
20 all reference this assault that was identified 01:59:26
21 in the third-party PREA report. Do you see down 01:59:29
22 at the bottom where it appears that the last box 01:59:37
23 asks if the video was reviewed, and the answer 01:59:41
24 is no? Do you see that? 01:59:44
25 A I'm going to have to move your 01:59:45

1 pictures around. Yes. 01:59:51

2 Q Okay. And is that a form that is -- 01:59:53

3 or a box that is filled in as part of the PREA 01:59:58

4 investigation's required duties? 02:00:04

5 A Yes. 02:00:12

6 Q Okay. And this asserts that no video 02:00:13

7 was reviewed, right? 02:00:19

8 A Yes, if, indeed, that last box -- it 02:00:23

9 says, "VID," if that's what that is referencing 02:00:27

10 to, yes. 02:00:31

11 MS. LITTRELL: And I'll just say, 02:00:32

12 Mr. Chalmers, this is the document that I asked 02:00:33

13 you to send us a -- I think this is the document 02:00:37

14 I asked you to send us a better copy of. This 02:00:40

15 is the only copy we have. You can see it's 02:00:43

16 somewhat cut off. If there's a way to get a 02:00:47

17 cleaner copy, we certainly would appreciate it. 02:00:50

18 MR. CHALMERS: This is the only copy 02:00:55

19 I have, and I don't believe we have a better 02:00:56

20 copy. 02:00:58

21 MS. LITTRELL: Okay. 02:00:58

22 Q Ms. Atchison, is this information, 02:00:58

23 this form, kept in Scribe? Do you know? 02:01:00

24 A It appears to be a Scribe form. 02:01:03

25 MS. LITTRELL: Can you -- I'm sorry, 02:01:05

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1	can you give me control of this document so I	02:01:11
2	can scroll. There we go. Okay, great.	02:01:13
3	Q It appears to be a Scribe document.	02:01:25
4	What else would it be?	02:01:27
5	A It appears to be a Scribe document.	02:01:29
6	Q And does that indicate to you that it	02:01:31
7	could be reprinted?	02:01:36
8	A Is -- if we scroll up, is this the	02:01:37
9	one that was printed by Carl? Yes -- so yes.	02:01:39
10	Q So if this information is in the GDC	02:01:45
11	system, it can be reprinted, right?	02:01:48
12	A I believe so.	02:01:51
13	Q Okay. Does it concern you that there	02:01:51
14	was a SART investigation in which the SART team	02:02:00
15	knew the date on which something occurred, the	02:02:04
16	place in which something occurred, if there were	02:02:11
17	cameras that could have captured that, it could	02:02:15
18	have captured anything relevant to determining	02:02:20
19	whether or not the sexual assault occurred?	02:02:23
20	Does it concern you that no video was reviewed?	02:02:26
21	MR. CHALMERS: Objection.	02:02:31
22	A If there was video to be reviewed,	02:02:38
23	yes, it does concern me if it was not reviewed.	02:02:40
24	Q So that if [REDACTED]	02:02:44
25	[REDACTED] the	02:02:46

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1	allegation was that she was followed into her	02:02:48
2	cell and then rescued by two other people from a	02:02:52
3	sexual assault [REDACTED], you would have	02:02:56
4	expected that if the camera were working, that	02:02:59
5	the video would have been preserved and	02:03:03
6	reviewed, right?	02:03:07
7	MR. CHALMERS: Objection.	02:03:11
8	A If the video was retrievable in the	02:03:12
9	time frame in which the allegation was reported,	02:03:16
10	yes.	02:03:19
11	MS. LITTRELL: All right. Let's look	02:03:26
12	at -- let's take this down and -- I'm sorry,	02:03:30
13	let's just make sure that we scroll down again.	02:03:33
14	I want to make sure that I get the information	02:03:36
15	that's in this document, right? Oh, I see I can	02:03:39
16	scroll down. I have control. I'm sorry.	02:03:40
17	Q It says that Ms. Diamond "would not	02:03:40
18	identify the alleged aggressor." Do you see	02:03:45
19	that?	02:03:50
20	A Yes.	02:03:50
21	MS. LITTRELL: Let me get you to pull	02:03:51
22	up what is DEF01062.	02:03:53
23	(Atchison (Fact) Exhibit 12 marked	02:03:59
24	for identification and attached to the	02:03:59
25	transcript.)	02:03:59

1 Q Do you see -- we're looking at it as 02:04:25
2 a whole. Do you see this looks like the PREA 02:04:27
3 Initial Notification form? 02:04:30
4 A Yes. 02:04:33
5 Q And this is in relation to the 02:04:35
6 July 3rd incident, correct? 02:04:37
7 A Yes. 02:04:42
8 Q Okay. And that is with respect to 02:04:44
9 Ms. Diamond, right? 02:04:46
10 A Yes. 02:04:49
11 Q Can you -- I know there's a lot of 02:04:51
12 words in the summary of the incident, but if you 02:04:54
13 can go down towards the bottom where you see -- 02:04:57
14 thank you -- "On or about July 3rd" -- it starts 02:04:59
15 "On or about" -- and "July 3rd" is written out. 02:05:05
16 It would be over on the right-hand side, a 02:05:12
17 little more than halfway down in the box. 02:05:14
18 A Okay. "On or about," yes, I see 02:05:19
19 that. 02:05:21
20 Q Do you see that it says, "On or about 02:05:22
21 July 3rd this guy whose name I don't want to say 02:05:24
22 comes into the dorm"? And then it goes on to 02:05:29
23 say the actions that took place. 02:05:33
24 Would you agree that allegations rise 02:05:37
25 to the level of a PREA violation if 02:05:41

1 substantiated? 02:05:45

2 A Yes. 02:05:48

3 Q Okay. And you see that Ms. Diamond 02:05:55

4 did not want to identify the individuals who 02:05:59

5 helped her because she didn't want to get them 02:06:03

6 in trouble, right? 02:06:05

7 MR. CHALMERS: Objection. 02:06:08

8 Q Do you see that that's what it says, 02:06:09

9 "I don't want to get my friends in trouble"? 02:06:11

10 A Yes. 02:06:15

11 Q Okay. 02:06:16

12 MS. LITTRELL: Whose phone is that? 02:06:22

13 Okay. 02:06:23

14 Q In your experience -- 02:06:28

15 MS. LITTRELL: Well, no, strike that. 02:06:29

16 Q If the camera -- if a video was able 02:06:34

17 to identify people who rescued her, that would 02:06:37

18 be an independent way to determine witnesses who 02:06:44

19 could provide information, right? 02:06:49

20 A Yes, if they were identified. 02:06:52

21 Q Okay. 02:06:56

22 MS. LITTRELL: And let's just scroll 02:06:56

23 down so -- or out in some way so we can see what 02:06:59

24 the date on this document is. Okay. 02:07:00

25 Q All right. So we see that the date 02:07:02

1	on which this was reported was 7-10 so three	02:07:09
2	days after the alleged events took place, right?	02:07:12
3	MR. CHALMERS: Objection.	02:07:18
4	A Or is that seven days? Was it the	02:07:18
5	3rd that the allegation --	02:07:20
6	Q That's correct. Thank you. Thank	02:07:22
7	you. It is seven days. Thank you for	02:07:23
8	correcting my math. See why I went to law	02:07:23
9	school? Math, not my thing.	02:07:23
10	Right. So just to verify, the	02:07:33
11	initial PREA notification was within a week of	02:07:36
12	when the assault took place, right?	02:07:41
13	MR. CHALMERS: Objection.	02:07:44
14	A Yes.	02:07:46
15	MS. LITTRELL: You can take this	02:07:47
16	down. And can you bring up 57-11 -- what's been	02:07:51
17	marked ECF 57-11. And let's mark this as	02:07:56
18	Exhibit 11 or 12, I'm sorry.	02:08:02
19	REMOTE TECH: This will be 13.	02:08:15
20	MS. LITTRELL: This will be 13.	02:08:16
21	Thank you.	02:08:16
22	REMOTE TECH: One moment.	02:08:16
23	(Atchison (Fact) Exhibit 13 marked	02:08:16
24	for identification and attached to the	02:08:16
25	transcript.)	02:08:16

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1 Q All right, number 13. Have you seen 02:08:24
2 this document, Ms. Atchison? 02:08:36
3 A Yes. 02:08:39
4 Q And this was sent directly to the 02:08:42
5 PREA unit, right? 02:08:47
6 A Yes. 02:08:50
7 Q And just to save time, we have 02:08:54
8 received from your counsel an e-mail verifying 02:09:00
9 that it was sent to you on or about this date. 02:09:03
10 Does that sound right? 02:09:05
11 MR. CHALMERS: Objection. Form. 02:09:10
12 A Yes. 02:09:17
13 Q Okay. Thanks. And this is a -- 02:09:17
14 MR. CHALMERS: Just to be clear, 02:09:18
15 Ms. Atchison, you're not being asked to 02:09:19
16 speculate on anything. You're asked for your 02:09:22
17 knowledge. So testify as to what you know or 02:09:25
18 don't know. 02:09:27
19 THE WITNESS: Okay. 02:09:27
20 A I don't know. 02:09:28
21 Q You don't know whether you received 02:09:28
22 this directly? 02:09:32
23 A I don't because this goes back to the 02:09:33
24 other letter that I discussed. There were some 02:09:34
25 of them that I did not get in the mail. And the 02:09:36

Transcript of Grace Atchison

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1 first notification that I received was, I 02:09:41
2 believe, from Victim Services. But it was, 02:09:43
3 again, verified that no one from the PREA unit 02:09:49
4 signed for any of these letters. 02:09:52

5 Q Is it true that a PREA report doesn't 02:09:56
6 have to be sent certified in order to be a 02:09:59
7 third-party PREA report? Right? 02:10:04

8 A That's true. It does not have to be 02:10:06
9 certified. 02:10:08

10 Q So that if this came directly to your 02:10:09
11 e-mail, that would be a valid PREA report that 02:10:13
12 you would be required to act on, right? 02:10:17

13 A Yes. 02:10:20

14 Q And your testimony earlier was when 02:10:21
15 you receive a PREA report, you act on it 02:10:23
16 immediately or very soon thereafter, right? 02:10:27

17 A Yes. 02:10:29

18 Q Okay. So that if there is an e-mail 02:10:31
19 confirmation that you received this letter on or 02:10:34
20 about September 30th, you would have acted on 02:10:40
21 receipt of the letter, right? 02:10:45

22 A Yes. 02:10:47

23 MS. LITTRELL: If you would give me 02:10:50
24 control of this document for just a minute. 02:10:52

25 Q You see that this document describes 02:11:16

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1 that Ms. Diamond was sexually assaulted four 02:11:18
2 times in one weekend. Do you remember receiving 02:11:20
3 this document identifying four assaults in one 02:11:25
4 weekend? 02:11:27

5 A Yes. 02:11:29

6 Q And then we'll scroll down here a 02:11:34
7 little bit, and do you see that the first 02:11:35
8 assault -- where it says, "Ms. Diamond was 02:11:37
9 sexually assaulted September 18th, 02:11:40
10 September 19th and September 20." And it goes 02:11:42
11 on to say, "In the evening on Friday, 02:11:45
12 September 18th, an incarcerated person 02:11:47
13 approached Ms. Diamond in her dormitory and said 02:11:52
14 that someone wanted to talk to her. She 02:11:56
15 followed him into a room and found another 02:11:58
16 incarcerated person -- her attacker -- waiting 02:12:01
17 for her. He locked the door, he ripped off her 02:12:03
18 shirt and proceeded to grab her breasts and 02:12:03
19 sexually assault her. He then pushed her to the 02:12:07
20 bed and attempted to forcibly rape her. 02:12:10
21 Ms. Diamond was only able to escape because 02:12:14
22 'count' began, at which point she exited the 02:12:14
23 room and ran away." 02:12:19

24 This third-party PREA report 02:12:21
25 identifies the day on which an alleged sexual 02:12:24

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1	assault took place, correct?	02:12:27
2	A Yes.	02:12:28
3	Q And it even identifies the time of	02:12:30
4	day, right? Evening. Right?	02:12:33
5	A Yes. "Evening" is general, but yes.	02:12:39
6	Q Okay. And it gives a little more	02:12:42
7	information about the time if count begins at a	02:12:44
8	particular time, right?	02:12:49
9	A Yes.	02:12:51
10	Q Okay. So that if there was a camera	02:12:52
11	██████████ that would have captured	02:12:55
12	Ms. Diamond entering someone else's cell, would	02:12:58
13	you have expected your SART investigator to have	02:13:02
14	reviewed that footage?	02:13:06
15	MR. CHALMERS: Objection.	02:13:13
16	A Yes, I would have expected that.	02:13:14
17	Q And then the next allegation is on	02:13:18
18	the -- "The next morning, on Saturday,	02:13:23
19	September 19, Ms. Diamond was in her room when	02:13:25
20	another incarcerated person entered, physically	02:13:29
21	grabbed her head and forced her to give him oral	02:13:32
22	sex on the bed."	02:13:35
23	Does that describe a PREA violation?	02:13:36
24	A Yes.	02:13:41
25	Q Does that describe criminal conduct?	02:13:43

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1	A	Yes.	02:13:46
2	Q	And do you see that the date of the	02:13:48
3		sexual assault is identified in this third-party	02:13:51
4		PREA report?	02:13:54
5	A	Yes.	02:13:56
6	Q	And do you see that the time of day	02:13:56
7		is identified, morning?	02:13:59
8	A	Morning, yes.	02:14:03
9	Q	Okay. And the location would be in	02:14:04
10		Ms. Diamond's dormitory and, in fact, in her	02:14:06
11		room, right?	02:14:12
12	A	Yes.	02:14:13
13	Q	So that if there were a camera [REDACTED]	02:14:13
14		[REDACTED], it would be relevant	02:14:16
15		to review that video footage to see if someone	02:14:23
16		followed Ms. Diamond [REDACTED] on the	02:14:28
17		morning of Saturday, September 19th.	02:14:31
18	A	Yes.	02:14:33
19	Q	Would you have expected your SART	02:14:35
20		investigator and your SART team to ensure that	02:14:37
21		the video was properly preserved?	02:14:40
22		MR. CHALMERS: Objection.	02:14:44
23	Q	You can answer the question.	02:14:47
24	A	If -- yes, if they were notified in	02:14:49
25		the time frame in which it was retrievable.	02:14:53

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1 Q Okay. And if there was a problem 02:14:57
2 with the camera, would you expect that to be 02:14:59
3 noted somewhere in the PREA records? 02:15:04
4 A Yes, in that investigation report. 02:15:09
5 Q Okay. And then underneath that, in 02:15:14
6 the next paragraph, "On Sunday, September 20th, 02:15:15
7 the incarcerated person who had set up the 02:15:18
8 September 18th attack approached Ms. Diamond in 02:15:21
9 her room. He then proceeded to rape 02:15:25
10 Ms. Diamond." 02:15:28
11 Do you agree that that's a valid PREA 02:15:29
12 allegation? 02:15:32
13 A Yes. 02:15:33
14 Q Does that describe criminal conduct? 02:15:34
15 A Yes. 02:15:39
16 MR. CHALMERS: Objection. 02:15:41
17 Q Would you have expected your SART 02:15:42
18 team to review the camera footage that would 02:15:44
19 have captured anyone entering Ms. Diamond's cell 02:15:47
20 on September 20th? 02:15:51
21 MR. CHALMERS: Objection. You can 02:15:54
22 answer. 02:15:56
23 A If, again, the video was retrievable, 02:15:57
24 yes, I would expect them to review it. 02:16:00
25 Q Okay. And then yet a fourth 02:16:04

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1 allegation of sexual assault occurred on 02:16:08
2 September 20th, according to this information in 02:16:11
3 the third-party PREA report, where "a different 02:16:14
4 incarcerated person called Ms. Diamond into a 02:16:18
5 room, where another incarcerated person attacked 02:16:21
6 her, grabbed her breasts, groped her and 02:16:25
7 sexually assaulted her until she was able to 02:16:27
8 escape the room." 02:16:32
9 Does that describe a valid PREA 02:16:33
10 violation? 02:16:36
11 A Yes. 02:16:38
12 Q Do you recall what steps you took 02:16:44
13 after receiving this third-party PREA report? 02:16:47
14 A To for- -- any time, again, that I 02:16:55
15 receive any PREA allegation, I forward it to the 02:16:57
16 facility for a SART investigation if one has not 02:16:59
17 already been initiated. 02:17:03
18 Q Okay. Do you recall specifically, 02:17:05
19 with respect to this third-party PREA report, 02:17:06
20 the actions that you took? 02:17:12
21 A Not specifically, but I do recall the 02:17:17
22 allegations. 02:17:21
23 Q Since penetration is alleged, the 02:17:25
24 regional -- I'm sorry, there is an acronym of an 02:17:28
25 agent in charge. Can you tell me what that 02:17:34

1 acronym -- for the agent in charge that should 02:17:37
2 have been notified? 02:17:40

3 A The SAC, S-A-C, special agent in 02:17:41
4 charge. 02:17:45

5 Q Okay. And who should have notified 02:17:45
6 the SAC after receiving this PREA allegation? 02:17:47

7 A When it is forwarded down to the SART 02:17:51
8 team, that process -- that protocol is within 02:17:54
9 the SART investigation process. So the warden 02:17:59
10 of the facility would have notified the SAC. 02:18:02

11 Q Do you know whether the SAC was 02:18:05
12 notified in relation to these four allegations 02:18:08
13 of very serious sexual assaults? 02:18:13

14 MR. CHALMERS: Objection. 02:18:17

15 A Not specifically. I would have to 02:18:18
16 look at the records. 02:18:19

17 Q You would have expected the regional 02:18:21
18 SAC to have been notified, correct? 02:18:23

19 A Yes. 02:18:26

20 Q Do you recall what steps you took to 02:18:32
21 ensure that a proper investigation was conducted 02:18:33
22 with respect to these four allegations of sexual 02:18:37
23 assault? 02:18:39

24 A Again, we have what we call the PAL, 02:18:42
25 P-A-L, which is the PREA Allegation Log that we 02:18:46

1 keep in the PREA unit. And we periodically 02:18:50
2 reconcile the information to ensure that cases 02:18:54
3 have been investigated and/or closed or are 02:18:58
4 still pending investigation. We check the 02:19:03
5 status of those investigations. 02:19:06
6 Q Did you say investigated or closed, 02:19:08
7 or did you mean to say investigated and closed? 02:19:11
8 A Well, it could be still pending 02:19:17
9 investigation or they could have closed it and 02:19:18
10 determined a disposition. So whatever stage 02:19:21
11 that that particular investigation is in, we get 02:19:24
12 periodic status reports. 02:19:28
13 Q But in any event, you ensure that an 02:19:32
14 investigation was conducted, right? 02:19:36
15 A Yes. 02:19:38
16 Q Okay. If these allegations that we 02:19:40
17 have just reviewed together were true, would 02:19:44
18 that indicate that this offender was in an 02:19:48
19 unsafe environment? 02:19:50
20 MR. CHALMERS: Objection. Form. You 02:19:53
21 can answer. 02:19:54
22 A If they were substantiated, I would 02:19:59
23 be concerned about the location, yes. 02:20:01
24 Q If they were true -- regardless of 02:20:08
25 whether they were substantiated, if they were 02:20:11

1 true, would you be concerned, as the PREA -- 02:20:14
2 statewide PREA coordinator, for the safety of 02:20:17
3 this individual in this particular environment? 02:20:21
4 A Well, from a PREA perspective, 02:20:30
5 substantiated equals true. Anything that is 02:20:32
6 not -- anything other than substantiated is 02:20:36
7 either a no or an I don't know. 02:20:39
8 So that's difficult for me to answer, 02:20:41
9 but if I felt like the evidence was showing that 02:20:48
10 this was an unsafe situation, that we would 02:20:54
11 review that through the SAIRT to see if similar 02:20:59
12 incidents occurred in that area. There's -- 02:21:07
13 it's just on an individual basis. There is a 02:21:09
14 process for that. But I would say the SAIRT 02:21:11
15 would establish that, safety of the area. 02:21:16
16 Q And that review would take place as 02:21:22
17 long as disposition was anything other than 02:21:29
18 unfounded, right? 02:21:34
19 A Yes. 02:21:35
20 Q Are you aware of any evidence that 02:21:36
21 disprove that these -- the events or the 02:21:42
22 allegations that we have just reviewed did not 02:21:45
23 occur? 02:21:48
24 A Not specifically. 02:21:51
25 Q Okay. You've reviewed all of the 02:21:53

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1	PREA records related to Ms. Diamond, right?	02:21:58
2	A Yes.	02:22:00
3	MS. LITTRELL: You can take this	02:22:05
4	down. And I'm going to ask you to bring up what	02:22:06
5	we've already looked at, which is marked as	02:22:12
6	Exhibit number 2 for this deposition.	02:22:16
7	Q Do you recall looking at this	02:22:30
8	document earlier, Ms. Atchison?	02:22:33
9	A Yes.	02:22:40
10	Q It's a SART checklist, right?	02:22:41
11	A Yes.	02:22:43
12	MS. LITTRELL: Can you scroll up	02:22:44
13	slightly so we can see the date on it. There we	02:22:45
14	go.	02:22:47
15	Q So the incident date here says	02:22:47
16	"9-25-20," and the victim's name is	02:22:49
17	Ms. Diamond -- is Ashley Diamond. The date that	02:22:54
18	the allegation was received was 9-30-20. And	02:22:58
19	you'll agree that that's the day after the date	02:23:03
20	of the SPLC letter, right?	02:23:06
21	A I believe so, if the SPLC letter was	02:23:12
22	dated the 29th.	02:23:16
23	Q Okay. And this is the checklist that	02:23:18
24	is required to be filled out in every -- every	02:23:21
25	PREA allegation investigation, right?	02:23:22

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1 A Yes. 02:23:33

2 Q Okay. And do you see that -- 1, 2, 02:23:35

3 3, 4, 5 -- the box down, where it asks whether 02:23:36

4 the SART team has -- whether or not they have 02:23:46

5 recovered, downloaded and documented any video 02:23:49

6 monitoring recording, the answer is no? 02:23:52

7 A Yes. 02:23:59

8 Q Does that indicate to you that no one 02:24:02

9 recovered, downloaded and documented any video 02:24:04

10 monitoring recording for the three days in which 02:24:07

11 four allegations of sexual assault took place? 02:24:11

12 MR. CHALMERS: Objection. 02:24:15

13 A If it says no, then I would assume 02:24:18

14 that, but, again, that's speculation, but -- 02:24:20

15 Q You're the -- 02:24:25

16 A -- it would indicate to me no. 02:24:25

17 Q It would indicate to you that no 02:24:28

18 video monitoring recording -- recordings were 02:24:29

19 downloaded; is that right? 02:24:36

20 A Yes. 02:24:41

21 MS. LITTRELL: Let's make this a 02:24:47

22 little bit bigger and see what the other 02:24:48

23 questions are. 02:24:52

24 Q Okay. It appears that the case file 02:24:52

25 was reviewed by the PREA compliance manager on 02:25:04

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1 October 12th, 2020, right? 02:25:07

2 A Yes. 02:25:17

3 MS. LITTRELL: Take this down. I'd 02:25:18

4 like to look at -- I'd like you to bring up 02:25:19

5 DEF0914. 02:25:21

6 (Atchison (Fact) Exhibit 14 marked 02:25:22

7 for identification and attached to the 02:25:22

8 transcript.) 02:25:22

9 Q There are two pages. Let's make sure 02:25:53

10 we look at both pages. I don't think there's 02:25:55

11 anything on the second page, but let's just make 02:25:57

12 sure, okay. You see that there's only 02:25:57

13 information on the first page, right, 02:26:02

14 Ms. Atchison? 02:26:04

15 A Yes, from what I can see. 02:26:07

16 Q And this is titled at the top 02:26:10

17 "Georgia Department of Corrections Supplemental 02:26:15

18 Report," right? 02:26:19

19 A Yes. 02:26:20

20 MS. LITTRELL: If we can make that -- 02:26:22

21 make it a little bit bigger up at the top. I 02:26:24

22 want to see who printed this. 02:26:27

23 Q Do you see that it says it was 02:26:28

24 printed by Carl Betterson? 02:26:34

25 A Yes. 02:26:36

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1 Q And that's September 30, 2020, right? 02:26:36

2 A Yes. 02:26:39

3 Q Okay. 02:26:39

4 MS. LITTRELL: And if we'll scroll 02:26:39

5 down to the very bottom, please. I'm sorry, not 02:26:41

6 the very bottom. Right there. 02:26:43

7 Q And in this case the right-hand side 02:26:48

8 was not completely cut off, and it's clear that 02:26:50

9 the last box on the Supplemental Report asks if 02:26:53

10 the video was reviewed, right? 02:26:56

11 A Correct. 02:27:00

12 Q And here it says -- again confirms 02:27:00

13 that no video was reviewed, right? 02:27:04

14 A Correct. 02:27:07

15 Q Okay. And this is referencing -- 02:27:12

16 because when you look up here, to right under 02:27:13

17 "Entered Date" -- that Ms. Diamond was 02:27:16

18 involved -- here it says, "three separate PREA 02:27:20

19 incidents that occurred September 18, 19th and 02:27:23

20 20th." In fact, there were four, right? 02:27:26

21 MR. CHALMERS: Objection. 02:27:31

22 Q The allegation was -- that we just 02:27:31

23 read in the letter was that there were four 02:27:33

24 separate PREA allegations -- 02:27:35

25 A Right. I believe that -- 02:27:38

1 Q -- September 18 -- 02:27:39

2 A -- one -- that two occurred on the 02:27:39

3 same day, if I recall correctly. 02:27:42

4 Q Okay. 02:27:52

5 MS. LITTRELL: You can take this -- 02:27:52

6 you can take this down now. 02:27:54

7 Q Oh, I'm sorry, I forgot to ask you 02:28:02

8 one other question, please. 02:28:05

9 MS. LITTRELL: If you can bring that 02:28:06

10 document back up, I have one more question. 02:28:07

11 Q So to the extent that this 02:28:14

12 Supplemental Report is referencing the 02:28:16

13 third-party PREA report that was sent directly 02:28:19

14 to the PREA unit and which you would have 02:28:26

15 forwarded to the facility, but presuming it's 02:28:29

16 the same series of four reports of sexual 02:28:32

17 assaults, do you see on the bottom where the 02:28:39

18 question is "Sexual Allegation" and the answer 02:28:43

19 is "No"? 02:28:47

20 A Yes. 02:28:52

21 Q Is that inaccurate? 02:28:53

22 MR. CHALMERS: Objection. 02:28:58

23 A Yes. 02:29:00

24 Q You agree that the third-party PREA 02:29:01

25 report clearly alleges that it's a sexual 02:29:04

1 allegation? 02:29:08

2 A I will testify that I do not think 02:29:10

3 there is enough information in the "Summary of 02:29:14

4 Incident" on this form to make that 02:29:17

5 determination. But if we are referencing that 02:29:19

6 this is the incident report in reference to the 02:29:24

7 allegations in the SPLC letter, then yes, that 02:29:31

8 would be an incorrect classification. It should 02:29:36

9 have been labeled "Yes" for "Sexual Allegation." 02:29:40

10 Q When you forward to the facility a 02:29:46

11 third-party PREA report, what do you expect the 02:29:49

12 SART team to do with that third-party 02:29:56

13 PREA-reported information? 02:29:57

14 A I expect them to investigate it and 02:30:01

15 to write it up with specific information. 02:30:05

16 Q So is the first step that upon 02:30:11

17 receiving -- let's say, this letter in 02:30:16

18 particular, dated September 29th. It goes 02:30:20

19 directly to the PREA unit. The PREA unit sends 02:30:23

20 it to the facility. What training have you 02:30:27

21 provided to the SART team that would -- that 02:30:29

22 would direct them what the next step and the 02:30:35

23 step after that would be in relation to the 02:30:40

24 third-party PREA report? 02:30:43

25 A Okay. There is a variety. We have 02:30:45

1 the mandatory SART trainings twice per year, 02:30:47
2 which I mentioned earlier. In order to be a 02:30:50
3 SART investigator, you are required to take the 02:30:54
4 specialized investigation training. 02:30:58

5 Q So let me stop you there because I 02:31:01
6 think you're answering a different question. 02:31:03
7 I'm wondering, based on the training that you 02:31:05
8 provided, which you've testified about in 02:31:08
9 another forum, what would you expect the SART 02:31:10
10 team to do with the third-party PREA report -- 02:31:13
11 September 29th third-party PREA report that was 02:31:18
12 sent by SPLC? So the letter we just looked at 02:31:23
13 together. It came to you. You send it to 02:31:27
14 Coastal. What is SART supposed to do with that 02:31:30
15 letter from that point, based on the training 02:31:33
16 that has been provided to them? 02:31:35

17 A Other than the general answer, to 02:31:42
18 investigate, I would have to pull that document 02:31:44
19 back up if you wanted a -- 02:31:46

20 Q I'll ask you some -- 02:31:49

21 A -- play-by-play, per se. 02:31:49

22 Q Yeah. I'll ask you some specific 02:31:49
23 questions. 02:31:51

24 A Okay. 02:31:51

25 Q Should they have opened four separate 02:31:51

1 PREA incidents -- incident reports? 02:31:57

2 A Yes. 02:32:02

3 Q Okay. And on the -- each incident 02:32:05

4 report, should they have taken the information 02:32:09

5 that was provided in the third-party report to 02:32:11

6 populate that PREA initial report? 02:32:14

7 A Yes. 02:32:23

8 Q They should have been able to take 02:32:25

9 the information that said on September 18th in 02:32:27

10 the evening, and then the information that was 02:32:31

11 provided, that should be part of the initial 02:32:35

12 PREA report, right? 02:32:39

13 A Yes. 02:32:41

14 Q Okay. And then I believe I remember 02:32:42

15 that a requirement is that a SART checklist -- 02:32:45

16 which we looked at a minute ago, Exhibit 2 -- a 02:32:48

17 SART checklist for each of those separate PREA 02:32:54

18 reports should have been filled out, right? 02:32:57

19 A Yes. 02:32:59

20 Q Okay. And then the investigation 02:33:01

21 should have commenced as to each of the separate 02:33:04

22 PREA allegations, right? 02:33:08

23 A Yes. 02:33:10

24 Q And that would include requesting, 02:33:12

25 reviewing and preserving any video footage, if 02:33:13

1 it existed, right? 02:33:21

2 A Yes. 02:33:23

3 Q Okay. And then, after reviewing that 02:33:23

4 evidence, speaking with any potential witnesses, 02:33:28

5 there would be a disposition that is made; is 02:33:31

6 that right? 02:33:38

7 A Yes, based on their preponderance of 02:33:42

8 evidence. 02:33:44

9 Q Okay. And would this particular 02:33:44

10 third-party PREA report, would you have 02:33:47

11 expected -- based on the training that you 02:33:50

12 helped create and that is provided to the SART 02:33:52

13 team -- that the regional SAC would have been -- 02:33:55

14 would have been part of the investigation or at 02:33:59

15 least have been notified? 02:34:02

16 A Yes. Now, there would be two 02:34:06

17 separate investigations at that point, but yes, 02:34:07

18 they should be notified in those cases. 02:34:11

19 Q And that's because it was -- the 02:34:12

20 allegations are criminal in nature, right? 02:34:14

21 A Yes. 02:34:17

22 Q And penetration was also alleged. 02:34:17

23 A Yes. 02:34:23

24 Q Is it -- would you have expected that 02:34:28

25 the SART investigator would have spoken with 02:34:30

1 other members of the dorm to see if they saw 02:34:36
2 someone enter Ms. Diamond's room on the specific 02:34:43
3 dates in which she said someone followed her 02:34:47
4 into her room and assaulted her? 02:34:50
5 A I can't speculate on what they did, 02:34:53
6 but I -- I'll testify to this. If it were me, I 02:34:56
7 would have interviewed potential witnesses, yes. 02:35:04
8 Q Okay. So in this particular case -- 02:35:14
9 MS. LITTRELL: Let's pull up DEF0960. 02:35:16
10 We'll mark it as the next exhibit in line. 02:35:32
11 (Atchison (Fact) Exhibit 15 marked 02:35:32
12 for identification and attached to the 02:35:32
13 transcript.) 02:35:32
14 Q Do you see this document on your 02:36:26
15 screen, Ms. Atchison? 02:36:29
16 A Yes. 02:36:30
17 Q Have you ever seen this document 02:36:30
18 before? 02:36:33
19 A I don't recall. 02:36:38
20 Q Does it appear to be a witness 02:36:39
21 statement? 02:36:42
22 A Yes. 02:36:42
23 Q Okay. And the date on this witness 02:36:44
24 statement is 10-8-20, right? 02:36:46
25 A Yes. 02:36:50

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1 Q Okay. So this would have been within 02:36:52
2 30 days of the allegations of sexual assaults on 02:36:55
3 September 18th through the 20th, right? 02:37:01
4 A Yes. 02:37:04
5 Q Okay. And do you see that it appears 02:37:06
6 to be from Ms. Diamond, and it says, "I would 02:37:08
7 like to pursue my PREA investigation but can't 02:37:11
8 get a response to the request for counsel to be 02:37:15
9 present. Because of the sensitive nature of the 02:37:18
10 allegations and fear of retaliation, along with 02:37:20
11 privacy concerns, make it difficult to navigate 02:37:23
12 this process. I also fear retaliation from 02:37:27
13 those involved because of gang affiliations." 02:37:31
14 Was this information ever relayed to 02:37:34
15 you by the SART team? 02:37:36
16 A I recall, I believe, Betterson 02:37:40
17 telling me that she refused to be interviewed 02:37:47
18 without counsel, but I cannot recall when that 02:37:50
19 was. 02:37:52
20 Q Okay. Do you know if any steps were 02:37:55
21 taken after October 8th, which would have -- 02:37:58
22 appears to be when this witness statement was 02:38:03
23 provided. Are you aware of any effort that the 02:38:05
24 SART team took to provide her an answer to her 02:38:10
25 request for counsel to be present? 02:38:17

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1	A	I can't account for what they did.	02:38:22
2		My testimony earlier was there are no	02:38:25
3		prohibitions for counsel to be present, but	02:38:27
4		there are also no requirements that they have to	02:38:30
5		be present.	02:38:33
6	Q	And from this witness statement it	02:38:36
7		does not, to me -- so you can tell me if you're	02:38:38
8		reading it differently. This, to me, doesn't	02:38:42
9		say she won't provide additional information	02:38:45
10		without her counsel. This says, "I can't get a	02:38:48
11		response to the request for counsel to be	02:38:51
12		present," right?	02:38:54
13	A	Yes. She doesn't directly say she	02:39:03
14		won't in this statement.	02:39:05
15	Q	Do you know -- do you have any	02:39:07
16		personal knowledge as to whether or not anyone	02:39:08
17		at GDC ever told Ms. Diamond directly that she	02:39:11
18		could not have counsel present during a PREA	02:39:15
19		investigation or PREA interview?	02:39:18
20	A	I do not recall.	02:39:21
21	Q	Does that mean it could have happened	02:39:26
22		but you just don't remember?	02:39:28
23		MR. CHALMERS: Objection.	02:39:31
24	A	I --	02:39:31
25		THE WITNESS: Okay. Go ahead.	02:39:31

1	MR. CHALMERS: Objection. You can	02:39:31
2	answer.	02:39:31
3	A I can testify that I have never said	02:39:35
4	that we would not investigate or that we would	02:39:38
5	not allow counsel to be present.	02:39:43
6	Q Do you know -- have you ever said to	02:39:49
7	Ms. Diamond that she is not allowed to have	02:39:51
8	counsel present during a PREA interview?	02:39:53
9	A No, not that I recall.	02:39:56
10	Q Might you have said that directly to	02:40:00
11	Ms. Diamond but you just don't remember?	02:40:02
12	A It is possible, but I really don't	02:40:05
13	think I did.	02:40:08
14	Q Do you have any -- has anyone ever	02:40:11
15	told you, from GDC, that they have relayed to	02:40:17
16	Ms. Diamond that she is not allowed to have an	02:40:20
17	attorney present during a PREA interview?	02:40:24
18	A No, not that I'm aware of.	02:40:27
19	Q Okay. And so she -- you may or may	02:40:34
20	not have seen this witness statement. I'll just	02:40:35
21	ask the question. What steps did you take,	02:40:41
22	after reviewing this witness statement, to	02:40:44
23	ensure that Ms. Diamond was provided information	02:40:47
24	that would let her know that she was not going	02:40:54
25	to have her request for counsel honored?	02:40:57

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1 MR. CHALMERS: Objection. 02:41:02

2 Q Did you take any steps after 02:41:03

3 receiving this witness statement? 02:41:05

4 MR. CHALMERS: Objection. 02:41:07

5 A I can't speak on this witness 02:41:07

6 statement because I don't know that I have ever 02:41:10

7 seen this until now. I just recall a 02:41:11

8 conversation with Betterson that Diamond said 02:41:15

9 she would not cooperate without counsel. So I 02:41:20

10 would not have taken any further steps to ensure 02:41:23

11 that counsel was present. 02:41:26

12 Q Which wasn't the question. 02:41:29

13 A Okay. So repeat the question, 02:41:31

14 please. 02:41:34

15 Q The question is what steps are you 02:41:35

16 aware of that anyone at GDC took to inform 02:41:37

17 Ms. Diamond that she was not allowed to have 02:41:43

18 counsel present during a PREA interview? 02:41:47

19 MR. CHALMERS: Okay. Objection. 02:41:51

20 Counsel, that's a different question, and you 02:41:53

21 cut off the witness after the last one. So 02:41:56

22 please allow her to finish her answers. 02:41:58

23 Go ahead. 02:42:01

24 Objection. But you can answer. 02:42:01

25 A I am not aware that anyone has told 02:42:03

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1 Ms. Diamond that she could not have counsel 02:42:05
2 present. 02:42:08

3 MS. LITRELL: You can take this 02:42:11
4 down, and if you would bring up DEF0 -- we 02:42:13
5 looked at 0914? 02:42:22

6 REMOTE TECH: Yes, that was 02:42:31
7 Exhibit 14. Do you want to bring that back up? 02:42:33

8 MS. LITRELL: You don't need to 02:42:33
9 bring it up. 02:42:33

10 MR. CHALMERS: Since we're starting a 02:42:36
11 new exhibit, Counsel, why don't we take a break 02:42:36
12 at some point soon. We've been going quite a 02:42:38
13 while since our lunch return. 02:42:42

14 MS. LITRELL: Yep, now is a perfect 02:42:46
15 time to take a -- actually, let's go ahead and 02:42:48
16 take until 3:00. 02:42:52

17 MR. CHALMERS: That's fine, but let 02:42:56
18 me just ask -- or we can go off the record and 02:42:57
19 we can chat about this. 02:43:00

20 THE VIDEOGRAPHER: We're going off 02:43:00
21 the record at 2:43 p.m. Eastern Time. 02:43:01

22 (A recess was taken.) 02:53:05

23 THE VIDEOGRAPHER: We're going back 03:04:39
24 on the record at 3:04 p.m. Eastern Time. 03:04:41
25

1 BY MS. LITTRELL: 03:04:44

2 Q Ms. Atchison, does the warden of each 03:04:47

3 facility have the authority to independently 03:04:52

4 review the recommendations of the SART team's 03:04:56

5 PREA investigations? 03:05:00

6 A Yes. 03:05:03

7 Q And does he have the obligation to do 03:05:05

8 so? 03:05:08

9 A Yes, through -- I know he's -- or she 03:05:12

10 is required to sign off on incident reports, and 03:05:15

11 PREA allegations would be an incident report. 03:05:19

12 Q Okay. The warden has access to the 03:05:24

13 SART checklists, right? 03:05:27

14 A Yes. 03:05:32

15 Q And the witness statements? 03:05:33

16 A Yes. 03:05:37

17 Q And all information that's in the 03:05:38

18 PREA file, right? 03:05:40

19 A Yes. 03:05:41

20 Q And your position as well has access 03:05:44

21 to view the SART checklists for each PREA 03:05:48

22 investigation, right? 03:05:51

23 A I have the authority to request them. 03:05:55

24 As I was speaking earlier, just this month we 03:05:59

25 went live with a document upload project. So I 03:06:03

1 will be in the future able to see any documents 03:06:06
2 associated with that file, but not -- I have not 03:06:09
3 been to this point. 03:06:14
4 Q Okay. But you've been able to 03:06:18
5 request all the documents in a PREA -- related 03:06:20
6 to a PREA investigation, right? 03:06:24
7 A Yes. 03:06:27
8 MS. LITTRELL: Let's pull up what was 03:06:28
9 marked defendants' -- or DEF06088. 03:06:30
10 (Atchison (Fact) Exhibit 16 marked 03:06:34
11 for identification and attached to the 03:06:34
12 transcript.) 03:06:34
13 MS. LITTRELL: And you see this is 03:07:03
14 the entire file. Let's scroll down and make 03:07:05
15 sure there's a page 2. Okay. Scrolling back 03:07:08
16 up. 03:07:12
17 Q Ms. Atchison, can you see this 03:07:12
18 document? 03:07:17
19 A Yes. 03:07:20
20 Q And this document appears to be 03:07:23
21 originally sent from Maya Rajaratnam at SPLC on 03:07:27
22 September 29th -- do you see that -- to PREA and 03:07:36
23 the Ombudsman and the VictimServices e-mails? 03:07:38
24 A Yes. 03:07:42
25 Q And then from there it was sent from 03:07:43

1	prea.report to you and Kight, Bennett, right?	03:07:46
2	A Yes.	03:07:51
3	MS. LITTRELL: And then if you'll	03:07:52
4	scroll up.	03:07:53
5	Q This is an e-mail from you sent on	03:07:54
6	September 30th, 2020 to Jennifer Ammons,	03:07:59
7	correct?	03:08:03
8	A Yes.	03:08:05
9	Q And it's -- it forwards this e-mail	03:08:06
10	chain, right?	03:08:10
11	A Yes.	03:08:12
12	Q And it says that you have not	03:08:14
13	responded per her previous -- well, it says,	03:08:16
14	"Per previous instructions related to this	03:08:22
15	offender, we have not responded." Who told you	03:08:24
16	not to respond to incidents involving this	03:08:28
17	offender? Do you recall?	03:08:34
18	A That would be Jennifer Ammons.	03:08:36
19	Q Okay. And it also -- the next	03:08:43
20	sentence says, "The PREA team is reviewing all	03:08:46
21	allegations and investigations related to this	03:08:50
22	offender and will be prepared to answer any	03:08:53
23	questions." That's what that says, right?	03:08:56
24	A Yes.	03:08:58
25	Q And when you said "reviewing all	03:08:58

1 allegations and investigations," was that when 03:09:00
2 you requested the entire PREA file as to all of 03:09:03
3 Ms. Diamond's PREA allegations? 03:09:07
4 A Well, I have to look back at my 03:09:14
5 calendar, but I believe this is the same time 03:09:16
6 frame that I went to the institution and 03:09:18
7 reviewed them myself. 03:09:21
8 Q Okay. 03:09:23
9 MS. LITTRELL: You can take this down 03:09:24
10 now, and, if you would, please, pull up 03:09:25
11 DEF030257. 03:09:28
12 REMOTE TECH: Give me a moment to 03:10:37
13 pull that one down. 03:10:37
14 MS. LITTRELL: This document was 03:10:37
15 uploaded during the break so let me know if you 03:10:39
16 are having trouble. 03:10:43
17 REMOTE TECH: I just got ahold of it. 03:10:44
18 (Atchison (Fact) Exhibit 17 marked 03:10:46
19 for identification and not attached to the 03:10:46
20 transcript.) 03:10:46
21 Q It's a one-page document. And, 03:10:47
22 Ms. Atchison, do you see the document on your 03:10:48
23 screen? 03:10:56
24 A Yes. 03:10:58
25 Q It appears to be an e-mail from you 03:11:00

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1 to Bryan Wilson, correct? 03:11:02

2 A Yes. 03:11:06

3 Q And it has an attachment that's a 03:11:07

4 Word document that says, "Ashley, Diamond 03:11:10

5 Timeline," right? 03:11:16

6 A Yes. 03:11:17

7 Q And then it's dated April 5th, 2021, 03:11:17

8 right? 03:11:22

9 A Yes. 03:11:24

10 MS. LITTRELL: And the attachment to 03:11:25

11 that -- I'm going to ask you to take it down and 03:11:27

12 open what has been marked as 30258, and that 03:11:30

13 will be the attachment to this e-mail. 03:11:36

14 (Atchison (Fact) Exhibit 18 marked 03:11:38

15 for identification and not attached to the 03:11:38

16 transcript.) 03:11:38

17 Q And this has been marked Exhibit 18. 03:12:12

18 We're going to look at this document page by 03:12:17

19 page so let's just start at the beginning. Have 03:12:21

20 you -- is this -- have you seen this document 03:12:23

21 before, Ms. Atchison? 03:12:28

22 MS. LITTRELL: Can you scroll down? 03:12:29

23 A Yes. 03:12:29

24 MS. LITTRELL: Yeah. 03:12:29

25 Q Did you create this document? 03:12:30

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1 A I did, yes. 03:12:33

2 Q Okay, great. Let's start with the 03:12:41

3 box that says "050120." 03:12:43

4 A Before I begin answering questions on 03:12:50

5 this document, this document was created for the 03:12:52

6 sole purpose of having notes for the litigation, 03:12:55

7 and I was under the impression this was 03:12:57

8 attorney-client privilege. 03:13:02

9 MR. CHALMERS: Counsel, yeah, I know 03:13:06

10 it has been produced, but this was created for 03:13:08

11 counsel in litigation. So if it was produced -- 03:13:16

12 I'm looking for my -- I'm waiting for my 03:13:20

13 document to pull up. I see Bates numbers on it. 03:13:23

14 It was part of our production. It was produced 03:13:27

15 in error. 03:13:31

16 MS. LITTRELL: So you're requesting 03:13:34

17 to claw this back. 03:13:35

18 MR. CHALMERS: Yes. 03:13:39

19 MS. LITTRELL: What about the e-mail 03:13:39

20 that's associated with this? 03:13:40

21 MR. CHALMERS: Yeah, the e-mail is 03:13:42

22 connected with this, so yes, Exhibit 17 and 03:13:43

23 Exhibit 18. 03:13:47

24 MS. LITTRELL: We can take this down 03:13:56

25 for now. I need to take a look at 17 again. 03:13:57

1 And don't pull it up for now but ... 03:14:09

2 Q Ms. Atchison, do you know what the 03:14:12

3 exchange administrative group -- 03:14:27

4 MS. LITTRELL: So there is some 03:14:34

5 indication, Mr. Chalmers, that this was sent 03:14:36

6 through a larger group, which would, of course, 03:14:40

7 waive any attorney-client privilege. So, if we 03:14:44

8 could, let's go off the record for a minute, 03:14:47

9 look at this document together and help me 03:14:48

10 figure out what -- the information that is 03:14:52

11 giving me the indication that this went to a 03:14:55

12 wider audience. 03:14:59

13 THE VIDEOGRAPHER: We're going off 03:15:02

14 the record -- are we going off the record, 03:15:03

15 Counsel? 03:15:07

16 MR. CHALMERS: Yes, let's go off the 03:15:09

17 record. 03:15:09

18 THE VIDEOGRAPHER: We're going off 03:15:10

19 the record at 3:15 Eastern Time. 03:15:11

20 (A recess was taken.) 03:15:15

21 THE VIDEOGRAPHER: We're going back 03:16:44

22 on the record at 3:16 p.m. Eastern Time. 03:16:45

23 MS. LITTRELL: All right. So, for 03:16:56

24 the record, there has been a claim that 03:16:57

25 documents were provided to us that are 03:17:02

1 attorney-client privileged. There is also an 03:17:04
2 indication in the record that this was sent to a 03:17:08
3 wider audience. It's also been in our 03:17:12
4 possession for quite a while. And so we are 03:17:16
5 reserving our right to bring this matter to the 03:17:19
6 Court's attention and determine whether or not 03:17:24
7 this, in fact, is a document that should be 03:17:29
8 clawed back. 03:17:32

9 MR. CHALMERS: Thank you, Counsel. 03:17:33
10 And in the meantime would you return the 03:17:35
11 documents to me and ensure that they have not 03:17:38
12 been copied or there aren't any others besides 03:17:40
13 the copy we have in front of us today. And, of 03:17:42
14 course, the documents should not be made a part 03:17:46
15 of this deposition transcript. They shouldn't 03:17:48
16 be included. Exhibits 17 and 18 should not be 03:17:51
17 included with the deposition. 03:17:54

18 MS. LITTRELL: Okay. 03:18:00

19 Q Ms. Atchison -- 03:18:01

20 MR. CHALMERS: Is that a 03:18:02
21 confirmation, Counsel, that the documents will 03:18:04
22 be returned? 03:18:05

23 MS. LITTRELL: I'm sorry, that the 03:18:06
24 documents will be returned, yes, pending -- and 03:18:07
25 that we'll take this to the Court to determine 03:18:10

1 whether or not they are attorney-client -- I 03:18:14
2 don't agree these are attorney-client privileged 03:18:16
3 and that you have the right to claw them back, 03:18:17
4 but out of professional courtesy, I am agreeing 03:18:17
5 not to ask this witness about them at this time, 03:18:23
6 reserving the right to do so and call her back 03:18:25
7 at a different time. 03:18:28

8 And in the interim, I will agree to 03:18:29
9 return these documents and ensure that -- we'll 03:18:34
10 hold on to one so that we can make our arguments 03:18:40
11 but we won't distribute these in any way, shape 03:18:43
12 or form until the Court rules. And I'm in 03:18:48
13 agreement that these documents do not appear in 03:18:51
14 the deposition record. 03:18:54

15 MR. CHALMERS: Okay. And, Counsel, I 03:18:56
16 don't believe you are entitled to hold on to 03:18:57
17 one. I'm asking that you return documents that 03:18:59
18 were produced in error that are subject to 03:19:02
19 privilege. And, to be clear, I didn't say 03:19:04
20 attorney-client privilege. I said work-product 03:19:06
21 privilege. 03:19:09

22 MS. LITTRELL: Fair enough. I 03:19:10
23 understand that you said work-product privilege. 03:19:11
24 We'll reserve our objections to bring the matter 03:19:14
25 to the Court's attention. I don't think these 03:19:19

1 are -- these do not appear to be work product to 03:19:22
2 me in this moment, but I'm not going to argue on 03:19:26
3 the record without an arbiter in the room. So 03:19:29
4 we'll reserve our right to bring this to the 03:19:32
5 Court and then ask the Court if we can speak 03:19:37
6 with Ms. Atchison again about the document that 03:19:42
7 she created. 03:19:44
8 BY MS. LITTRELL: 03:19:45
9 Q So, Ms. Atchison, let's ask you about 03:19:50
10 the efforts that you undertook to review all of 03:19:54
11 Ms. Diamond's PREA allegations. Did you review 03:19:59
12 all of Ms. Diamond's PREA allegations? 03:20:07
13 A Yes. 03:20:11
14 Q At some point you reviewed all of 03:20:12
15 Ms. Diamond's PREA allegations, correct? 03:20:14
16 A Yes. 03:20:16
17 Q Okay. Do you recall ever seeing any 03:20:17
18 PREA reports that were initiated regarding 03:20:20
19 offender assaults against Ms. Diamond at GDCP? 03:20:34
20 A Am I aware of any offender assaults 03:20:43
21 at GDCP? Is that the question? 03:20:46
22 Q Are you aware of reviewing any 03:20:48
23 documents that showed that there were PREA 03:20:50
24 reports and PREA investigations initiated 03:20:55
25 offender assaults at GDCP? 03:20:59

1	A	Not specifically. I would have to	03:21:04
2		look at records to verify.	03:21:06
3	Q	Did you provide to your attorney all	03:21:09
4		of the PREA records regarding Ms. Diamond's PREA	03:21:13
5		allegations?	03:21:19
6	A	To the best of my knowledge, yes.	03:21:21
7	Q	So that if there is no documentation	03:21:23
8		that there was a PREA investigation open for any	03:21:28
9		PREA allegations against Ms. Diamond by another	03:21:36
10		offender at GDCP, that would indicate that no	03:21:41
11		such PREA investigation was conducted, right?	03:21:45
12	A	Correct.	03:21:51
13	Q	So we looked at the PREA allegation	03:22:02
14		of sexual assault on July 3rd through a	03:22:05
15		third-party PREA, right? We just looked at that	03:22:11
16		earlier today? Do you remember that?	03:22:17
17	A	Yes.	03:22:18
18	Q	Where she was followed into her room	03:22:19
19		and alleged a sexual assault?	03:22:22
20	A	Yes.	03:22:25
21	Q	You did not follow up on that	03:22:29
22		third-party PREA report within 30 days, did you?	03:22:32
23	A	"Follow-up" meaning?	03:22:38
24	Q	Did you contact anyone at the	03:22:44
25		facility to determine whether that PREA	03:22:46

1	allegation had been investigated?	03:22:50
2	A I would have to look at records to	03:22:53
3	answer that question. I'm not sure.	03:22:55
4	Q But if there are no records that show	03:22:58
5	that you followed up within 30 days, would that	03:23:02
6	indicate that you did not follow up on the	03:23:04
7	July 3rd PREA report within 30 days?	03:23:07
8	A Yes.	03:23:12
9	Q Did you check to see if a SART	03:23:19
10	checklist had been completed with respect to the	03:23:22
11	July 3rd incident?	03:23:27
12	A Not that I remember.	03:23:33
13	Q And if there is no SART checklist	03:23:34
14	associated with the July 3rd, 2020 incident,	03:23:37
15	that would be a violation of PREA policy, right?	03:23:41
16	A Yes.	03:23:48
17	Q And you reviewed the file and you had	03:23:48
18	the ability to ensure that a SART checklist was	03:23:50
19	completed, right?	03:23:56
20	A Yes.	03:23:59
21	Q Okay. Do you recall that you	03:24:07
22	concurred in the determination that the July 3rd	03:24:10
23	incident was properly disposed of as unfounded?	03:24:16
24	A I would have to look at the document	03:24:26
25	to confirm that.	03:24:28

1 Q Do you recall -- do you recall 03:24:31
2 reversing a disposition of unfounded as to any 03:24:37
3 of Ms. Diamond's PREA allegations? 03:24:44

4 A Vaguely, I remember making 03:24:50
5 adjustments, but to -- as far as testifying to 03:24:54
6 which ones, I would have to review the 03:24:58
7 documentation. 03:25:00

8 Q When you reviewed the documentation 03:25:03
9 with respect to the July 3rd PREA allegation, 03:25:05
10 you had the authority to direct that the 03:25:08
11 disposition be changed from unfounded to 03:25:16
12 unsubstantiated if you determined that the 03:25:20
13 disposition was inaccurate? 03:25:24

14 A This is a layered question because I 03:25:30
15 don't change or I don't make recommendations for 03:25:33
16 a SART team to change their disposition only 03:25:36
17 because they make a determination based on what 03:25:41
18 information they have at the time. But it does 03:25:44
19 go to a second layer, which would, if I came up 03:25:49
20 with a different disposition, my disposition 03:25:53
21 would outweigh or take more priority over a SART 03:25:56
22 team recommendation. 03:26:06

23 Q And what is that second -- what are 03:26:08
24 the documents associated with that second layer 03:26:09
25 of review that you're involved in? 03:26:12

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1 A That would be the SART -- excuse me, 03:26:14
2 strike that. 03:26:18
3 That would be the PREA allegation in 03:26:19
4 Scribe. There is a work flow that is first 03:26:24
5 completed by the SART investigator, it's 03:26:30
6 reviewed by the PCM, and once the PCM has 03:26:33
7 approved or forwarded the information, it comes 03:26:38
8 directly to the PREA office. 03:26:41
9 Now, this is not the whole, entire 03:26:43
10 file. This is just that snapshot I referred to 03:26:46
11 earlier. But they have to explain in that 03:26:50
12 summary those questions that are now on that 03:26:54
13 incident review form that were not previously in 03:26:58
14 the policy to tell me how, when, why, all of 03:27:01
15 those questions on how they reached their 03:27:06
16 disposition. And if I disagree with that and I 03:27:09
17 think it should go further, I'll either send it 03:27:11
18 back to the facility or I will make a 03:27:15
19 determination based on what information I have. 03:27:17
20 Q And what documents would show that 03:27:21
21 you were sending it back to the facility for a 03:27:24
22 defer reason? 03:27:30
23 A It would be electronic files. 03:27:32
24 Q Could it be an e-mail? 03:27:34
25 A It would be in the Scribe module. 03:27:36

1 Q Would it be part of the PREA 03:27:38
2 investigative file? 03:27:40

3 A The physical file, not necessarily, 03:27:46
4 but it is retrievable on any time we've sent the 03:27:48
5 information back and forth on that work flow. 03:27:53

6 Q It would be a PREA -- it would be a 03:27:57
7 PREA document. 03:28:00

8 A An electronic document, yes. 03:28:02

9 Q And if you decided that you came to a 03:28:05
10 different determination based on the evidence 03:28:08
11 that you reviewed, how would you document that? 03:28:10

12 A Through that PREA Scribe module. 03:28:14

13 Q So that if there is no document that 03:28:19
14 we have received -- and we've requested all PREA 03:28:22
15 records related to Ms. Diamond. If there is no 03:28:25
16 document that reflects that you came to a 03:28:30
17 different conclusion after reviewing the PREA 03:28:32
18 file as to the July 3rd PREA assault, does that 03:28:34
19 mean you've concurred and agreed with the 03:28:38
20 disposition that your SART team arrived at? 03:28:43

21 A Not necessarily. And the reason I 03:28:46
22 say that is because there is not a document, per 03:28:50
23 se, but I can go to my OIT department and have 03:28:56
24 them pull information that was entered in that 03:29:01
25 work flow. But as far as keeping a form, we 03:29:04

1 don't keep that. 03:29:07

2 Q When -- have you received the 03:29:13

3 document requests from Ms. Diamond that are 03:29:17

4 associated with this case and have asked for all 03:29:22

5 PREA records? 03:29:26

6 A Yes. 03:29:27

7 Q And have you complied with that? 03:29:27

8 A To the best of my ability, yes. 03:29:29

9 Q And would that include the documents 03:29:32

10 that you are referencing now that have to do 03:29:34

11 with some OIT request? 03:29:37

12 A It's difficult to say because it's 03:29:42

13 not an actual document. It's just a -- an 03:29:45

14 electronic work flow. I don't -- 03:29:48

15 Q Well, E-mail is not an actual 03:29:51

16 document, but when we request documents we get a 03:29:53

17 copy of the e-mail. Just as Scribe documents 03:29:57

18 are an electronic version, we request the 03:30:03

19 documents, we get copies. So I'm trying to find 03:30:06

20 out if there are PREA records associated with 03:30:10

21 Ms. Diamond's allegations of sexual assaults 03:30:13

22 that are being withheld from us. 03:30:16

23 A Not intentionally, no, but -- 03:30:18

24 MR. CHALMERS: Object to the form. 03:30:24

25 Let me have a chance here. Objection to form. 03:30:25

1 You can answer the question. 03:30:25

2 Q Go ahead. 03:30:28

3 A Not intentionally. If that was an 03:30:29

4 oversight of not providing that, it wasn't an 03:30:32

5 intentional one. And I -- if there's a way to 03:30:36

6 retrieve those documents, of course we would 03:30:39

7 turn them over. 03:30:42

8 Q Is there a way to retrieve documents 03:30:44

9 in which you have reviewed the PREA file, 03:30:46

10 determined that the disposition was inaccurate 03:30:50

11 and communicated that information in some way to 03:30:53

12 the facility SART team? 03:30:56

13 A I would have to get with OIT, which 03:30:58

14 is our Office of Information Technology, to see 03:31:01

15 if they can pull that from the database. 03:31:04

16 MS. LITTRELL: All right. 03:31:10

17 Mr. Chalmers, let's just say on the record, 03:31:10

18 obviously, if there are records associated with 03:31:13

19 Ms. Atchison's efforts and forms or other 03:31:16

20 communications as it relates to Ms. Diamond's 03:31:24

21 PREA allegations that are the subject of this 03:31:28

22 lawsuit, they are subject to being provided to 03:31:31

23 us, based on document requests that have been 03:31:35

24 outstanding for over a year now. 03:31:39

25 MR. CHALMERS: Well, okay, it's -- it 03:31:43

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1 has been over a year now, Counsel. So I will go 03:31:44
2 ahead and get with Ms. Atchison and inquire 03:31:47
3 about what documents she is referring to, if 03:31:50
4 documents exist. In the meantime, you can send 03:31:52
5 me an e-mail indicating what document requests 03:31:54
6 you believe they are responsive to. Could you 03:31:57
7 do that? 03:32:00
8 MS. LITTRELL: I will do that. I 03:32:02
9 think -- 03:32:02
10 MR. CHALMERS: Great. Thanks. 03:32:02
11 MS. LITTRELL: We know that there is 03:32:02
12 an outstanding request for all PREA records and 03:32:06
13 I thought that I had received them. 03:32:07
14 Ms. Atchison -- 03:32:11
15 MR. CHALMERS: There is not an 03:32:13
16 outstanding request for all PREA records. So 03:32:14
17 just send me -- 03:32:17
18 MS. LITTRELL: Associated with 03:32:19
19 Ms. Diamond. 03:32:20
20 MR. CHALMERS: There is nothing 03:32:22
21 outstanding. Just send me what document request 03:32:22
22 you believe these would be responsive to. In 03:32:25
23 the meantime I will get with Ms. Atchison about 03:32:29
24 what documents might exist. 03:32:33
25 MS. LITTRELL: And we'll ask you to 03:32:34

1 expedite that and we'll follow up by e-mail. 03:32:36

2 BY MS. LITTRELL: 03:32:40

3 Q Ms. Atchison, do you recall, as to 03:32:41

4 the July 3rd sexual assault allegation, which 03:32:43

5 your office directly received the third-party 03:32:47

6 report that provided the time, the location and 03:32:47

7 the details, other than identifying the 03:32:53

8 perpetrator of a sexual assault, do you recall 03:32:58

9 whether that PREA allegation was determined to 03:33:01

10 be substantiated, unsubstantiated or unfounded? 03:33:05

11 A I would have to review the records. 03:33:13

12 I do not recall. 03:33:15

13 Q Sitting here today, do you have any 03:33:16

14 information that would contradict that all of 03:33:18

15 the records that we've received show that the 03:33:22

16 July 3rd PREA allegations were disposed of as 03:33:27

17 unfounded? 03:33:34

18 A Again, I would have to look at the 03:33:36

19 records to answer that. 03:33:39

20 Q But as you sit here today, do you 03:33:40

21 have any information that contradicts that there 03:33:42

22 are only documents saying that the July 3rd 03:33:46

23 incident was identified or disposed of as 03:33:49

24 unfounded? 03:33:51

25 A No. 03:33:52

1 Q Okay. Based on the records that 03:33:56
2 we've reviewed so far that I have showed you in 03:33:58
3 relation to the July 3rd PREA allegation, did 03:34:02
4 you see anything that would rise to the level of 03:34:06
5 disproving that that sexual assault occurred? 03:34:10
6 A Not that I recall. 03:34:15
7 Q Do you recall that there was no video 03:34:17
8 reviewed? 03:34:20
9 A Based on the documents that I have 03:34:23
10 reviewed today, there are indications on those 03:34:25
11 specific documents that video was not reviewed. 03:34:28
12 Q Okay. Which means that there's no 03:34:33
13 video evidence showing that the assault did not 03:34:35
14 occur, right? 03:34:37
15 A Correct. 03:34:40
16 MR. CHALMERS: Objection. 03:34:42
17 THE WITNESS: Oh. 03:34:42
18 Q And the fact that Ms. Diamond can't 03:34:44
19 identi- -- can't or didn't identify the 03:34:44
20 perpetrator, that's not a reason to determine 03:34:47
21 that the PREA allegation is unfounded, right? 03:34:50
22 A No. 03:34:54
23 Q And if this were -- if it were 03:34:58
24 determined that the July 3rd sexual assault was 03:35:04
25 unfounded, that means there would not be an 03:35:08

1 SAIRT review, right? 03:35:11

2 A Correct. 03:35:14

3 Q Which means there would not be -- 03:35:16

4 there would not be the ability for the second 03:35:18

5 layer view -- of review to determine whether or 03:35:23

6 not Ms. Diamond's environment was safe? 03:35:27

7 A Correct. 03:35:36

8 Q Okay. And if you had reviewed the 03:35:39

9 PREA file and did not see anything in it that 03:35:42

10 supported an unfounded disposition, you had the 03:35:45

11 ability to ensure that the disposition could be 03:35:52

12 changed to unsubstantiated, right? 03:35:56

13 A It can be overridden and decided 03:36:01

14 unsubstantiated, yes. 03:36:06

15 Q Okay. And it can be overridden by 03:36:09

16 you, right? 03:36:11

17 A Yes. 03:36:12

18 Q And that would allow the SAIRT review 03:36:14

19 to commence, correct? 03:36:16

20 A Yes. 03:36:17

21 Q In fact, it would be required that an 03:36:18

22 SAIRT review took place, right? 03:36:21

23 A Yes. 03:36:24

24 Q Okay. We looked at the 03:36:32

25 September 18th, September 19th, September 20th 03:36:34

1 assault allegations, and just to refresh your 03:36:40
2 memory, there were two assault allegations on 03:36:43
3 September 20th. So there were -- one 03:36:47
4 third-party PREA report identified four separate 03:36:50
5 PREA allegations. Do you remember that? 03:36:55
6 A Yes. 03:36:57
7 Q And we've agreed that there should be 03:36:58
8 four PREA incident reports that were opened in 03:37:00
9 response to the third-party PREA report, right? 03:37:05
10 A Yes. 03:37:07
11 Q Okay. And you agree that as to each 03:37:11
12 of those, we knew the date, the location and, in 03:37:14
13 some cases, the approximate time of when the 03:37:21
14 alleged assault took place, right? 03:37:24
15 A Yes. 03:37:27
16 Q Okay. And you've testified that you 03:37:31
17 reviewed the PREA file as to all Ms. Diamond's 03:37:33
18 PREA allegations. So as you sit here today, do 03:37:37
19 you recall the reason that all four of those 03:37:40
20 PREA allegations were determined to be 03:37:45
21 unfounded? 03:37:48
22 A No. 03:37:50
23 Q Do you know of any evidence that 03:37:54
24 would support a disposition of unfounded as to 03:37:57
25 all of those PREA allegations? 03:38:01

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1	A	No.	03:38:05
2	Q	And because the -- each of these PREA	03:38:07
3		allegations was disposed of as unfounded, again,	03:38:13
4		there was no SAIRT review process that took	03:38:17
5		place, right?	03:38:20
6	A	Correct.	03:38:24
7	Q	So that means that there would not	03:38:24
8		have been documentation that this involved	03:38:26
9		someone who was transgender, right?	03:38:29
10	A	The SAIRT would not have been	03:38:38
11		reviewed, which does ask that question about	03:38:41
12		transgender status.	03:38:45
13	Q	Okay. And it asks the question about	03:38:46
14		whether the SART checklist was filled out?	03:38:48
15	A	On an unfounded case? Yeah.	03:38:53
16	Q	Right. So that did not happen. As	03:38:56
17		to all four of these sexual assault allegations,	03:38:58
18		if they were determined to be unfounded, there's	03:39:03
19		no opportunity for the SAIRT to look at the PREA	03:39:06
20		file and determine whether or not the video was	03:39:10
21		reviewed, right?	03:39:12
22	A	Correct.	03:39:14
23	Q	Or the SART checklist was filled out,	03:39:15
24		right? That didn't happen?	03:39:18
25	A	Correct.	03:39:21

1 Q And it didn't also allow the SAIRT to 03:39:22
2 make recommendations about whether or not there 03:39:26
3 were conditions in Ms. Diamond's environment 03:39:28
4 that could have contributed to the alleged 03:39:32
5 assault. 03:39:36

6 A Right. And I will reference the PREA 03:39:37
7 law itself determines that if a disposition is 03:39:40
8 unfounded, that an incident review is not 03:39:44
9 required. 03:39:48

10 Q Right. Does that benefit the 03:39:48
11 institution in any way to conclude that an 03:39:54
12 allegation of sexual assault is unfounded? 03:40:00

13 A The definition of unfounded means 03:40:04
14 that there is proof that the allegation did not 03:40:07
15 occur. In our circumstance that generally means 03:40:12
16 that there is a video that sh- -- because that's 03:40:17
17 usually the only way we can prove something did 03:40:20
18 not occur. That's why the SAIRT review is not 03:40:23
19 required because the investigation revealed that 03:40:30
20 there were no truths according to the unfounded 03:40:33
21 definition. 03:40:39

22 Q Okay. Somewhere in the PREA 03:40:41
23 investigative file, if there was video that 03:40:48
24 disproved the allegation, that would be noted, 03:40:51
25 right? 03:40:54

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1 A Yes. 03:40:55

2 Q Do you recall that there were -- that 03:40:58

3 the PREA unit directly received a third-party 03:41:02

4 PREA report that alleged that someone had come 03:41:06

5 into Ms. Diamond's cell while she was sleeping, 03:41:13

6 in October, and sexually assaulted her? 03:41:17

7 A I recall that with that particular 03:41:22

8 situation, that somebody told her that she was 03:41:28

9 assaulted, not that she recalled it herself. 03:41:32

10 Q Okay. And did you look at the PREA 03:41:38

11 investigative file with respect to the 03:41:41

12 allegation that someone had told Ms. Diamond 03:41:45

13 that she had been sexually assaulted while she 03:41:48

14 was asleep? 03:41:52

15 A Again, I would have to look at the 03:41:54

16 individual case review to answer completely, but 03:41:56

17 I do recall an incident of that nature. 03:41:59

18 Q Did you skip over reviewing any of 03:42:02

19 the sexual assault allegations when you were 03:42:05

20 reviewing the PREA investigations? 03:42:10

21 A Not that I'm aware of. 03:42:12

22 Q Okay. And you would agree that if 03:42:15

23 someone is sexually assaulted, whether they are 03:42:18

24 asleep or incapacitated, that is still sexual 03:42:21

25 assault, right? 03:42:27

Transcript of Grace Atchison

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1	A	Yes.	03:42:28
2	Q	Yeah, okay.	03:42:32
3		MS. LITTRELL: Let's pull up, let's	03:42:34
4		see, DEF0874.	03:42:39
5		REMOTE TECH: Give me a moment to	03:42:52
6		pull that down. 0874?	03:42:54
7		MS. LITTRELL: Yes.	03:43:25
8		MR. CHALMERS: And are we going to	03:43:26
9		mark this 19? I know we've removed 17 and 18,	03:43:27
10		but just so the record is clear, we should	03:43:31
11		probably mark it 19?	03:43:34
12		MS. LITTRELL: Yes.	03:43:35
13		REMOTE TECH: Counsel, I'm not seeing	03:43:36
14		that in my repository.	03:43:37
15		MS. LITTRELL: All right. Mr. Soto,	03:43:42
16		if you can find 874 for me, that would be	03:43:43
17		delightful.	03:43:47
18		MR. SOTO: It's uploaded now.	03:43:48
19		MS. LITTRELL: Thank you.	03:43:48
20		REMOTE TECH: Okay. I see it.	03:43:55
21		(Atchison (Fact) Exhibit 19 marked	03:44:00
22		for identification and attached to the	03:44:00
23		transcript.)	03:44:00
24		MS. LITTRELL: And, Mr. Soto, if you	03:44:11
25		can make sure that 878 is also uploaded, please.	03:44:13

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1	BY MS. LITTRELL:	03:44:17
2	Q And, Ms. Atchison, I'll ask you a	03:44:30
3	question while we wait for that, which is, if	03:44:32
4	there -- if the allegation is that someone snuck	03:44:34
5	into Ms. Diamond's cell at night and there is a	03:44:37
6	camera [REDACTED], do you agree	03:44:40
7	that it's relevant information what's on the	03:44:43
8	video recordings in the overnight hours --	03:44:47
9	MR. CHALMERS: Objection.	03:44:49
10	Q -- on the date in which the alleged	03:44:49
11	sexual assault took place?	03:44:52
12	MR. CHALMERS: Sorry, Counsel.	03:45:01
13	Objection. You can answer.	03:45:01
14	A Yes.	03:45:03
15	Q And if you were a SART investigator,	03:45:03
16	you would want to look at the video recording to	03:45:03
17	see whether someone was sneaking into anyone's	03:45:06
18	cell at night and allegedly assaulting them,	03:45:09
19	right?	03:45:13
20	A Yes.	03:45:14
21	Q Okay. Would you agree that that is a	03:45:14
22	concern for a PREA coordinator or anyone	03:45:16
23	concerned with reducing sexual assault if	03:45:23
24	offenders are able to freely enter each other's	03:45:28
25	cell in the middle of the night?	03:45:33

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1	A	Yes.	03:45:36
2		MS. LITTRELL: Let's make this	03:45:39
3		document --	03:45:40
4	Q	So do you see this document on your	03:45:42
5		screen, Ms. Atchison? I know it's very small.	03:45:42
6		I want to make sure that you see. It's two	03:45:45
7		pages.	03:45:47
8		MS. LITTRELL: Let's see if there is	03:45:47
9		anything on the second page. There is some	03:45:49
10		information on the second page. Okay, great.	03:45:51
11		So we'll start at the top.	03:45:52
12	Q	You see, Ms. Atchison, this is a	03:45:54
13		document that's titled Supplemental Report, and	03:46:00
14		it's printed by Mr. Carl Betterson on	03:46:02
15		October 15th, 2020. Did I accurately describe	03:46:06
16		that? Did I accurately describe what this	03:46:10
17		document is?	03:46:15
18	A	Oh, yes. Sorry.	03:46:15
19	Q	And where it says "Military Time" --	03:46:18
20		and then there's a time. It says, "10-10-2020."	03:46:21
21		Do you understand that to refer to the date on	03:46:23
22		which an alleged sexual assault took place?	03:46:26
23	A	Yes. Usually it's defined by	03:46:38
24		incident time and report time. So that is a	03:46:40
25		little confusing to me.	03:46:43

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1 MS. LITTRELL: If you'll give me 03:46:46

2 control of this, I'll fly through it real quick. 03:46:47

3 Q In the summary of the incident, do 03:47:03

4 you see that this asserts that "Offender Diamond 03:47:06

5 reported that on the morning of 10-11, she was 03:47:14

6 informed by another offender," whose name is 03:47:15

7 Earl Thigpen, "that on the night of 10-10, an 03:47:15

8 unnamed aggressor was observed by Offender 03:47:20

9 Thigpen inside of Offender Diamond's room while 03:47:22

10 she was sleeping on her stomach. While in the 03:47:26

11 Offender Diamond's room, the alleged aggressor 03:47:29

12 was seen touching the buttocks of Offender 03:47:30

13 Diamond. Offender Thigpen then verbally 03:47:33

14 chastised the alleged aggressor, causing the 03:47:33

15 alleged aggressor to leave the Offender 03:47:37

16 Diamond's room." It then says, "Offender 03:47:40

17 Diamond stated that she did not wake due to 03:47:44

18 mental health medication." 03:47:49

19 Does that refresh your recollection

20 about the assault allegation in which someone

21 came into Ms. Diamond's room and sexually

22 assaulted her? 03:47:55

23 MR. CHALMERS: Objection. Form. 03:47:59

24 This is not refreshed recollection, but 03:47:59

25 objection. Form. 03:48:01

1 A I recall this incident. 03:48:06

2 Q Okay. And then we'll scroll down. I 03:48:07

3 am scrolling down to the next page. And it says 03:48:11

4 the offenders involved. One is Ashley Diamond, 03:48:14

5 and you see over here where it says "Sexual 03:48:18

6 Allegation," the answer is "No." That's 03:48:24

7 inaccurate, correct? 03:48:26

8 MR. CHALMERS: Objection. 03:48:29

9 A Correct. 03:48:31

10 Q Correct, this is inaccurate, right? 03:48:32

11 A Correct, yeah, inaccurate, uh-huh. 03:48:37

12 Q Okay. And as to the other two 03:48:39

13 offenders involved, one is Earl Thigpen, who you 03:48:42

14 see from the above summary is the person who 03:48:48

15 allegedly witnessed the sexual assault in 03:48:50

16 Ms. Diamond's room, and the other person is 03:48:56

17 Christopher Graham. And do you see as to each 03:48:59

18 of those individuals, under the question 03:49:03

19 "Reviewed Video," the answer is "No," right? 03:49:06

20 A Yes. 03:49:10

21 Q Does that indicate to you that no 03:49:12

22 video was reviewed with respect to the sexual 03:49:13

23 assault allegation? 03:49:16

24 A Yes. 03:49:19

25 Q And when you reviewed the file -- the 03:49:24

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1 PREA investigative file with regard to this 03:49:29
2 incident, would you have looked at witness 03:49:33
3 statements? 03:49:36
4 A Yes. 03:49:42
5 Q Do you recall seeing Mr. Thigpen's 03:49:43
6 witness statement with respect to this PREA 03:49:47
7 allegation? 03:49:49
8 MS. LITTRELL: And, I'm sorry, you 03:49:49
9 can take this down now. 03:49:52
10 A The answer to that, and probably any 03:49:56
11 subsequent question to that nature, is that I 03:50:02
12 may have reviewed them. I just don't recall 03:50:05
13 that I reviewed them. 03:50:08
14 Q Okay. If you did review a witness 03:50:12
15 statement by Mr. Thigpen that was dated 03:50:14
16 10-15-2020 and that witness statement said that 03:50:21
17 he witnessed the events that were described in 03:50:27
18 the summary as having happened a week to a week 03:50:32
19 and a half ago, would you agree with me that 03:50:36
20 that is seven to ten days prior to the date on 03:50:39
21 which he signed his witness statement? 03:50:43
22 MR. CHALMERS: Objection. 03:50:49
23 A Can I review the document again? 03:50:51
24 Q Sure. 03:50:54
25 MS. LITTRELL: Let's pull up DEF_878. 03:50:54

1 (Atchison (Fact) Exhibit 20 marked 03:51:28
2 for identification and attached to the 03:51:28
3 transcript.) 03:51:28
4 MS. LITTRELL: We haven't looked at 03:51:31
5 this document yet. So let's mark this, and we 03:51:31
6 have, as Exhibit 20. And let's see, if you'll 03:51:31
7 go down to the second page. Let's actually look 03:51:33
8 at the date first. Here we go. 03:51:37
9 Q You see at the top of this second 03:51:39
10 page, which is a witness statement at Coastal 03:51:42
11 State Prison by Earl Thigpen, the date is 03:51:48
12 10-15-2020. Do you see that? 03:51:52
13 A Yes. 03:51:55
14 MS. LITTRELL: Okay. Let's just 03:51:55
15 scroll and let's see where the signature on this 03:51:56
16 is. Okay. There's initials on this page, and 03:51:59
17 the next -- at the top of the -- we'll go to the 03:52:04
18 first page. Okay. Stop there. 03:52:07
19 Q You see that there is some initials 03:52:09
20 and the signature up here that this is an 03:52:15
21 affidavit by Earl Thigpen. 03:52:19
22 MR. CHALMERS: Objection. 03:52:22
23 Q Does this appear to be an affidavit 03:52:24
24 by Earl Thigpen? 03:52:25
25 MR. CHALMERS: Objection. 03:52:28

1	A	Yes.	03:52:29
2	Q	You can answer. Yeah.	03:52:29
3		MS. LITTRELL: Okay. Let's scroll	03:52:29
4		up. Let's see what Mr. Thigpen says. Thank	03:52:30
5		you.	03:52:38
6	Q	So there are some spelling errors, I	03:52:38
7		will say at the outset, but the very first	03:52:50
8		sentence says, as far as I can tell, and if you	03:52:53
9		think I'm reading it wrong, let me know, "At	03:52:56
10		11:15 p.m., about a week and a half ago." Do	03:52:58
11		you see that?	03:53:03
12	A	Yes.	03:53:03
13	Q	And so if you were a SART	03:53:05
14		investigator, would that indicate to you that	03:53:07
15		the date on which the alleged sexual assault	03:53:10
16		took place in Ms. Diamond's room would be	03:53:16
17		between seven and ten days prior to 10-15?	03:53:19
18		MR. CHALMERS: Objection.	03:53:29
19		THE WITNESS: Okay. Let's scroll	03:53:30
20		back down to that date.	03:53:30
21	A	I think it was 10-15-20.	03:53:30
22	Q	Yes.	03:53:34
23	A	Okay. 10-15-20. And you're asking	03:53:34
24		if it is within seven to ten days of the	03:53:39
25		allegation?	03:53:42

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1 Q Well, the witness is saying that the 03:53:45
2 events took place about a week and a half ago. 03:53:48
3 So if you were the SART investigator, would you 03:53:51
4 be looking to see whether or not someone came 03:53:56
5 into Ms. Diamond's room seven to ten days 03:54:02
6 earlier? 03:54:05
7 A Yes, but -- 03:54:05
8 Q Okay. 03:54:06
9 A -- it would have been probably 7 to 03:54:08
10 12 days, just to make sure. 03:54:10
11 Q Okay. 03:54:12
12 A Yes. 03:54:13
13 Q And 7 to 12 days is roughly 03:54:13
14 October 3rd through October 8th. And just 03:54:18
15 further you can see that allegation is that 03:54:26
16 someone -- and I believe this is a misspelled 03:54:31
17 Diamond -- went in Ms. Diamond's room. She -- 03:54:34
18 I'm sorry, Mr. Thigpen went to check on Diamond. 03:54:37
19 It's spelled D-I-M-E-O-N, but I think this is in 03:54:41
20 reference to Ms. Diamond. When he opened the 03:54:48
21 door -- 03:54:49
22 MR. CHALMERS: Objection. 03:54:49
23 Q -- "of his room, I saw someone roben 03:54:49
24 on her butt." And then it says, "He to me to 03:54:54
25 come get some too." And I won't read the rest, 03:54:56

1 but this roughly is the witness statement that 03:55:00
2 supports the summary of the allegation that we 03:55:06
3 saw in the exhibit prior. 03:55:13
4 MR. CHALMERS: Objection. Form. 03:55:18
5 Q There is no question there, so let's 03:55:19
6 just get to the question, which is, do you 03:55:21
7 recall, when you were reviewing this 03:55:25
8 investigation, whether the date on the 03:55:29
9 investigation was ever changed to reflect that 03:55:34
10 the witness said it took place sometime between 03:55:39
11 October 5th and October 8th? 03:55:43
12 A I am not aware of any date changes. 03:55:49
13 Q Okay. Are you aware that this sexual 03:55:54
14 assault was determined to be unfounded? 03:55:56
15 MR. CHALMERS: Objection. 03:56:03
16 A Without reviewing the file, I am not 03:56:05
17 aware. 03:56:08
18 Q And if the basis for the unfounded 03:56:11
19 disposition was because Mr. Graham had been 03:56:13
20 moved on October 9th, that would be an 03:56:17
21 inaccurate PREA. That would be an -- I'm sorry, 03:56:24
22 that would be an invalid basis to prove that the 03:56:29
23 allegation did not occur -- 03:56:33
24 MR. CHALMERS: Objection. 03:56:38
25 Q -- correct? 03:56:38

1 A If he were moved on October the 9th 03:56:38
2 and the -- 03:56:40
3 Q Correct. 03:56:43
4 A -- alleged incident occurred 03:56:43
5 somewhere between the 3rd and -- what other date 03:56:45
6 was that? 03:56:51
7 Q The 8th. 03:56:53
8 A -- the 8th, then that would be an 03:56:55
9 inaccurate reason -- an insufficient reason to 03:56:57
10 deem a case unfounded. 03:57:01
11 Q And, again, because -- or if this 03:57:04
12 allegation was determined to be unfounded, that 03:57:07
13 means no SAIRT review took place, right? 03:57:11
14 A Correct. 03:57:18
15 Q So the SAIRT team would not have 03:57:21
16 reviewed the PREA investigation to determine 03:57:23
17 that no video was reviewed? 03:57:25
18 A Correct. 03:57:32
19 Q Okay. 03:57:32
20 MS. LITTRELL: Okay. You can take 03:57:37
21 this down. 03:57:39
22 Q Would you have expected that a SART 03:57:43
23 checklist would have been completed with respect 03:57:45
24 to this incident allegation? 03:57:48
25 A Yes. 03:57:53

1 Q And when you reviewed the 03:57:54
2 investigative file, do you recall seeing a SART 03:57:56
3 checklist? 03:58:00
4 A Not specifically for this case. I 03:58:03
5 would have to review. 03:58:05
6 Q And that's contrary to PREA policy, 03:58:06
7 right? 03:58:10
8 A Correct. 03:58:12
9 Q And you have the ability to review 03:58:14
10 the file, and if you noticed that the date was 03:58:16
11 wrong, you have the ability to ensure that that 03:58:20
12 date was changed to accurately reflect the 03:58:23
13 allegation, right? 03:58:26
14 MR. CHALMERS: Objection. 03:58:31
15 A I have the authority, yes, if I 03:58:32
16 noticed it, but I don't recall there being a 03:58:35
17 date change. 03:58:38
18 Q Okay. Do you -- 03:58:44
19 MS. LITTRELL: Let's see, pull up 03:58:44
20 DEF0811 too, please. 03:58:55
21 REMOTE TECH: Counsel, I'm not seeing 03:59:23
22 that in the repository right now. 03:59:25
23 MR. SOTO: Okay. It should be 03:59:27
24 uploaded now. 03:59:27
25 MS. LITTRELL: Sorry about that. 03:59:27

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1 REMOTE TECH: Okay. Just a moment. 03:59:27

2 (Atchison (Fact) Exhibit 21 marked 03:59:27

3 for identification and attached to the 03:59:27

4 transcript.) 03:59:27

5 Q Do you see the document on your 04:00:27

6 screen, Ms. Atchison? 04:00:30

7 A Yes. 04:00:32

8 Q Great. And you see that this is yet 04:00:34

9 another Supplemental Report with respect -- that 04:00:37

10 was printed by Mr. Betterson. This report 04:00:42

11 appears to be about an assault allegation on 04:00:49

12 October 30th, right? 04:00:52

13 A Yes. 04:00:57

14 Q Let's scroll down and see what this 04:00:59

15 says. So the summary of the incident is that 04:01:04

16 Ms. Diamond "reported that during a door 04:01:07

17 meeting, Offender Earl Thigpen exposed himself 04:01:10

18 and inappropriately touched him." I think that 04:01:15

19 is misgendering Ms. Diamond. "Offender Diamond 04:01:19

20 was not able to provide an incident date, only 04:01:23

21 that Offender Thigpen admitted to the act." 04:01:27

22 So are you -- do you recall that 04:01:30

23 there were two sexual assault allegations in 04:01:32

24 which Ms. Diamond reported that someone had come 04:01:37

25 into her cell in the evening while she was 04:01:42

1 asleep and sexually assaulted her? 04:01:46

2 A That there are two allegations in 04:01:49

3 this report? 04:01:52

4 Q No. There are two allegations that 04:01:53

5 have been made about someone sneaking into her 04:01:55

6 cell and molesting her while she slept. 04:02:00

7 A Yes. 04:02:05

8 Q And do you see again, down at the 04:02:07

9 bottom, that the question of whether or not this 04:02:10

10 is a sexual allegation is "No"? 04:02:15

11 A Yes. 04:02:20

12 Q Okay. And that there was no video 04:02:21

13 reviewed? 04:02:23

14 A Yes. 04:02:28

15 Q Okay. 04:02:28

16 MS. LITTRELL: If you could pull up 04:02:29

17 DEF8 -- sorry, let me just make sure I -- pull 04:02:31

18 out so I can see what number this is. Sorry. 04:02:40

19 Was that 811? 04:02:43

20 REMOTE TECH: Yes. 04:02:49

21 MS. LITTRELL: Okay. Can you pull up 04:02:52

22 818, please. 04:02:54

23 REMOTE TECH: Just a moment. 04:02:55

24 (Atchison (Fact) Exhibit 22 marked 04:02:55

25 for identification and attached to the 04:02:55

1 transcript.) 04:02:55

2 Q Okay. Two-page document. Do you see 04:03:24

3 that? 04:03:26

4 A Yes. 04:03:26

5 MS. LITTRELL: If we can make it 04:03:29

6 bigger. Thank you. 04:03:30

7 Q This is a witness statement filled 04:03:31

8 out by -- it appears to be a witness statement 04:03:34

9 filled out by Ms. Diamond, right? Is that 04:03:38

10 correct? 04:03:40

11 A Yes. 04:03:40

12 Q And it says, "In a dorm meeting on 04:03:41

13 October 30th with Big, Tom Tom and Logan, Earl 04:03:44

14 Thigpen admitted to exposing himself and 04:03:50

15 inappropriate touching of me." Do you see that? 04:03:53

16 A Yes. 04:03:57

17 Q And this is -- if the allegations are 04:03:58

18 true, would that be a PREA violation? 04:04:02

19 A I would dig further down into what 04:04:07

20 inappropriate touching, what they are 04:04:10

21 classifying it as, but if it were to a genital 04:04:15

22 area or something of a sexual nature, yes, I 04:04:20

23 would agree this is an allegation -- PREA 04:04:24

24 allegation. 04:04:26

25 Q How about exposing himself? 04:04:27

1 A Exposure is -- was that Roger? Oh, I 04:04:29
2 thought somebody interjected. Exposure is not 04:04:36
3 necessarily considered sexual abuse or sexual 04:04:41
4 harassment. 04:04:46
5 Q So it's not a PREA violation for an 04:04:47
6 offender to pull his penis out in front of 04:04:52
7 another offender? 04:04:57
8 A No, not unless it is repeated, and 04:04:58
9 then it becomes sexual harassment. 04:05:01
10 Q What if that offender pulled his 04:05:05
11 penis out and then masturbated? Would that be 04:05:09
12 considered two separate incidents or actions? 04:05:11
13 A No. 04:05:14
14 Q So an offender who -- but you said if 04:05:20
15 an offender did it more than once, then that 04:05:22
16 would be sexual -- it would be a PREA violation, 04:05:25
17 correct? 04:05:27
18 A Yes. 04:05:28
19 Q Okay. When you reviewed the PREA 04:05:29
20 investigative file with respect to all of 04:05:34
21 Ms. Diamond's PREA allegations, did you see any 04:05:37
22 indication that the SART team had interviewed 04:05:41
23 Big or Tom Tom or Logan? 04:05:46
24 A I would have to refer to the case 04:05:51
25 file to answer that question. 04:05:54

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1 Q Okay. And if there is no indication 04:05:57
2 in the case file that the SART investigator 04:05:59
3 spoke with Big, Tom Tom and Logan, would that be 04:06:03
4 of concern to you? 04:06:08
5 A Yes. 04:06:11
6 Q Okay. 04:06:11
7 MS. LITTRELL: Let's take this down 04:06:15
8 and pull up DEF0814, please. 04:06:16
9 (Atchison (Fact) Exhibit 23 marked 04:06:20
10 for identification and attached to the 04:06:20
11 transcript.) 04:06:20
12 Q Do you see this is a two-page 04:06:52
13 document? 04:06:53
14 A Yes. 04:06:56
15 Q Okay. And it's a witness statement 04:06:57
16 by Christopher Conley dated 11-4-2020, right? 04:07:00
17 MR. CHALMERS: Objection. 04:07:06
18 Q Is that what this appears to be? 04:07:07
19 A Yes. 04:07:09
20 MS. LITTRELL: Scroll down, please. 04:07:13
21 Q And then the statement appears to 04:07:14
22 say, "On 10-30 I had a talk with Earl. He told 04:07:22
23 me he had been going to Diamond's room, showing 04:07:28
24 them his private parts and other things." 04:07:33
25 Does this indicate that Earl admitted 04:07:37

1 that he had been going to Diamond's room showing 04:07:43

2 them his private parts? 04:07:47

3 MR. CHALMERS: Objection. 04:07:50

4 A This is a secondhand statement. So 04:07:56

5 it would be considered reviewed for the 04:08:03

6 preponderance of evidence, but it doesn't 04:08:07

7 necessarily mean that it did occur. 04:08:09

8 Q Right. But I'm asking more about the 04:08:14

9 substance. Does the -- well, first, let me ask 04:08:16

10 you, does an admission of wrongdoing have -- is 04:08:20

11 that considered in the PREA investigation 04:08:26

12 process? 04:08:31

13 A If it is PREA related, yes. Exposure 04:08:35

14 would not necessarily be PREA related, as 04:08:39

15 discussed a few minutes ago. And so this would 04:08:42

16 not be -- just based on this information, would 04:08:48

17 not be considered a PREA allegation. 04:08:54

18 Q Well, let me ask you two questions 04:08:57

19 first about that. First, if an alleged 04:08:59

20 perpetrator confessed to someone that they had 04:09:06

21 committed a sexual assault, is that evidence 04:09:11

22 that should be considered by the SART team? 04:09:13

23 A Yes. But as the investigator, I 04:09:18

24 would have them define what "other things" means 04:09:21

25 in this particular statement. 04:09:25

1 Q Okay. And this statement does not 04:09:27
2 say that Earl told him he went into Diamond's 04:09:31
3 room one time, right? 04:09:37
4 A "Been going" would -- would indicate 04:09:38
5 that it occurred over a period of time. 04:09:48
6 Q Okay. Which, if he exposed himself 04:09:51
7 over a period of time to Ms. Diamond, that would 04:09:54
8 be a PREA violation, correct? 04:09:57
9 A Yes. 04:10:00
10 Q And the allegations -- if this is an 04:10:03
11 ongoing situation, is there anything in this 04:10:14
12 witness statement that disproves the sexual 04:10:21
13 assault? 04:10:27
14 MR. CHALMERS: Objection. Form. 04:10:30
15 A No. 04:10:31
16 Q Are you aware of any evidence that 04:10:36
17 you've seen in reviewing Ms. Diamond's PREA 04:10:38
18 investigation that disproves the sex- -- that a 04:10:42
19 sexual assault occurred in Ms. Diamond's room 04:10:46
20 prior to 10-30-2020 by Earl Thigpen? 04:10:54
21 MR. CHALMERS: Objection. 04:11:01
22 A Again, I would have to review the 04:11:01
23 individual record. 04:11:03
24 Q You're not aware, as you sit here 04:11:04
25 today, of any video evidence that disproves that 04:11:06

1 that occurred? 04:11:10

2 A I would have to refer to that -- that 04:11:11

3 case file before I can answer that question 04:11:14

4 truthfully. 04:11:16

5 Q But if there is no video evidence 04:11:17

6 disproving that this allegation occurred, then 04:11:21

7 an unfounded disposition would be an inaccurate 04:11:29

8 disposition? 04:11:33

9 A Not necessarily because we determine 04:11:35

10 a disposition based on the preponderance of 04:11:39

11 evidence. So yes, video is -- is one of the 04:11:42

12 main reasons, but it's not the only reason. 04:11:47

13 Because if we have more evidence that weighs 04:11:49

14 51 percent that it did not occur, then that 04:11:54

15 would also be labeled as an unfounded 04:11:57

16 allegation. 04:12:00

17 Q I'm sorry, the preponderance of the 04:12:01

18 evidence standard, according to PREA, relates to 04:12:03

19 whether or not it's substantiated. Are you 04:12:09

20 aware of any provisions in any PREA policy that 04:12:12

21 applies the preponderance of the evidence 04:12:18

22 standard to an unfounded disposition? 04:12:20

23 A I would have to refer back to the 04:12:26

24 PREA standards to clarify that statement, but I 04:12:28

25 know that we used the preponderance of evidence 04:12:31

1 to determine dispositions in PREA cases. I 04:12:34
2 don't know that there is a difference between 04:12:38
3 unfounded and unsubstantiated, but now that you 04:12:41
4 say that, I need to look at that before I know 04:12:44
5 for sure. 04:12:49
6 Q Okay. 04:12:49
7 MS. LITTRELL: Let's take this down. 04:12:49
8 Q Do you recall, when you were 04:12:59
9 reviewing Ms. Diamond's investigative file, any 04:13:00
10 notation that anyone had checked her locks in 04:13:04
11 October in relation to the allegations that men 04:13:10
12 were sneaking into her room and sexually 04:13:15
13 assaulting her while she slept? 04:13:18
14 MR. CHALMERS: Objection. You mean 04:13:22
15 PREA file, Counsel? 04:13:23
16 MS. LITTRELL: Correct. 04:13:24
17 A No. 04:13:26
18 Q Did you ask if anyone had done so 04:13:29
19 after you learned about her PREA assaults 04:13:34
20 involving men allegedly sneaking into her room 04:13:36
21 while she slept? 04:13:41
22 MR. CHALMERS: Objection. 04:13:42
23 A No. 04:13:42
24 Q And so you -- is exposure a 04:13:53
25 discipline violation, to your knowledge? 04:13:57

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1	A	Yes.	04:14:03
2	Q	Is being naked in one's own cell	04:14:04
3		considered exposure?	04:14:11
4	A	It would depend on the circumstance,	04:14:16
5		but generally, no.	04:14:18
6	Q	Would you have expected Earl Thigpen,	04:14:23
7		who confessed to exposing himself in	04:14:24
8		Ms. Diamond's room, to be charged with a	04:14:28
9		discipline violation?	04:14:32
10		MR. CHALMERS: Objection. You can	04:14:36
11		answer.	04:14:37
12	A	If Earl Thigpen admitted it, yes.	04:14:38
13	Q	Do you have any knowledge as to --	04:15:06
14		well, do you recall that Ms. Diamond was alleged	04:15:07
15		to have been involved in a sexual -- in a	04:15:10
16		consensual sexual encounter with another	04:15:17
17		offender?	04:15:23
18	A	Yes.	04:15:24
19	Q	Did you review the PREA -- well,	04:15:35
20		first I'll ask, did you ensure that a PREA	04:15:37
21		investigation was conducted as a result of that	04:15:41
22		allegation of sexual activity?	04:15:47
23	A	Yes. I initiated the request to have	04:15:52
24		it investigated by SART.	04:15:57
25	Q	And do you recall seeing or hearing	04:16:00

1 any evidence that the sexual activity, if it did 04:16:05
2 occur, was non-consensual? 04:16:12

3 A I don't recall -- I think at the 04:16:19
4 beginning of that investigation we investigated 04:16:26
5 it to make sure it wasn't non-consensual, but I 04:16:29
6 don't know of any evidence that ever said or 04:16:34
7 showed that it was not consensual. 04:16:36

8 Q Do you recall that both men denied -- 04:16:42
9 I'm sorry, that the offender, who we are 04:16:46
10 referencing as John Doe, and Ms. Diamond both 04:16:51
11 testified and provided witness statements that 04:16:56
12 no sex occurred? Right? 04:17:01

13 A I recall that John Doe made several 04:17:05
14 inconsistent statements on whether it was 04:17:08
15 consensual or whether it occurred at all. So 04:17:11
16 his statements were unreliable, to my knowledge. 04:17:15

17 Q Did you -- do you have direct 04:17:21
18 knowledge? Did you speak with Mr. Doe? 04:17:23

19 A I did not speak with Mr. Doe, but 04:17:25
20 through the SART investigation process, I 04:17:28
21 learned of that information. 04:17:31

22 Q That would have been provided by 04:17:33
23 someone else, correct? 04:17:36

24 A Yes, Mr. Betterson, specifically. 04:17:36

25 Q So that would have been hearsay 04:17:49

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1 information with -- 04:17:52

2 MR. CHALMERS: Objection. 04:17:53

3 Q -- respect to Mr. Doe's -- 04:17:53

4 MR. CHALMERS: Objection, Counsel. 04:17:56

5 MS. LITTRELL: Right. Let me finish 04:17:57

6 my question. She's -- 04:17:58

7 MR. CHALMERS: Sure. We're well past 04:18:00

8 the hearsay. We've been looking at witness 04:18:02

9 statements from third people talking about what 04:18:05

10 second -- other people said. But sure, go 04:18:08

11 ahead, finish. 04:18:10

12 MS. LITTRELL: Well, it's a good 04:18:11

13 point, Mr. Chalmers, because Ms. Atchison has 04:18:12

14 discounted some of those witness statements as 04:18:16

15 hearsay. So I'm trying to find out why only in 04:18:18

16 Ms. Diamond's case is hearsay not a problem. 04:18:22

17 MR. CHALMERS: Objection. 04:18:25

18 Q So you have no -- we can move on. 04:18:28

19 Your testimony is that there was -- that you 04:18:31

20 have discount- -- in your review of the PREA 04:18:35

21 allegation that you ensured was commenced based 04:18:39

22 on sexual activity that was alleged to have 04:18:45

23 occurred with Ms. Diamond, my understanding is 04:18:49

24 that you have discounted Mr. Doe's witness 04:18:56

25 statements because he allegedly made 04:19:04

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1 inconsistent statements; is that right? 04:19:09

2 A No. That is not what I meant. I did 04:19:11

3 not -- I didn't discount what he was saying. I 04:19:16

4 just couldn't verify which one was the truth. 04:19:21

5 Q And if in the PREA records there is 04:19:30

6 no information that Mr. Doe ever said to anyone 04:19:32

7 that the -- that sexual activity was 04:19:36

8 non-consensual, then what is the basis for the 04:19:41

9 PREA investigation into Ms. Diamond? 04:19:45

10 A As the alleged aggressor? 04:19:55

11 Q Correct. 04:19:57

12 A If there's not documentation in the 04:19:58

13 file or anywhere -- I'm not sure I understand 04:20:00

14 the question. 04:20:05

15 Q Why did you decide that Ms. Diamond 04:20:07

16 was the alleged aggressor and not Mr. Doe in 04:20:10

17 this situation? 04:20:13

18 A Oh, okay. It was explained to me 04:20:15

19 that Ms. Diamond was on -- I'm trying to think 04:20:17

20 of the best way to say this -- was the 04:20:26

21 penetrator. 04:20:28

22 Q And in your experience as the PREA 04:20:34

23 coordinator, is it possible that someone can be 04:20:36

24 coerced into sexual activity and be the 04:20:40

25 penetrator? 04:20:47

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1	A	It's possible.	04:20:50
2	Q	Was there any investigation to	04:20:52
3		determine whether or not Ms. Diamond had been	04:20:55
4		coerced into this alleged sexual activity that	04:20:58
5		both -- both people who were allegedly involved	04:21:02
6		deny having happened?	04:21:05
7	A	The officer witness statement.	04:21:08
8	Q	Did the officer's witness statement	04:21:18
9		have any bearing on whether or not Ms. Diamond	04:21:24
10		had been coerced into the alleged sexual	04:21:28
11		activity that both she and the other person that	04:21:32
12		was allegedly involved were involved in?	04:21:35
13	A	The officer's statement would only be	04:21:38
14		what she saw and not the intent behind what she	04:21:40
15		saw. So no.	04:21:43
16	Q	Okay. And yet Ms. Diamond was	04:21:44
17		investigated as an alleged PREA aggressor,	04:21:50
18		correct?	04:21:55
19	A	Yes.	04:21:55
20	Q	Okay. And in this particular	04:21:56
21		allegation of a sexual assault against	04:21:59
22		Ms. Diamond, this PREA -- the disposition of	04:22:04
23		this PREA investigation was unsubstantiated. Do	04:22:12
24		you recall that?	04:22:16
25	A	Yes.	04:22:17

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1 Q And that's even though both people 04:22:20
2 who were allegedly involved deny that any sexual 04:22:22
3 activity occurred, right? 04:22:26
4 A Yes. 04:22:28
5 Q And because there -- and even though 04:22:28
6 there is absolutely no evidence in the record 04:22:30
7 that either of the men said that the sexual 04:22:33
8 activity, if it had occurred, was 04:22:37
9 non-consensual. 04:22:40
10 A No. 04:22:43
11 Q "No" what? 04:22:45
12 A There was not any indication that 04:22:47
13 either offender stated it was non-consensual. 04:22:49
14 Q So why is it even a PREA? 04:22:55
15 A Because we don't know that it is not 04:22:57
16 a PREA until we investigate it. So -- 04:22:59
17 Q You investigated it -- after you 04:23:03
18 investigated it and determined there was no 04:23:06
19 allegation of non-consensual or coerced sexual 04:23:07
20 activity, why was it not disposed of as not 04:23:12
21 PREA? 04:23:16
22 A It should have been that final 04:23:18
23 disposition, yes, not PREA. 04:23:20
24 Q Okay. Thank you. Are you aware that 04:23:23
25 after the allegation was made that there was 04:23:26

1 sexual activity that had occurred, Mr. Doe 04:23:29
2 requested a rape kit or a SANE procedure? 04:23:33
3 A Not that I'm aware of. 04:23:41
4 Q Were you in the hearing when Mr. Doe 04:23:45
5 testified under oath in the federal court? 04:23:47
6 A Yes. 04:23:51
7 Q Do you recall the federal judge 04:23:58
8 asking Mr. Doe some questions about that event? 04:24:00
9 A I do not. 04:24:10
10 Q Do you have any information as to 04:24:12
11 whether or not Mr. Doe, in fact, asked for a 04:24:14
12 rape kit? 04:24:18
13 A I would have to review the file 04:24:20
14 for -- to answer that 100 percent truthfully, 04:24:22
15 but I do not recall. 04:24:28
16 Q And where there are allegations of 04:24:30
17 penetration, isn't a SANE medical procedure 04:24:31
18 supposed to be routine? 04:24:38
19 A If it is determined to be consensual 04:24:40
20 sex -- sexual intercourse, then SANE would not 04:24:42
21 necessarily be contacted. 04:24:51
22 Q SANE would be contacted within 72 04:24:53
23 hours, though, right? 04:24:55
24 A Yes. 04:24:57
25 Q Okay. And so a PREA -- within 72 04:24:57

1 hours, the PREA allegations that had been 04:25:02
2 brought against Ms. Diamond by GDC had not been 04:25:09
3 determined unconsensual at that point, right? 04:25:15
4 MR. CHALMERS: Objection. 04:25:20
5 Q When did you determine that the PREA 04:25:21
6 allegation was not PREA? Do you recall? 04:25:24
7 A I do not. 04:25:30
8 Q So I guess the only question is do 04:25:38
9 you have any -- do you know why Mr. Doe nor 04:25:39
10 Ms. Diamond was provided a SANE medical 04:25:43
11 procedure -- S-A-N-E for the court reporter -- 04:25:49
12 or a DNA rape kit or anything that would have 04:25:51
13 been able to disprove that no penetration 04:25:56
14 occurred? 04:25:59
15 A In this particular case it was not 04:26:00
16 reported by the victim as there was no victim. 04:26:03
17 It was a witness -- staff witnessing the sexual 04:26:07
18 act. So, therefore, there was no claim that 04:26:11
19 there was no consent, which would trigger the 04:26:17
20 notification of the SANE nurse to do a forensics 04:26:21
21 exam. 04:26:26
22 Q And yet a PREA allegation was made by 04:26:27
23 GDC against Ms. Diamond notwithstanding that 04:26:31
24 there was no evidence that this was a 04:26:35
25 non-consensual activity, if it occurred. 04:26:38

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1 MR. CHALMERS: Objection. 04:26:42

2 A Yeah, that is not correct because we 04:26:42

3 didn't make an allegation -- the allegation in 04:26:45

4 order to protect -- just like I would 04:26:49

5 Ms. Diamond, I would have to make sure that 04:26:53

6 Mr. Doe was not also a victim of sexual assault. 04:26:56

7 So I had to make sure that an investigation was 04:27:00

8 initiated. 04:27:04

9 Q Do you know -- so was your testimony 04:27:08

10 the reason that they were not provided a SANE 04:27:10

11 procedure to disprove the allegation, I'm sorry, 04:27:16

12 is why? 04:27:20

13 A Because at that point we did not know 04:27:24

14 if it was consensual or non-consensual. 04:27:27

15 Q Right. So why weren't they provided 04:27:31

16 a DNA test? 04:27:33

17 A Because it's not policy for us to do 04:27:36

18 a DNA test on all offenders that are engaged in 04:27:38

19 what appears to be consensual sex until the 04:27:43

20 allegation is investigated and determined 04:27:47

21 otherwise. 04:27:49

22 Q So if it takes more than 72 hours to 04:27:58

23 determine that the sexual activity was 04:28:02

24 non-consensual, is that the point at which two 04:28:06

25 people who are alleged to have engaged in sexual 04:28:10

1 activity are provided rape kits? 04:28:15

2 A Not necessarily. It's on an 04:28:18

3 individual case -- basis, and if it's reported 04:28:20

4 to me outside of that 72-hour window, if it is 04:28:23

5 close enough, let's say up to 96, which is the 04:28:27

6 recommended at one point time frame, then I 04:28:30

7 would go ahead and authorize a SANE exam to be 04:28:33

8 conducted on the alleged victim. 04:28:38

9 Q Do multiple PREA allegations from the 04:28:43

10 same offender concern you that they may be in an 04:28:48

11 unsafe environment? 04:28:52

12 A Repeated allegations and their 04:28:58

13 dispositions and review of that information 04:29:00

14 could determine a variety of conclusions, to 04:29:04

15 include they may be in danger. 04:29:10

16 Q Okay. And if the majority of those 04:29:15

17 allegations were determined to be unfounded, 04:29:18

18 does that change your opinion or concern as to 04:29:20

19 whether that offender is in an unsafe 04:29:30

20 environment? 04:29:33

21 A It would cause me to look at the 04:29:35

22 allegations that were unfounded and may impact 04:29:40

23 the credibility of the person making the 04:29:46

24 allegation. 04:29:50

25 Q Okay. And, on the other hand, if 04:29:54

1 there were a large number of PREA allegations 04:29:56
2 made by the same offender and the disposition to 04:29:59
3 all of those were unsubstantiated, would you be 04:30:04
4 more concerned that that offender is in an 04:30:08
5 unsafe environment? 04:30:11

6 A By "more concerned," do you mean more 04:30:15
7 concerned than if they were unfounded? 04:30:17

8 Q Correct. 04:30:19

9 A Yes. 04:30:19

10 Q What -- I may have asked this 04:30:20

11 already, but I just want to make sure I 04:30:20

12 understand. What is your understanding of the 04:30:37

13 process through which a transgender or intersex 04:30:41

14 offender can be reassessed for a housing 04:30:47

15 placement after the initial determination? 04:30:52

16 A There are two separate housing 04:30:57

17 determinations that deal with a transgender 04:31:00

18 offender. The first one would be that SCC 04:31:05

19 committee to determine whether or not they would 04:31:09

20 go to a male or a female facility. There is no 04:31:11

21 review past that initial review that's conducted 04:31:14

22 to determine whether they go to a male or female 04:31:18

23 facility. However, if they move within the 04:31:21

24 institution in which they are assigned or 04:31:23

25 transferred to another like facility, that is 04:31:26

1 re-evaluated by the classification committee on 04:31:30
2 an as-needed basis. 04:31:35

3 Q There's no process by which they get 04:31:40
4 out from the original determination as to male 04:31:42
5 or female housing; is that right? 04:31:47

6 A Correct. There is no procedure for 04:31:51
7 that. 04:31:53

8 Q Okay. And when, in either the PREA 04:31:58
9 policy or the transgender policy, there is a 04:32:01
10 reference to "safety reassessments," what do you 04:32:05
11 understand that to mean? 04:32:09

12 A The safety reassessment also has the 04:32:10
13 housing, which was more along the lines of the 04:32:14
14 second set of housing decisions I discussed 04:32:17
15 earlier with the Facility Classification 04:32:21
16 Committee. 04:32:22

17 Q And the Facility Classification 04:32:27
18 Committee determine whether or not an offender 04:32:28
19 is safe within their own facility? 04:32:34

20 A I can't answer on behalf of a 04:32:43
21 classification member, only to say that they 04:32:45
22 have the authority to recommend housing changes, 04:32:47
23 transfers, et cetera. 04:32:50

24 Q But not from a male facility to a 04:32:53
25 female facility, right? 04:32:56

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1 A No. 04:32:57

2 Q And the offender themselves, can they 04:32:59

3 request a transfer from -- can a transgender or 04:33:02

4 intersex offender request a transfer from a male 04:33:08

5 facility to a female facility? 04:33:13

6 A To my knowledge, that is not in a 04:33:15

7 policy, but there's no restrictions to say that 04:33:17

8 they can't. There is just not a policy that 04:33:20

9 says we do that. 04:33:23

10 Q What would the procedure be for 04:33:29

11 someone to -- a transgender or intersex offender 04:33:32

12 to request a transfer for their safety from a 04:33:36

13 male facility to a female facility? 04:33:36

14 A Like I said, there is not a procedure 04:33:41

15 in place now, but if -- I'll just put it like 04:33:43

16 this. If the offender wants a transfer, they 04:33:48

17 will go to their counselor, who will filter it 04:33:52

18 through -- or who will forward it to the 04:33:56

19 Facility Classification Committee as a 04:34:00

20 recommendation for transfer. And the only thing 04:34:03

21 that I can reference that is if -- if an 04:34:07

22 offender says they are scared for their safety, 04:34:14

23 they would go to this classification committee, 04:34:16

24 they would make a recommendation for transfer 04:34:19

25 and then offender administration would review it 04:34:22

1 and make a determination on where to house that 04:34:26
2 offender. 04:34:29

3 Q Is it your understanding -- or do you 04:34:35
4 have any information about as to whether the -- 04:34:39
5 a transgender or intersex offender can file a 04:34:41
6 grievance about their need to be transferred to 04:34:49
7 a female facility? 04:34:52

8 A No. 04:34:53

9 Q What about through the PREA unit? Is 04:34:55
10 that an appropriate way for a transgender or 04:34:57
11 intersex offender to indicate that they need 04:35:02
12 a -- are seeking a transfer from a male facility 04:35:05
13 to a female facility? 04:35:09

14 A I would have to refer that to 04:35:10
15 facilities operations and what is grievable and 04:35:12
16 non-grievable. I'm not sure that housing -- 04:35:16

17 Q Sorry, the question was to the PREA 04:35:20
18 unit. Would that be an appropriate route for a 04:35:22
19 transgender or intersex offender, who felt 04:35:25
20 unsafe because they were placed in, for example, 04:35:30
21 a male facility and they wanted to be assessed 04:35:31
22 or otherwise transferred to a female facility, 04:35:35
23 is the PREA unit a way that they could 04:35:40
24 communicate that request? 04:35:45

25 A No. 04:35:48

1	MR. CHALMERS: Objection. Form.	04:35:50
2	Q Okay. And I think what your	04:35:52
3	testimony is, the only way for that transgender	04:35:57
4	offender to be able to communicate their request	04:35:59
5	for a transfer for safety reasons from a male	04:36:05
6	facility to a female facility is through the	04:36:09
7	Facility Classification Committee in their own	04:36:12
8	facility, correct?	04:36:16
9	A My testimony is that they report it	04:36:17
10	to someone at the facility and the process is	04:36:20
11	for it to go through the classification	04:36:24
12	committee.	04:36:27
13	Q Is there a requirement that it do so,	04:36:28
14	to your -- and, again, I want to just clarify	04:36:30
15	we're taking about just as to transgender and	04:36:32
16	intersex offenders who are seeking a housing	04:36:37
17	transfer based on the fact that they are	04:36:42
18	transgender or intersex. Is it communicated to	04:36:45
19	those offenders what the process is when they	04:36:51
20	feel that they have been placed in a facility in	04:36:54
21	which they are unsafe as a result of being	04:36:58
22	transgender or intersex?	04:37:02
23	A No.	04:37:04
24	Q Okay.	04:37:07
25	Who is the chairperson of the	04:37:11

1 Statewide Classification Committee? 04:37:13

2 A That, I believe the policy says, 04:37:16

3 would be me, the PREA coordinator. 04:37:18

4 Q And what is the chairperson's 04:37:22

5 responsibility? 04:37:24

6 A To ensure that the SCC forms are 04:37:26

7 initiated and go through the work flow. 04:37:30

8 Q Is it the chairperson's 04:37:37

9 responsibility to ensure that the SCC forms are 04:37:38

10 completed? 04:37:46

11 A No. 04:37:47

12 Q Whose responsibility would that fall 04:37:51

13 to? 04:37:53

14 A With the policy development, it 04:37:54

15 indicates the positions that are supposed to 04:37:56

16 complete the paperwork. So whoever their direct 04:37:58

17 supervisor would be, it would be the 04:38:02

18 responsibility of them to ensure that their 04:38:05

19 employees follow the policy. 04:38:08

20 Q The chairperson has no role with 04:38:10

21 respect to the SCC forms other than filling 04:38:13

22 their part out and then putting it in the 04:38:18

23 system; is that right? 04:38:21

24 A Correct. 04:38:23

25 Q Does the chairperson or do you send a 04:38:24

1 communication to the other SCC members to say 04:38:28
2 that there is an SCC form that needs their 04:38:34
3 attention? 04:38:38
4 A Yes. 04:38:39
5 Q And is that as to every transgender 04:38:40
6 and intersex defender? 04:38:43
7 A I can testify that that is to what 04:38:47
8 happened with Diamond. 04:38:49
9 Q Okay. And have you done that with 04:38:50
10 any other transgender or intersex offender? 04:38:52
11 A Yes. 04:38:55
12 Q Okay. Every transgender or intersex 04:38:55
13 offender for whom you have filled out an SCC 04:39:01
14 form, have you also communicated to the other 04:39:06
15 SCC members that the form is ready for their 04:39:08
16 input? 04:39:11
17 A Yes. 04:39:12
18 Q Okay. Do you agree that you are the 04:39:13
19 person who is in charge of the SCC? 04:39:21
20 A No. 04:39:23
21 Q Why would Dr. Jackson think that you 04:39:30
22 are? 04:39:32
23 A I can't speculate on why Dr. Jackson 04:39:35
24 believes I am. 04:39:37
25 Q Okay. Are you in charge of the 04:39:38

1 decision as to whether or not a transgender or 04:39:43
2 intersex offender can be transferred from a male 04:39:45
3 to a female facility? 04:39:50
4 MR. HENEFELD: Objection. 04:39:53
5 A No, I do not have that authority. 04:39:53
6 Q Ms. Atchison, you testified at the 04:40:05
7 May hearing that you were hesitant to place 04:40:08
8 Ms. Diamond in a female facility because of the 04:40:11
9 one DR she had for allegedly having consensual, 04:40:14
10 non-coercive sex with a man. Do you remember 04:40:20
11 that testimony in any way? 04:40:25
12 A I do not. 04:40:27
13 Q That indicated to me that you had a 04:40:29
14 role in whether or not Ms. Diamond's housing 04:40:31
15 placement could be reassessed. 04:40:35
16 A I recall that the initial 04:40:42
17 classification committee, the statewide 04:40:47
18 committee -- that DR did not come into play 04:40:51
19 until after I was in the hearing, did I learn 04:40:57
20 that that DR was expunged. So I don't know that 04:41:02
21 the two relate. 04:41:06
22 Q Well, my understanding of your 04:41:07
23 testimony today is that your role, with respect 04:41:09
24 to Ms. Diamond and her housing placement in 04:41:13
25 either a male or female facility, was limited to 04:41:17

1	filling out your part of the SCC form and	04:41:21
2	putting it in the work flow.	04:41:24
3	MR. CHALMERS: Objection.	04:41:28
4	A Yes.	04:41:28
5	Q Is that accurate? Okay.	04:41:29
6	But in reviewing the transcript of	04:41:32
7	the hearing, you testified about the dynamic	04:41:34
8	nature of ensuring that transgender offenders	04:41:39
9	have their needs assessed and their housing	04:41:50
10	placement reviewed and then said that you were	04:41:53
11	hesitant to place Ms. Diamond in a female	04:41:58
12	facility at that point -- so this is May 2021 --	04:42:02
13	because of that DR.	04:42:05
14	A Yes.	04:42:07
15	Q So the suggestion to me is that you	04:42:07
16	still have a role in where Ms. Diamond can be	04:42:10
17	housed in relation to whether it's a female or a	04:42:14
18	male facility. Can you help clear that up for	04:42:17
19	me.	04:42:20
20	A I do not have a role in deciding. I	04:42:20
21	have a role in recommending.	04:42:23
22	Q So can you recommend that Ms. Diamond	04:42:24
23	be placed in a female facility a year after the	04:42:26
24	original decision was made by the facilities	04:42:30
25	director or whoever made that decision?	04:42:37

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1 A I could, but there is not a policy 04:42:39
2 that tells me that -- there is not a policy in 04:42:41
3 place for that. 04:42:45
4 Q But you have the ability to make that 04:42:46
5 recommendation; is that right? 04:42:48
6 A Yes. 04:42:49
7 Q Okay. And who would you make that 04:42:51
8 recommendation to? 04:42:52
9 A I would most likely refer it to 04:42:57
10 facilities operations. 04:42:59
11 Q Can you name a person who -- who in 04:43:00
12 that department? What are you talking about 04:43:04
13 when you say "to facilities operations"? 04:43:07
14 A Well, the facilities operations 04:43:08
15 division covers offender administration. They 04:43:09
16 are over all the facilities. So it would be 04:43:13
17 probably the director or assistant director of 04:43:16
18 facilities. 04:43:19
19 Q Can you name that person who is in 04:43:20
20 that role today? 04:43:22
21 A The director of facilities at this 04:43:23
22 time is Robert Toole. And the assistant 04:43:25
23 director, to my knowledge, is Angela Williams. 04:43:29
24 Q And who is -- what position is Ahmed 04:43:32
25 Holt in? 04:43:36

1 A He is the assistant commissioner of 04:43:37
2 facilities. 04:43:39

3 Q And so, in any event, you have the 04:43:48
4 ability to recommend that a transgender or 04:43:50
5 intersex offender be transferred to a female 04:43:54
6 facility, and you would do that by making that 04:43:59
7 recommendation to Mr. Toole or Mr. Holt; is that 04:44:01
8 right? 04:44:05

9 A Yes. 04:44:07

10 Q Okay. And have you ever done that 04:44:09
11 with respect to Ms. Diamond? 04:44:11

12 A No. 04:44:12

13 Q Have you ever done that with respect 04:44:13
14 to any other transgender or intersex offender? 04:44:14

15 A No. 04:44:18

16 Q You testified -- my understanding, so 04:44:28
17 correct me if I'm wrong, was that Mr. Myrick -- 04:44:29
18 Ricky Myrick was the person who made the initial 04:44:33
19 determination as to whether Ms. Diamond would be 04:44:38
20 placed in a male or female facility. 04:44:41

21 Is that still accurate, based on your 04:44:43
22 personal knowledge? 04:44:46

23 A I believe so. I would have to look 04:44:47
24 at the time frames of who was appointed when, 04:44:48
25 but I believe when Diamond came into the system, 04:44:52

1 it was Ricky Myrick at the time. 04:44:55

2 Q Do you have any personal knowledge 04:44:58

3 that Mr. Myrick was the person who made the 04:45:00

4 final decision with respect to Ms. Diamond's 04:45:03

5 housing? 04:45:06

6 A No. 04:45:06

7 Q Did you talk to Mr. Myrick about 04:45:07

8 Ms. Diamond? 04:45:09

9 A No. 04:45:11

10 Q Do you know on what date the final 04:45:12

11 decision was made as to whether Ms. Diamond 04:45:14

12 would be placed in a male or female facility? 04:45:17

13 A No. 04:45:20

14 Q What training do you have to 04:45:29

15 determine whether or not an offender is an 04:45:32

16 escape risk? 04:45:36

17 A Limited training on escape 04:45:41

18 procedures. 04:45:45

19 Q In particular, with respect to being 04:45:50

20 an escape risk, what training do you have to 04:45:54

21 make a determination that a transgender or 04:45:57

22 intersex offender is or is not an escape risk? 04:45:59

23 A I don't. 04:46:07

24 MR. CHALMERS: Counsel, how are we 04:46:13

25 doing on time? How close are we to finishing? 04:46:14

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1 MS. LITTRELL: We're getting really 04:46:16
2 close. We can take a break and come back and 04:46:18
3 finish up, or we can plow ahead. 04:46:21
4 MR. CHALMERS: If by "really close," 04:46:24
5 you mean 20, 30 minutes, then I'd like to take a 04:46:26
6 five-minute break. If you mean ten minutes, 04:46:27
7 then perhaps we can continue. 04:46:29
8 MS. LITTRELL: Let's take a short 04:46:34
9 break. 04:46:35
10 THE VIDEOGRAPHER: We're going off 04:46:37
11 the record at 4:46 p.m. Eastern Time. 04:46:38
12 (A recess was taken.) 04:46:42
13 THE VIDEOGRAPHER: We're going back 04:57:07
14 on the record at 4:57 p.m. Eastern Time. 04:57:08
15 BY MS. LITTRELL: 04:57:12
16 Q Ms. Atchison, a few more questions 04:57:14
17 for you, and then we'll let everybody get on 04:57:17
18 with their evenings. 04:57:19
19 Can you identify for me some actions 04:57:20
20 that can be taken to proactively protect a 04:57:27
21 person in GDC custody who is the victim of a 04:57:34
22 sexual assault but who does not know the 04:57:41
23 identity of the perpetrator of that sexual 04:57:44
24 assault? 04:57:49
25 MR. CHALMERS: Objection. Form. 04:57:51

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1 A What measures can be taken? Is 04:57:54

2 that -- 04:57:56

3 Q Yes. 04:57:57

4 A Okay. The alleged victim, of course, 04:57:58

5 needs to make the report. And once the report 04:58:03

6 is made, it needs to be investigated thoroughly, 04:58:06

7 which would mean try to identify the 04:58:09

8 perpetrator. 04:58:13

9 Q And by investigating it thoroughly, 04:58:14

10 does that help in making the alleged victim 04:58:18

11 safer? 04:58:25

12 A I would say so, yes. 04:58:27

13 Q Are there any other proactive steps 04:58:30

14 that can be taken in a situation like that to 04:58:34

15 help the alleged victim be or feel safer? 04:58:39

16 MR. CHALMERS: Same objection. You 04:58:46

17 can answer. 04:58:47

18 A In addition to that, that's why the 04:58:48

19 risk screening assessments are in place, so that 04:58:50

20 we monitor their sexual safety when warranted 04:58:53

21 and when the policy advises us to. 04:59:03

22 Q So let me just -- let me ask it a 04:59:10

23 different way. You know, what are some 04:59:13

24 proactive -- 04:59:14

25 MS. LITTRELL: I'm sorry, let me 04:59:16

1 start again. 04:59:18

2 Q You have given some testimony about 04:59:18

3 what can be done in response to a PREA 04:59:20

4 allegation where the perpetrator is identified. 04:59:28

5 You've also given testimony about what can be 04:59:33

6 done to help identify that -- the perpetrator. 04:59:37

7 And my question for you is what are some 04:59:44

8 proactive steps that can be taken to reduce the 04:59:49

9 risk of sexual assaults if you have an offender 04:59:52

10 who you believe to be particularly at risk for 04:59:59

11 sexual assault? 05:00:04

12 MR. CHALMERS: Objection. 05:00:06

13 A I interpret that as what prevention 05:00:07

14 measures do we take. And we consider that on 05:00:10

15 all offenders, when appropriate. And some 05:00:16

16 proactive steps could include upgrading our 05:00:20

17 video technologies; making more frequent, 05:00:26

18 unannounced rounds. It's dialogue with the 05:00:29

19 community. There are many proactive measures. 05:00:38

20 Q Are you aware of whether any of those 05:00:44

21 proactive measures were taken with respect to 05:00:46

22 Ms. Diamond while she was at GDCP? 05:00:49

23 A Not specifically. No. 05:00:53

24 Q In your position as the statewide 05:00:59

25 PREA coordinator, you had the ability to direct 05:01:03

1 the PREA coordinating -- PREA compliance manager 05:01:07
2 at Coastal to tell Ashley that her request for 05:01:15
3 an attorney was not going to be accommodated. 05:01:20
4 Is that a fair statement? 05:01:24
5 A That's a fair statement, yes. 05:01:26
6 Q Did you do so? 05:01:29
7 A I did not -- because I know this 05:01:35
8 relates a little bit to the questions you were 05:01:38
9 asking me earlier about denying her that right, 05:01:40
10 but I never denied her that right, but I think I 05:01:44
11 did say that the investigation would continue 05:01:47
12 whether the attorney was present or not. 05:01:50
13 Q Did you direct the PREA compliance 05:01:55
14 manager to tell Ashley that her request for a 05:02:00
15 lawyer was not going to be honored? 05:02:04
16 A I don't recall directing the PCM 05:02:09
17 that, no. 05:02:11
18 Q Do you have the ability, in your role 05:02:14
19 as the statewide PREA coordinator, to direct the 05:02:16
20 PREA compliance manager to arrange a private 05:02:24
21 time for a transgender woman to shower or have a 05:02:28
22 private shower facility? 05:02:34
23 A I have never exercised an authority 05:02:38
24 to do that, other than the PREA policy states 05:02:41
25 that they should shower separately, and also the 05:02:44

1 transgender policy says that. I do not get into 05:02:48
2 the micromanagement of facilities operations at 05:02:51
3 each prison. That would be the warden's 05:02:57
4 discretion. 05:03:00

5 Q So is it your understanding that the 05:03:03
6 warden has the ability to arrange a private time 05:03:04
7 for a transgender woman to shower away from male 05:03:09
8 offenders? 05:03:13

9 A If anyone had the authority, it would 05:03:14
10 be the warden, yes. 05:03:16

11 Q Had you heard that transgender 05:03:18
12 offenders at Coastal were allowed to shower in 05:03:23
13 the medical unit? 05:03:27

14 A I seem to recall some conversation on 05:03:31
15 that, yes. 05:03:33

16 Q Do you have any knowledge as to why 05:03:35
17 Ms. Diamond was not allowed to shower privately 05:03:37
18 in the medical unit? 05:03:40

19 A I do not. 05:03:42

20 Q Are you aware that the showers in the 05:03:43
21 dormitory in which Ms. Diamond was housed while 05:03:46
22 she was at Coastal -- the showers are in the 05:03:49
23 dormitory itself, so in the -- 05:03:55

24 MR. CHALMERS: Objection. 05:03:58

25 Q -- back of the dormitory? 05:03:58

1	A	Yes.	05:04:00
2	Q	You're familiar with that?	05:04:02
3	A	Yes.	05:04:03
4	Q	And so the showers, while there's a	05:04:04
5		shower curtain, they're open to the entire dorm,	05:04:06
6		correct?	05:04:10
7	MR. CHALMERS:	Objection.	05:04:11
8	A	I go through many facilities, but I	05:04:16
9		believe so. I don't want to say for sure	05:04:18
10		because I inspect a lot of facilities, and I	05:04:23
11		don't want to get that confused, but I'm -- know	05:04:26
12		that there is a shower curtain.	05:04:28
13	Q	You were earlier testifying that the	05:04:34
14		means by which a transgender offender who was	05:04:40
15		placed -- let's say a transgender woman who was	05:04:45
16		placed at a male facility and who felt unsafe	05:04:48
17		and wanted to be -- or thought that her safety	05:04:51
18		would be enhanced if she were transferred to a	05:04:56
19		female facility, the process that you described	05:04:59
20		was through the Facility Classification	05:05:02
21		Committee, right?	05:05:02
22	MR. CHALMERS:	Objection. This	05:05:08
23		misstates her testimony, but you can answer.	05:05:12
24	Q	I mean, Ms. Atchison, you can clarify	05:05:16
25		that in any way that would be helpful.	05:05:18

1 A Yeah, I wanted to see if you could 05:05:20
2 ask that again because I was not sure as to what 05:05:22
3 the -- 05:05:26
4 Q The means through which a transgender 05:05:27
5 or intersex offender who identifies as female 05:05:30
6 but is housed in a male facility -- the means by 05:05:38
7 which that offender can request a transfer to a 05:05:40
8 female facility, based on their safety concerns, 05:05:45
9 is -- I understood your testimony to be through 05:05:49
10 the Facility Classification Committee somehow. 05:05:54
11 Is that right? 05:05:57
12 A In addition to there is not a policy 05:05:58
13 stated that there is a procedure for that, but 05:06:01
14 if one were to request a transfer, that's how 05:06:04
15 they would do it. 05:06:07
16 Q And they can also do so directly to 05:06:10
17 you, given that you can make that 05:06:13
18 recommendation, as you just testified, to the 05:06:18
19 facilities director, right? 05:06:21
20 A No. I don't believe I testified to 05:06:24
21 that. 05:06:27
22 Q Is it your testimony that you can 05:06:28
23 make a recommendation that a transgender or 05:06:30
24 intersex offender be transferred to a female 05:06:34
25 facility -- you can make that recommendation at 05:06:38

1 any time? 05:06:40

2 A Yes. 05:06:41

3 Q So that if a transgender or intersex 05:06:44

4 offender wanted to get that information to the 05:06:49

5 facilities director, that could come through 05:06:51

6 you, right? 05:06:54

7 A Yes, that's possible. 05:06:56

8 Q Do you have the ability to direct the 05:06:58

9 PREA compliance manager at a particular facility 05:07:02

10 to consider recommending a safety transfer for 05:07:07

11 someone who you believe to be unsafe? 05:07:16

12 A Do I have the authority to have them 05:07:24

13 request a transfer to a safer facility? 05:07:26

14 Q Uh-huh. 05:07:29

15 A Yes. 05:07:30

16 Q So that, for example, if you are 05:07:32

17 getting a large number of PREA allegations made 05:07:35

18 by the same individual in a particular facility, 05:07:41

19 you have the ability to direct the PREA 05:07:45

20 compliance manager to recommend to the Facility 05:07:51

21 Classification Committee to review that case to 05:07:55

22 determine whether there might be a better place 05:08:02

23 to house that offender? 05:08:06

24 A And that will go back to my previous 05:08:10

25 testimony where it depends on the allegation 05:08:12

1 status. It could impact a recommendation to be 05:08:17
2 transferred or not be transferred. So yes, I 05:08:24
3 can, but it would depend on the individual parts 05:08:29
4 of that particular case. 05:08:34

5 Q Okay. You have the ability to direct 05:08:39
6 the PREA compliance manager to ask Ashley 05:08:42
7 whether she wanted protective custody, right? 05:08:47

8 A I have the ability, yes. 05:08:53

9 Q Do you know whether anyone -- I'm 05:08:54
10 sorry. Did you ever do so with respect to 05:08:57
11 Ashley? 05:08:59

12 A No, I don't believe so. 05:08:59

13 Q Do you have any knowledge that anyone 05:09:07
14 at any of the facilities to which Ms. Diamond 05:09:10
15 was placed asked Ms. Diamond if she would feel 05:09:13
16 safer in protective custody? 05:09:17

17 A I do not recall. And placing an 05:09:20
18 offender in protective custody for the sole 05:09:23
19 purpose of PREA is a violation against the 05:09:26
20 standards. It's against the PREA law. 05:09:31

21 Q That would be if the placement were 05:09:33
22 not at the offender's request, though, right? 05:09:37

23 A Correct. 05:09:40

24 Q But you don't have any knowledge that 05:09:42
25 anyone asked Ashley if she would feel safer in 05:09:44

1 protective custody, right? 05:09:48

2 A Not to my knowledge. 05:09:49

3 Q And you didn't direct anyone to ask 05:09:50

4 her if she would feel safer in protective 05:09:53

5 custody? 05:09:56

6 A Not that I recall. 05:09:56

7 Q If you received allegations that 05:09:58

8 unauthorized offenders were entering a dormitory 05:10:01

9 and that once in there they were committing 05:10:08

10 sexual assaults, do you have the ability to 05:10:14

11 direct the PREA compliance manager to look into 05:10:20

12 that situation to make sure that the doors are 05:10:22

13 secure? 05:10:25

14 A No. I do not have the authority to 05:10:25

15 give direction on security measures, but I do 05:10:32

16 have the authority to direct her on whether that 05:10:36

17 is a factor of sexual abuse. 05:10:41

18 Q Do you have the ability to ask her to 05:10:45

19 move it up the security chain to ensure that 05:10:51

20 doors are secure so that less PREA reports come 05:10:56

21 your way? 05:11:01

22 A I have the ability, yes. 05:11:01

23 Q We talked about the transgender 05:11:05

24 policy earlier and I just want to make sure I 05:11:08

25 understand one of your answers. If you recall, 05:11:11

1 the transgender policy has some language that 05:11:14
2 says once a transgender or intersex offender is 05:11:19
3 placed in a male or female facility, that the 05:11:25
4 general guidelines or rules apply to them that 05:11:29
5 apply to everyone else in that facility. That's 05:11:35
6 kind of just a rough restatement of what I 05:11:39
7 understand one of the provisions to be. Is that 05:11:43
8 accurate? 05:11:45

9 A Correct. 05:11:47

10 Q And so does that provision mean that 05:11:48
11 if a particular transgender or intersex offender 05:11:55
12 required accommodations based on medical 05:12:01
13 recommendations, that the policy prohibits those 05:12:07
14 accommodations from being provided? 05:12:12

15 A What is the question? I'm not 05:12:18
16 understanding the question. 05:12:22

17 Q I tried to avoid pulling the policy 05:12:23
18 back up. I'm trying to -- the question is 05:12:27
19 whether the transgender policy creates a bar or 05:12:32
20 a prohibition on providing accommodations for 05:12:41
21 gender expression based on medical 05:12:50
22 recommendations. 05:12:56

23 A The transgender policy does not go 05:12:58
24 that deep. It is -- it references other 05:13:02
25 policies, any medical policies or mental health 05:13:05

1 policies, but it does not, that I am aware of, 05:13:09
2 bar any of that from occurring. 05:13:12

3 Q So here is the -- here is an example. 05:13:18
4 Maybe this will be more clear. If a transgender 05:13:20
5 offender -- a transgender woman is placed in a 05:13:23
6 men's facility and the men's facility has a rule 05:13:27
7 that says we allow our offenders to shave once 05:13:30
8 every two weeks, but that transgender offender's 05:13:36
9 medical provider said it was necessary for her 05:13:39
10 to be able to shave more frequently, does the 05:13:43
11 transgender policy prohibit them from being able 05:13:48
12 to provide that accommodation? 05:13:52

13 A Not that I'm aware of. 05:13:55

14 MS. LITTRELL: Let's just pull up one 05:14:00
15 more document. It's pre-marked ECF 78-9. 05:14:02

16 REMOTE TECH: Just a moment. I'm 05:14:08
17 pulling it down. 05:14:08

18 (Atchison (Fact) Exhibit 24 marked 05:14:08
19 for identification and attached to the 05:14:08
20 transcript.) 05:14:08

21 Q All righty. So you see the document 05:15:27
22 that's now on your screen, and up at the top it 05:15:28
23 says "Document 78-9"? 05:15:31

24 A Yes. 05:15:35

25 Q And do you recognize this as the 05:15:36

1 transgender policy that we've been talking 05:15:38
2 about, 220.09? 05:15:41

3 A Yes. 05:15:43

4 MS. LITTRELL: If you can scroll to 05:15:44
5 page 19, please. 05:15:47

6 Okay. Let's see, maybe give me 05:16:00
7 control and I'll get us there real quick. There 05:16:01
8 we go. 05:16:04

9 Q So the subsection is M, and it 05:16:13
10 says -- and under that there's a number 1. It 05:16:16
11 says, "To ensure compliance with this policy and 05:16:21
12 to help ensure compliance with PREA audit 05:16:24
13 requirements, GDC will ensure that the 05:16:27
14 Transgender and Intersex Offender List is 05:16:30
15 managed through the Scribe module." And then 05:16:34
16 number 2 says, "The goal is to ensure reliable 05:16:36
17 and accurate tracking of the following," and 05:16:40
18 then it lists a. through k. 05:16:42

19 My question for you is how does the 05:16:47
20 Transgender and Intersex Offender List help to 05:16:54
21 effectuate these objectives? 05:17:02

22 MR. CHALMERS: Objection to form. 05:17:08

23 A Do you want me to go through each one 05:17:09
24 individually? 05:17:15

25 Q Let's see if I can ask this a 05:17:16

1 different way. Does the -- and we're going to 05:17:19
2 talk about this as the T-I-O-L, right? So does 05:17:22
3 the T-I-O-L provide the number of transgender 05:17:25
4 and intersex offenders in GDC custody at any 05:17:33
5 given time? 05:17:36

6 A Those who have identified as 05:17:37
7 transgender or intersex, yes. 05:17:40

8 Q The T-I-O-L gives you an easy way to 05:17:44
9 know the number of self-identified transgender 05:17:47
10 and intersex offenders, right? 05:17:50

11 A Yes. 05:17:52

12 Q And does it also give you an easy way 05:17:52
13 to identify their intake date and their 05:17:54
14 permanently assigned facility? 05:17:58

15 A Yes. 05:18:04

16 Q And does the T-I-O-L also let you 05:18:06
17 know what facility they are in, what bed 05:18:09
18 assignments they have, what unit assignments 05:18:12
19 they have? 05:18:15

20 A The T-I-O-L just tells us their 05:18:16
21 gender iden -- or if they're transgender or 05:18:21
22 they're intersex. The facility location, bed 05:18:24
23 assignment, all of that is on the main Scribe 05:18:28
24 page. I would have to run a T-I-O-L list, but I 05:18:33
25 believe their locations, bed assignment, and 05:18:39

1 unit assignment is on that list. 05:18:43

2 Q Let's see what else is listed on 05:18:54

3 here. Whether or not their required assessment 05:18:54

4 date and any other reassessments, is that 05:18:59

5 also -- if you ran the T-I-O-L list, would that 05:19:02

6 information come up as to all the transgender 05:19:05

7 and intersex offenders who've self-identified? 05:19:08

8 A Yes, of the offenders who identified. 05:19:13

9 But the assessments would not be on that list. 05:19:16

10 You would have to manually go in and pull up the 05:19:18

11 assessments. 05:19:21

12 Q Okay. What about incident history 05:19:22

13 and grievance history? Is that something that 05:19:24

14 the -- if you ran the T-I-O-L list, that 05:19:27

15 information would be available? 05:19:31

16 A No. You would have to go into that 05:19:34

17 section of Scribe. It's not on that list. 05:19:36

18 Q And by "that section of Scribe," 05:19:40

19 what -- can you explain that a little bit more? 05:19:43

20 A Yes. The -- there's an incident 05:19:46

21 report module. There's a grievance report 05:19:47

22 module. The risk assessment module is its own 05:19:51

23 module. And before that, if we could scroll 05:19:59

24 back up -- in other words, there's different 05:20:08

25 modules in Scribe. The transgender -- the TIOL, 05:20:10

1 T-I-O-L list, to my knowledge, does have the 05:20:15
2 transgender or intersex person's name, ID 05:20:20
3 number, where they're housed, I believe, but, 05:20:24
4 again, I would have to see it to testify 05:20:27
5 accurately. 05:20:31

6 Q By separate modules, does that mean 05:20:32
7 that it's a different category of information 05:20:34
8 but that you could run a request in which all 05:20:39
9 the incident histories for all transgender and 05:20:45
10 intersex offenders would come up? 05:20:48

11 A The way that I -- I'll just give you 05:20:54
12 an example of what PREA uses it for. Mainly to 05:20:59
13 see when their reassessments have been conducted 05:21:02
14 or are due. So we'll pull that list, but we 05:21:06
15 have to pull each individual name. I have to go 05:21:10
16 to the assessment module, input that 05:21:17
17 individual's GDC number or name and then pull up 05:21:22
18 that individual's screening history. 05:21:26

19 Q Okay. 05:21:29

20 A So I have to do it by individual. 05:21:29

21 Q You have to do it individually for 05:21:35
22 the reassessments. Do you have to do it 05:21:36
23 individually to know where all the transgender 05:21:39
24 and intersex offenders are housed? 05:21:42

25 A I don't believe so. I believe that 05:21:46

1	is on the T-I-O-L list.	05:21:47
2	MS. LITTRELL: All right. You can	05:21:56
3	take this down.	05:21:57
4	And that is all the questions that I	05:21:58
5	have for you. Mr. Chalmers and Mr. Henefeld may	05:22:03
6	have some additional questions, and, if so, I'm	05:22:08
7	going to have some follow-up. But you're almost	05:22:10
8	done, Ms. Atchison. Thank you.	05:22:14
9	MR. HENEFELD: I think I have one or	05:22:20
10	two questions, Ms. Atchison.	05:22:22
11	EXAMINATION BY COUNSEL FOR DEFENDANT -	05:22:23
12	DR. JAVEL JACKSON	05:22:23
13	BY MR. HENEFELD:	05:22:24
14	Q And I just want to clarify some	05:22:26
15	previous testimony. The Statewide	05:22:28
16	Classification Committee, do they control	05:22:32
17	transfers of prisoners --	05:22:37
18	A No.	05:22:39
19	Q -- between prisons?	05:22:41
20	MR. HENEFELD: That's all the	05:22:46
21	questions I have. Thank you.	05:22:47
22	MR. CHALMERS: We'll reserve reading	05:22:51
23	and signing. No questions for me. But counsel,	05:22:53
24	I have a request. Can you forward to me	05:22:56
25	Exhibits 17 and 18. They were pulled down off	05:22:59

Transcript of Grace Atchison

September 15, 2022

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1 the document share, so I just want to make sure 05:23:03

2 I have them as part of my notes. 05:23:07

3 MS. LITTRELL: Yes. 05:23:11

4 THE VIDEOGRAPHER: If there are no 05:23:17

5 more questions, then this marks the end of the 05:23:18

6 video deposition of Grace Atchison. We are 05:23:19

7 going off the record and ending her deposition 05:23:23

8 at 5:23 p.m. Eastern Time. Thank you. 05:23:25

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ACKNOWLEDGMENT OF DEPONENT

I, GRACE ATCHISON, do hereby
acknowledge that I have read and examined the
foregoing testimony, and the same is a true,
correct and complete transcription of the
testimony given by me and any corrections appear
on the attached Errata sheet signed by me.

(Date)

(Signature)

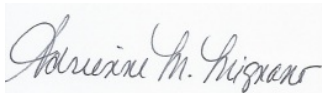
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CERTIFICATE OF REPORTER - NOTARY PUBLIC

I, ADRIENNE MIGNANO, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me and thereafter reduced to typewriting under my direction; that reading and signing was requested; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 22nd day of September, 2022.

My Commission Expires: June 2026.



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EXHIBIT 16



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Transcript of Michael Anderson

Date: September 23, 2022

Case: Diamond -v- Ward, et al.

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1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF GEORGIA
3 MACON DIVISION

4 ----- x
5 ASHLEY DIAMOND, :
6 Plaintiff :
7 vs : Case No.
8 TIMOTHY WARD et al., : 5:20-CV-00453
9 Defendants :
10 ----- x

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12
13 Videotaped deposition of
14 MICHAEL ANDERSON

15
16 VIA VIDEO/TELECONFERENCE
17 FRIDAY, SEPTEMBER 23, 2022
18 10:13 a.m. EASTERN TIME
19

20
21
22
23 Job No.: 460474

24 Pages: 1 - 67

25 Reported by: Lisa V. Feissner, RDR, CRR, CLR

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E X H I B I T S

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DEPOSITION EXHIBIT	PAGE
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1	P R O C E E D I N G S	10:13:24
2	VIDEOGRAPHER: Here begins the videotaped	10:13:24
3	deposition of Michael Anderson in the matter of	10:13:28
4	Diamond versus Ward, et al., heard in the United	10:13:31
5	States District Court for the Middle District of	10:13:35
6	Georgia, Case Number 5:20-CV-00453-MTT.	10:13:36
7	Today's date is Friday, September 23rd,	10:13:46
8	2022. The time on the monitor is 10:13 a.m.	10:13:50
9	Eastern time.	10:13:55
10	Your videographer today is Brendan Case	10:13:56
11	representing Planet Depos. This video deposition	10:13:59
12	is taking place remotely via Zoom video	10:14:01
13	teleconference.	10:14:04
14	Would all counsel please identify	10:14:05
15	themselves and state whom they represent.	10:14:07
16	MS. LITTRELL: Beth Littrell with the	10:14:09
17	Southern Poverty Law Center, and I represent	10:14:13
18	plaintiff Ashley Diamond.	10:14:14
19	MR. HENEFELD: Paul Henefeld. I	10:14:16
20	represent Dr. Javel Jackson.	10:14:18
21	MR. CHALMERS: Roger Chalmers. I	10:14:20
22	represent Commissioner Timothy Ward and the other	10:14:23
23	named defendants in the case except for	10:14:26
24	Dr. Jackson.	10:14:28
25	MS. CROWDER: Elizabeth Crowder for	10:14:35

Transcript of Michael Anderson

September 23, 2022

6

1 Michael Anderson. 10:14:37

2 VIDEOGRAPHER: Your court reporter today 10:14:40

3 Lisa Feissner representing Planet Depos.

4 Would the reporter please swear in the

5 witness.

6 MICHAEL ANDERSON,

7 having been first duly sworn, was examined and

8 testified as follows: 10:14:55

9 EXAMINATION 10:14:56

10 BY MS. LITTRELL: 10:14:56

11 Q Good morning, Mr. Anderson. 10:14:57

12 A Good morning. 10:15:01

13 Q As you heard, my name is Beth Littrell, 10:15:01

14 and I represent Ashley Diamond. 10:15:05

15 If you -- I see that your name -- let me 10:15:08

16 ask you -- I'll put it in the form of a question. 10:15:10

17 Do you see your name spelled in the 10:15:12

18 bottom of the Zoom box? Can you see your own Zoom 10:15:14

19 box? 10:15:21

20 A Yes, ma'am. 10:15:21

21 Q And is that the correct spelling for the 10:15:22

22 court reporter? 10:15:24

23 A Yes, ma'am. 10:15:25

24 Q Great. And what year and month were you 10:15:26

25 born? 10:15:32

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1	A	Were I born?	10:15:33
2	Q	Yes.	10:15:35
3	A	[REDACTED]	10:15:36
4	Q	Great, thanks.	10:15:39
5		Have you given deposition testimony	10:15:40
6		before?	10:15:42
7	A	Yes.	10:15:44
8	Q	Okay. And was it by video, or was it old	10:15:45
9		school, together?	10:15:49
10	A	It was in person.	10:15:51
11	Q	Okay. I'm going to run down the rules of	10:15:53
12		the deposition, even though you likely are	10:15:56
13		familiar, but just to make sure that we -- that	10:15:59
14		you understand them, and also to add some	10:16:02
15		additional rules based on the fact that this is a	10:16:05
16		video deposition.	10:16:07
17		The first and the most important rule is	10:16:09
18		that the answers must be verbal. So no head	10:16:12
19		shakes or head nods or huh-uhs, that sort of	10:16:15
20		thing. It's difficult for the court reporter to	10:16:18
21		take down.	10:16:20
22		So will you agree to give your answers	10:16:21
23		verbally?	10:16:23
24	A	Yes.	10:16:25
25	Q	Okay. And we have to be careful not to	10:16:25

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1 speak over one another. If you would, please let 10:16:28
2 me finish my question before you start speaking, 10:16:32
3 and I'll give you the same courtesy to let you 10:16:35
4 finish your answers before I start speaking. 10:16:38

5 Can we agree to do so? 10:16:42

6 A Yes. 10:16:43

7 Q Great. That's especially important, I'll 10:16:44
8 just mention, because on video, if we're talking 10:16:47
9 at the same time, the court reporter can't hear 10:16:50
10 either of us. We sort of cancel each other out. 10:16:52
11 So we just need to be mindful. 10:16:55

12 If you don't understand my question, will 10:16:57
13 you agree to let me know you don't understand it? 10:16:59

14 A Yes. 10:17:00

15 Q Okay. And if you don't let me know, I'll 10:17:01
16 assume that you understand the question. 10:17:05

17 Is that fair? 10:17:07

18 A Fair. 10:17:08

19 Q If you want to take a break, just let me 10:17:09
20 know, and we'll be happy to give you the 10:17:12
21 opportunity to take a break if you need it. But I 10:17:16
22 will just ask that if you're in the middle of 10:17:19
23 answering a question, or if there is a question 10:17:21
24 pending, you'd answer that question first, and 10:17:23
25 then we'll take a break. 10:17:26

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1 Okay? 10:17:27

2 A Yes, ma'am. 10:17:27

3 Q Will you agree to keep your camera,
4 audio, and video on while we're on the record? 10:17:28
10:17:34

5 A Yes. 10:17:36

6 Q And you'll keep your camera at this angle
7 and view throughout the deposition? 10:17:37
10:17:40

8 A Yes. 10:17:42

9 Q Okay. Will you agree not to communicate
10 with anyone by any means while we're on the
11 record? 10:17:42
10:17:45
10:17:48

12 A Yes. 10:17:49

13 Q So no texting or -- 10:17:50

14 A In fact, the phone is off. Let me make
15 sure my phone is off. 10:17:53
10:17:55

16 Q Wonderful. Thank you. 10:17:56

17 A Yes, it is off. 10:18:00

18 Q Okay, great. Thank you. 10:18:01

19 And do you have any other programs open
20 on the computer besides Zoom? 10:18:03
10:18:05

21 A Not that I'm aware of, no. 10:18:07

22 Q Okay. 10:18:10

23 (Cross-talk.) 10:18:10

24 A I didn't set this up. This is a GDC
25 facility. It's their computer. I didn't set it 10:18:10
10:18:18

1 up; they did. 10:18:21

2 Q Gotcha. 10:18:22

3 A I don't see anything open that -- that -- 10:18:23

4 the only thing I see is what we're doing now. 10:18:29

5 Q Gotcha. Well, if anything pops up on the 10:18:31

6 screen, as sometimes happens on computers, will 10:18:34

7 you let me know? 10:18:37

8 A Yes. 10:18:38

9 Q Okay. And if anyone comes in the room, 10:18:39

10 will you agree to let me know? 10:18:41

11 A Yes. 10:18:43

12 Q Okay. Let's see. 10:18:43

13 No other electronics in the room with 10:18:48

14 you, like an iPad or anything? 10:18:49

15 A No, ma'am. 10:18:54

16 Q Okay, great. 10:18:57

17 A There's another computer behind me, but 10:18:58

18 it's not on. 10:19:00

19 Q Okay. If you start to have connection 10:19:02

20 issues, like an audio lag or a video freeze, will 10:19:06

21 you contact your attorney, and then she will let 10:19:12

22 you know how to get reconnected. 10:19:16

23 MS. LITTRELL: And Elizabeth, the tech's 10:19:18

24 phone number is in the chat, so you can help make 10:19:21

25 that connection in that way, if that makes sense. 10:19:24

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1 Q Mr. Anderson, do you understand that this 10:19:26
2 deposition is being recorded? 10:19:31
3 A Yes. 10:19:32
4 Q Okay. And do you understand that your 10:19:33
5 testimony today could be used in this case and at 10:19:35
6 trial? 10:19:38
7 A Yes. 10:19:39
8 Q And you understand you're under oath, 10:19:39
9 right? 10:19:42
10 A Yes. 10:19:42
11 Q Is there any reason you'd not be able to 10:19:43
12 give complete, honest answers to my questions 10:19:46
13 today? 10:19:48
14 A No. 10:19:50
15 Q Okay, great. 10:19:52
16 Did you speak with anyone employed by GDC 10:19:53
17 other than your attorney about this deposition? 10:20:02
18 A No. 10:20:06
19 Q Have you spoken with anyone employed by 10:20:07
20 GDC about this case? 10:20:11
21 A No. 10:20:14
22 Q Okay. Have you spoken with Mr. Chalmers 10:20:15
23 about this case? 10:20:20
24 A Who? 10:20:21
25 Q Mr. Chalmers. Do you know who that is? 10:20:22

1 A I see him on Zoom, but no, I haven't 10:20:26

2 spoken to Mr. Chalmers. 10:20:29

3 Q Okay. Have you brought any documents or 10:20:30

4 notes with you today? 10:20:32

5 A No, ma'am. Just myself. 10:20:33

6 Q Okay. And did you travel in order to 10:20:36

7 participate in this deposition? 10:20:40

8 A Yes, ma'am. 10:20:41

9 Q Okay. In order to ensure that we 10:20:43

10 compensate you for your mileage, make sure that 10:20:46

11 you let Ms. Crowder know the distance that you 10:20:49

12 traveled in order to participate in today's 10:20:52

13 deposition, okay? 10:20:55

14 A Yes, ma'am. 10:20:56

15 Q And where are you testifying from today? 10:20:57

16 A I'm at the southeast regional office in 10:20:59

17 Reidsville, Georgia. 10:21:03

18 Q And that's a GDC office? 10:21:04

19 A Yes, ma'am. The southeast regional 10:21:07

20 office. 10:21:10

21 Q And just for the record, when we say GDC, 10:21:10

22 we're talking about the Georgia Department of 10:21:13

23 Corrections, right? 10:21:16

24 A Correct. 10:21:16

25 Q And is that who employs you, 10:21:17

1 Mr. Anderson? 10:21:21

2 A Currently? 10:21:22

3 Q Yes. 10:21:22

4 A No, I'm not currently employed with GDC. 10:21:23

5 Q Okay. Where are you currently employed? 10:21:27

6 (Reporter interruption.) 10:21:29

7 A I'm currently employed with the Tattnall 10:21:29

8 County Sheriff's Office. 10:21:40

9 Q Tattnall, T-A-T-T-N-E-L-L? 10:21:41

10 A T-A-T-T-N-A-L-L. 10:21:44

11 Q Okay, thank you. 10:21:48

12 And how long have you been employed by 10:21:49

13 the Tattnall County Sheriff's Office? 10:21:52

14 A I believe it was January of this year I 10:21:58

15 started there. 10:22:02

16 Q Okay. And before that, where were you 10:22:03

17 employed? 10:22:07

18 A I was employed with the Georgia 10:22:08

19 Department of Corrections. 10:22:10

20 Q And for how long were you employed at the 10:22:11

21 Georgia Department of Corrections? 10:22:14

22 A 27 years, 11 months. 10:22:15

23 Q Okay. 27 years and 11 months. 10:22:18

24 You didn't make it to 28. 10:22:21

25 A I was just a little bit short. 10:22:23

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1 Q Got it. 10:22:25

2 And during your time in GDC employ, what 10:22:27

3 positions did you hold? 10:22:33

4 A All the positions that I held? 10:22:35

5 Q Yes. We don't need to know -- you don't 10:22:37

6 need to go into details, but yeah, just name the 10:22:41

7 positions, please. 10:22:45

8 A I hired on as a correctional officer. I 10:22:46

9 was a sergeant, lieutenant, captain, major, unit 10:22:50

10 manager, and a deputy warden. 10:22:54

11 Q Okay. And in any of those positions, 10:22:56

12 were you at Coastal State Prison? 10:22:59

13 A Yes, ma'am. 10:23:04

14 Q And what was your position while you were 10:23:04

15 at Coastal? 10:23:06

16 A Deputy warden of security. 10:23:07

17 Q As the deputy warden of security, when 10:23:10

18 did you start in that role? 10:23:14

19 A February the 1st of 2018. 10:23:16

20 Q And did you stay in that role until you 10:23:21

21 left GDC in January of 2022, or if not, when did 10:23:24

22 you leave? 10:23:29

23 A If I remember correctly, it was November 10:23:30

24 of 2020. 10:23:35

25 Q Okay. And where did you go when you left 10:23:39

1 in November 2020? 10:23:42

2 A Georgia State Prison. 10:23:45

3 Q Okay. And what was your role at Georgia 10:23:47

4 State Prison? 10:23:51

5 A Deputy warden of security. 10:23:51

6 Q Okay. What were your responsibilities in 10:23:52

7 the role of deputy warden of security? 10:23:58

8 A Ensure safe operations of the facility 10:24:03

9 was my main issue -- thing to carry out, make sure 10:24:07

10 that the inmates were staff, staff was safe, 10:24:15

11 operated by policies and procedures, implementing 10:24:18

12 policies and procedures if we needed to implement 10:24:22

13 something. 10:24:24

14 Q Okay. And pursuant to that role, were 10:24:24

15 you required to be aware of the PREA policies? 10:24:30

16 A What policy? 10:24:35

17 Q The PREA policies. That's the Prison 10:24:36

18 Rape Elimination Act policies. 10:24:40

19 A Yes, ma'am. 10:24:42

20 Q The GDC policies on sexual -- preventing 10:24:42

21 sexual assault and sexual abuse, right? 10:24:45

22 A Yes, ma'am. 10:24:50

23 Q Okay. In terms of the PREA policies, are 10:24:52

24 you aware that there's a requirement to 10:24:57

25 investigate all PREA allegations? 10:25:01

1	A	Yes, ma'am.	10:25:04
2	Q	Okay. And that would be including	10:25:04
3		third-party PREA reports?	10:25:08
4	A	Yes, ma'am.	10:25:10
5	Q	Okay. And as part of investigating PREA	10:25:11
6		allegations, are you aware that if there's video	10:25:15
7		evidence, that it's required to be reviewed?	10:25:20
8	A	Yes, ma'am.	10:25:23
9	Q	Okay. And what role did you play with	10:25:24
10		respect to assisting or investigating PREA	10:25:35
11		reports?	10:25:38
12	A	Very little that I can recall at Coastal	10:25:42
13		State Prison. The PREA coordinator usually done	10:25:47
14		most of those incident reports and investigation.	10:25:52
15	Q	Okay. Do you recall who that was --	10:25:56
16	A	Ma'am?	10:26:00
17	Q	Do you recall who that was in June 2020?	10:26:02
18	A	2020. Would have been Carl Betterson,	10:26:12
19		deputy warden of care and treatment.	10:26:18
20	Q	Okay. And he would have been -- I'm just	10:26:20
21		trying to make sure that we are talking about the	10:26:27
22		same timeline, because if you left in November	10:26:29
23		2020, then your knowledge relevant to this case is	10:26:32
24		going to be -- likely be mostly limited to June	10:26:35
25		2020, when Ms. Diamond arrived at Coastal, and	10:26:41

1 November 2020 when you left, right? 10:26:47

2 A Yes, ma'am. 10:26:49

3 Q Okay. And Mr. Betterson was the PREA 10:26:49

4 coordinator during that time? 10:26:54

5 A Yes, ma'am. If my memory serves me 10:26:55

6 correctly, he was. 10:26:58

7 Q Would anyone else have served in that 10:27:00

8 role that you can think of? 10:27:02

9 A If he would have been absent for any 10:27:05

10 reason, I may have taken up some of it. But that 10:27:07

11 would probably be it. 10:27:14

12 Q Just to understand a little bit about 10:27:20

13 Coastal State Prison, and in particular, the dorm 10:27:27

14 in which Ms. Diamond was housed, do you recall 10:27:34

15 where she was housed when she was at Coastal State 10:27:38

16 Prison? 10:27:42

17 A N building. I think it was A dorm. Cell 10:27:42

18 number 1. 10:27:46

19 (Reporter interruption.) 10:27:51

20 Q From what I understand, there are two 10:27:55

21 sides of N building, correct? 10:27:58

22 A An A dorm and a B dorm. 10:28:00

23 Q And we can find -- we've got the 10:28:02

24 institutional records that will determine whether 10:28:07

25 she was in NB or NA. 10:28:10

1 But you are familiar with the dormitory 10:28:14
2 that she was housed in for the majority of her 10:28:17
3 time at Coastal while you were there, right? 10:28:19
4 A Yes, ma'am. 10:28:21
5 Q Okay. To enter that dormitory that 10:28:22
6 Ms. Diamond was housed in for the majority of the 10:28:31
7 time she was there, are those doors locked at all 10:28:33
8 times? 10:28:38
9 A Yes, ma'am. 10:28:38
10 Q I'm sorry. I said "those doors." I want 10:28:39
11 to make sure I get it right. 10:28:42
12 Is there more than one door that allows 10:28:43
13 people to enter that door? 10:28:46
14 A You're referring to the entry doors as 10:28:48
15 being secured at all times or the individual cell 10:28:51
16 doors? 10:28:54
17 Q Right now, I want to talk about the entry 10:28:54
18 door. My understanding is that there's one entry 10:28:57
19 into that building through what's call sally port. 10:29:01
20 But I want you to correct me if there are more 10:29:04
21 entries into that dorm. 10:29:07
22 A There's one entry door that comes into 10:29:09
23 the building, into a sally port, and then there's 10:29:13
24 an additional door that goes into the dormitory. 10:29:16
25 Q Gotcha. 10:29:20

1	A	You've got to go through two doors to get	10:29:22
2		into the dormitory.	10:29:25
3	Q	Okay. And is the first door that allows	10:29:26
4		you into sally port, is that a door that is kept	10:29:29
5		secured, that is locked at all times?	10:29:36
6	A	Yes, ma'am.	10:29:39
7	Q	Okay. And then once in sally port, my	10:29:39
8		understanding is that you can either enter the	10:29:43
9		control room, right?	10:29:46
10	A	Correct.	10:29:48
11	Q	Or the two dormitories on either side,	10:29:49
12		right?	10:29:53
13	A	Correct.	10:29:53
14	Q	Okay. And as to the dormitory [sic] into	10:29:53
15		Ms. Diamond's dorm where she was housed the	10:29:58
16		majority of the time, is that door required to be	10:30:01
17		secured, that is, locked at all times?	10:30:07
18	A	It is.	10:30:08
19	Q	And how do correctional officers enter	10:30:09
20		and exit that door?	10:30:16
21	A	They can be operated electronically or by	10:30:19
22		key.	10:30:23
23	Q	Are there any instances where offenders	10:30:24
24		would have keys to enter that dorm?	10:30:31
25	A	No, not to my knowledge.	10:30:36

1 Q Okay. 10:30:37

2 A No offenders allowed at Coastal State 10:30:38

3 Prison to have a key. 10:30:41

4 Q Is there ever a time where it would be 10:30:43

5 acceptable for that door to be left open in any 10:30:49

6 way, ajar? 10:30:57

7 A No. No, it would be not be acceptable. 10:30:58

8 Q And then we also for a moment -- 10:31:01

9 you acknowledge that there's also cell doors that 10:31:09

10 have -- that close in some way within that 10:31:12

11 dormitory, right? 10:31:15

12 A Yes, ma'am. There's cell doors inside 10:31:17

13 the dormitory. 10:31:21

14 Q Okay. And those are, if I understand 10:31:22

15 correctly, doors that slide open, right? 10:31:27

16 A I believe so. I'm sorry, but I don't 10:31:35

17 remember if they actually slide or if they close. 10:31:41

18 I think they slide. I'm not sure. I can't 10:31:43

19 remember. 10:31:48

20 Q Okay. 10:31:48

21 A For the individual cells. 10:31:49

22 Q Okay. And do the doors lock at any -- 10:31:53

23 automatically lock at any particular time of the 10:32:00

24 day, or are they always unlocked? Tell me how -- 10:32:03

25 what the procedures were with respect to the cell 10:32:10

1 doors. 10:32:13

2 A At lockdown time, depending on what day 10:32:14

3 of the week, everyone would be locked down to 10:32:20

4 their cells, the doors secured, and then reopened 10:32:22

5 the following morning prior to morning feed up, to 10:32:28

6 prepare for the day. 10:32:36

7 Q And at what time would lockdown occur, 10:32:37

8 approximately? 10:32:42

9 A 11:30 Sunday through Thursday, and then 10:32:44

10 it shifted to 1:00 on the weekend days, that's 10:32:49

11 Friday and Saturday. 10:32:56

12 Q And prior to -- and then what time would 10:32:56

13 the doors open? 10:32:59

14 A 5:00 in the morning. 10:33:01

15 Q And that was on weekends and weekdays? 10:33:02

16 A Yes. 10:33:06

17 Q Okay. 10:33:07

18 A All days, they open at 5:00 in the 10:33:08

19 morning. 10:33:10

20 Q Okay. And when they open, does that -- 10:33:12

21 during the time that the doors are not locked, can 10:33:20

22 offenders sort of go in and out of their cells 10:33:28

23 unimpeded? 10:33:32

24 A Yes, they -- they meander around -- 10:33:38

25 you're talking about -- are you asking if inmate A 10:33:46

1	can go in inmate B's cell?	10:33:51
2	Q First I'm asking if inmate A can come and	10:33:52
3	go from their own cell freely?	10:33:56
4	A Yes, they can maneuver around the	10:34:03
5	dormitory freely.	10:34:07
6	Q And is there a way for the offenders to	10:34:08
7	lock themselves in their rooms so no other	10:34:12
8	offender can enter?	10:34:15
9	A Yes, they can close their own door.	10:34:17
10	Q And when they close it, does it lock?	10:34:19
11	A Yes.	10:34:22
12	Q And can they unlock the door after that	10:34:26
13	happens, themselves?	10:34:28
14	A Yes, they can request the door to be	10:34:30
15	unlocked.	10:34:32
16	Q I'm sorry. Can you explain that a little	10:34:33
17	bit further.	10:34:35
18	A Excuse me. I'm sorry.	10:34:37
19	Q No problem.	10:34:44
20	You said that they could request to have	10:34:48
21	the door opened?	10:34:50
22	A Yes. They can get with the officer -- if	10:34:52
23	they don't want anyone coming in their cell or	10:34:55
24	just -- if they just want to be in their	10:35:02
25	individual cell, they can close their door. And	10:35:06

1 then if they get ready to come back out, they 10:35:08
2 notify the officer, and the officer opens their 10:35:11
3 door back. 10:35:14
4 Q So when they close their door, does it 10:35:15
5 lock automatically? 10:35:18
6 A Yes, they would lock. 10:35:18
7 Q Okay. And then they would have to get an 10:35:21
8 officer to unlock that; is that right? 10:35:24
9 A Yes. 10:35:26
10 Q And how would they be able to contact the 10:35:27
11 officer to let them -- to unlock the door? 10:35:31
12 A As the officer makes the security rounds, 10:35:35
13 they do 30-minute security rounds, or if a 10:35:38
14 supervisor happened to be coming through the 10:35:42
15 building and make rounds, they can notify a 10:35:45
16 supervisor. 10:35:47
17 Q And how would they do that if they were 10:35:47
18 in their cell? 10:35:49
19 A As the officer or supervisor comes by, 10:35:51
20 and inside that dormitory, just speak out to the 10:35:56
21 officer and let them know whatever their need was, 10:35:59
22 if it was to open the door or if it was something 10:36:04
23 else. And then the officer could address that at 10:36:08
24 that time. 10:36:11
25 Q And you mentioned 30 minutes. 10:36:11

1	Can you -- how often were correctional	10:36:15
2	officers required to do rounds in Ms. Diamond's	10:36:18
3	dormitory where she was housed the majority of the	10:36:27
4	time?	10:36:29
5	A They make 30-minute checks.	10:36:30
6	Q So every 30 minutes, a CO should walk	10:36:32
7	through that dormitory?	10:36:36
8	A Yes.	10:36:37
9	Q Did that always occur?	10:36:38
10	A To my knowledge.	10:36:41
11	Q Okay. And where would that be	10:36:43
12	documented?	10:36:45
13	A In the building log book.	10:36:46
14	Q Okay. And as part of those rounds, do	10:36:48
15	they look in every -- are they required to look in	10:36:58
16	every cell?	10:37:04
17	A Yes. Part of that would be just walking	10:37:08
18	the full length of the dormitory and looking to	10:37:10
19	see if there's anything that they needed to	10:37:13
20	address.	10:37:16
21	Q And did you do rounds?	10:37:19
22	A Myself?	10:37:27
23	Q Yes.	10:37:28
24	A Daily, Monday through Friday, I was	10:37:28
25	required to do a daily inspection of all the	10:37:31

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1	housing units.	10:37:33
2	Q And what would that entail?	10:37:35
3	A We would walk through and look at any	10:37:38
4	safety concerns, we would address those. Any	10:37:41
5	sanitation concerns, we would address those. Talk	10:37:44
6	to the offenders, see if there was any issues	10:37:49
7	going on with any offender in the dormitory,	10:37:51
8	address those issues if they had any complaints,	10:37:55
9	if we could. Just being visible and available to	10:37:58
10	the offenders.	10:38:04
11	Q Okay. And were you aware of whether	10:38:05
12	offenders entered each other's dorms at any point	10:38:15
13	during the day?	10:38:19
14	A Occasionally, offenders will talk with	10:38:24
15	one another at their door. I never actually -- I	10:38:27
16	don't believe I ever caught one actually inside	10:38:32
17	another inmate's cell beyond the door where it	10:38:35
18	looked to be an issue for security purposes.	10:38:40
19	Q Okay. Did you review camera footage to	10:38:43
20	see whether or not offenders were entering each	10:38:50
21	other's dorms at any point?	10:38:53
22	A That was -- I did review occasionally [REDACTED]	10:38:57
23	[REDACTED] cameras [REDACTED], yes.	10:39:02
24	Q Okay. Did you do that just as part of	10:39:05
25	your regular duties as the deputy warden of	10:39:08

1 security, or were you requested to do so for some 10:39:13
2 other reason? 10:39:17

3 A Routine. 10:39:19

4 Q Okay. And did you ever see -- well, I've 10:39:21
5 already asked that question. 10:39:26

6 As part of PREA investigations, we were 10:39:27
7 talking about that a minute ago, were you ever 10:39:44
8 asked to review video footage in connection with a 10:39:53
9 PREA investigation? 10:39:58

10 A Off the top of my head, I can't recall a 10:40:07
11 specific incident. If I had some documents to 10:40:09
12 review, I could give a better answer. 10:40:12

13 Q Okay. 10:40:15

14 A If you're referring to an individual 10:40:15
15 case. 10:40:17

16 Q Was it routine for you to be involved in 10:40:19
17 reviewing video footage for a PREA investigation? 10:40:26

18 A I typically did not investigate the 10:40:31
19 incidents of PREA myself. 10:40:35

20 Q And that includes with respect to 10:40:39
21 reviewing video footage? 10:40:41

22 A Yes. It was not routine that I do -- 10:40:44
23 that I conduct a PREA investigation on a regular 10:40:49
24 basis. There may have been a rare circumstance 10:40:53
25 when other staff members wasn't available that I 10:40:58

1 may have done that. But routinely, I did not 10:41:01

2 investigate PREA incidents. 10:41:04

3 Q Do you recall reviewing video footage in 10:41:08

4 particular with respect to investigating any PREA 10:41:15

5 allegations made by or on behalf of Ms. Diamond? 10:41:18

6 A Without the documents in front of me, I 10:41:24

7 can't recall a specific incident. 10:41:27

8 Q Okay. What documents would you need to 10:41:28

9 review? 10:41:33

10 A An incident report or something stating 10:41:33

11 that there was -- I just can't remember that far 10:41:39

12 back to say that I investigated Ms. Diamond on a 10:41:42

13 specific issue. 10:41:46

14 Q And if you did investigate or were part 10:41:48

15 of the investigation into any PREA allegations 10:41:54

16 made on or on behalf of Ms. Diamond, would your 10:41:58

17 name appear in those records? 10:42:02

18 A Most likely would, yes. 10:42:05

19 Q Okay. And if you reviewed video footage 10:42:06

20 for Ms. Diamond or anyone else in connection with 10:42:11

21 a PREA allegation, would you have documented that 10:42:16

22 you reviewed the footage? 10:42:24

23 A It would most likely be in the body of 10:42:28

24 the incident report. 10:42:31

25 Q What is your understanding of the 10:42:33

1 requirements to document and preserve video 10:42:41
2 evidence? 10:42:50

3 A It would be downloaded to a CD, and then 10:42:55
4 you would create a chain of custody that would go 10:43:03
5 with it, is what I personally would do if I did 10:43:06
6 it. 10:43:10

7 Q Okay. So if you were asked to review 10:43:10
8 video footage, you would download it onto a CD; is 10:43:13
9 that right? 10:43:18

10 A Yes. If it had to be -- if it was 10:43:18
11 something that had to be retained for evidence 10:43:21
12 of -- for further use, then that's what I would 10:43:25
13 do. 10:43:27

14 Q Okay. Do you recall Mr. Betterson 10:43:28
15 requesting that you review video footage on his 10:43:34
16 behalf as part of a PREA investigation? 10:43:40

17 A I'm not going to say that he didn't 10:43:52
18 because we worked real well together. But again, 10:43:54
19 I can't -- off the top of my head, I don't 10:43:58
20 remember a specific incident. 10:44:00

21 Q Okay. If you had reviewed video that 10:44:02
22 Mr. Betterson had asked you to review, that would 10:44:11
23 have been in connection with his role as the PREA 10:44:14
24 investigator or PREA compliance manager, right? 10:44:21

25 A Mr. Betterson? 10:44:27

Transcript of Michael Anderson
September 23, 2022

1	Q	Yes.	10:44:28
2	A	Could you state the question again?	10:44:29
3	Q	Yes.	10:44:31
4		If Mr. Betterson had requested your	10:44:32
5		assistance in reviewing video footage, would that	10:44:35
6		have been in his role as the PREA investigator or	10:44:40
7		the PREA compliance manager?	10:44:45
8	A	Yes.	10:44:46
9	Q	And if you had reviewed the video	10:44:53
10		footage, would you have told him what you saw on	10:44:56
11		that video?	10:44:57
12	A	Yes.	10:44:58
13	Q	And would that include if you did not see	10:45:00
14		any evidence of a PREA allegation?	10:45:06
15	A	Yes. I would have been truthful with	10:45:11
16		Mr. Betterson about whatever his questions were.	10:45:16
17	Q	Okay. Were you aware of the locations of	10:45:26
18		cameras in Coastal State Prison?	10:45:28
19	A	Yes, ma'am.	10:45:31
20		[REDACTED]	10:45:32
21		[REDACTED]	10:45:40
22		[REDACTED]	10:45:46
23		[REDACTED]	10:45:49
24		[REDACTED]	10:45:52
25		[REDACTED]	10:45:54

Transcript of Michael Anderson
September 23, 2022

1	[REDACTED]	10:45:57
2	[REDACTED]	10:45:58
3	[REDACTED]	10:46:00
4	[REDACTED]	10:46:04
5	[REDACTED]	10:46:09
6	[REDACTED]	10:46:12
7	[REDACTED]	10:46:13
8	[REDACTED]	10:46:14
9	[REDACTED]	10:46:18
10	[REDACTED]	10:46:18
11	Q Okay. Were you involved in repairing	10:46:20
12	videos if you found out that one was	10:46:39
13	malfunctioning?	10:46:41
14	A What do you mean, repairing videos? I	10:46:42
15	don't understand that.	10:46:45
16	Q Sure. Let me ask that better and take a	10:46:46
17	step back.	10:46:51
18	If a camera were discovered to be	10:46:51
19	malfunctioning, whose role was it to get that	10:46:55
20	camera functioning again?	10:47:00
21	A [REDACTED], if we	10:47:05
22	had issues with them where they were not	10:47:08
23	functioning properly or we couldn't review them or	10:47:10
24	get recordings off of them, we'd notify -- the	10:47:14
25	perimeter detection systems is the one that	10:47:21

Transcript of Michael Anderson

September 23, 2022

31

1 installed those cameras, if I remember correctly. 10:47:24
2 They would give us assistance in doing what we 10:47:27
3 needed to do. 10:47:29
4 Q Okay. And do you recall a time between 10:47:30
5 June 2020 and when you left in November 2020 [REDACTED] 10:47:34
6 [REDACTED] 10:47:39
7 [REDACTED] -- do 10:47:43
8 you recall a time in which those cameras were 10:47:46
9 malfunctioning? 10:47:48
10 A Not on a particular day. I do remember 10:47:51
11 them coming in and checking the camera. Now, some 10:47:54
12 of it was routine, just to check to make sure they 10:47:58
13 were functioning properly, [REDACTED] 10:48:01
14 [REDACTED]. 10:48:03
15 Some, we may have called on, and it may 10:48:06
16 have been someone other than myself, may have been 10:48:08
17 someone else in the facility. 10:48:11
18 So a specific day, I don't know. But I 10:48:13
19 do recall seeing them coming, making checks on the 10:48:16
20 camera system to make sure they were operating 10:48:21
21 properly. 10:48:23
22 Q Did you have to ask for that entity, 10:48:24
23 perimeter security, to -- did you personally ask 10:48:32
24 that they come in and repair a camera? 10:48:36
25 A No, ma'am. 10:48:39

Transcript of Michael Anderson
September 23, 2022

1	Q	Okay.	10:48:40
2	A	Not that I recall.	10:48:41
3	Q	Okay. [REDACTED]	10:48:43
4		[REDACTED]	10:48:50
5		[REDACTED]	10:49:08
6		[REDACTED]	10:49:16
7		[REDACTED]	10:49:21
8		[REDACTED]	10:49:23
9		[REDACTED]	10:49:25
10		[REDACTED]	10:49:29
11		[REDACTED]	10:49:38
12		[REDACTED]	10:49:42
13		[REDACTED]	10:49:47
14		[REDACTED]	10:49:53
15		[REDACTED]	10:49:58
16		[REDACTED]	10:50:02
17		[REDACTED]	10:50:06
18		[REDACTED]	10:50:09
19		[REDACTED]	10:50:12
20	Q	Okay. Do you know whether there was	10:50:15
21		anyone assigned to monitor Ms. Diamond's -- [REDACTED]	10:50:19
22		[REDACTED]	10:50:24
23		[REDACTED] Was there anyone specifically assigned to	10:50:26
24		monitor the cell --	10:50:34
25	A	The building officer that was assigned	10:50:35

1 that building could monitor that system. 10:50:36

2 Q Okay. 10:50:41

3 A And then whoever routinely reviewed the 10:50:42

4 camera could also go back and look at whatever 10:50:47

5 footage. 10:50:49

6 Q And was there someone who routinely 10:50:50

7 monitored or reviewed the cameras in that 10:50:54

8 building? 10:50:58

9 A Just whenever we felt -- just whenever we 10:50:59

10 felt a need. 10:51:03

11 Q Okay. Who had the ability to view the 10:51:08

12 camera footage in that particular building? 10:51:13

13 A Who could review it? 10:51:19

14 Q Yes, sir. 10:51:21

15 A The warden could review it, myself, 10:51:23

16 Mr. Betterson, all the executive administrative 10:51:28

17 team at the facility. 10:51:34

18 Q And who were the executive administrative 10:51:37

19 team? 10:51:41

20 A The warden, myself, Mr. Betterson -- the 10:51:41

21 deputy wardens. 10:51:45

22 Q Okay. 10:51:46

23 A If there was a need, we could review it. 10:51:47

24 Q Okay. Did your secretary have the 10:51:50

25 ability to access and view video recordings? 10:51:56

1	A	My secretary did have access to pull up	10:52:01
2		the camera systems.	10:52:05
3	Q	Was she trained in security detection in	10:52:07
4		any way?	10:52:12
5	A	Her training and background, I'm not sure	10:52:12
6		of.	10:52:15
7	Q	My understanding from your answer is that	10:52:16
8		she had the ability to pull the video down, but	10:52:19
9		then someone with the proper security access would	10:52:23
10		actually review the camera; is that right?	10:52:27
11	A	Yes.	10:52:29
12	Q	Okay. Was there a procedure involved in	10:52:30
13		requesting and reviewing video recordings?	10:52:39
14	A	What do you mean, a procedure?	10:52:45
15	Q	Is there any documentation?	10:52:47
16	A	Any documentation that I would fill out	10:52:54
17		saying I need to review a specific camera?	10:52:57
18	Q	Yes, sir.	10:52:59
19	A	No.	10:53:00
20	Q	What if Mr. Betterson wanted to review a	10:53:01
21		specific camera, was there any request that he	10:53:05
22		needed to make of anyone in particular?	10:53:08
23	A	No, ma'am. He could -- if he wanted to	10:53:11
24		review a camera, he could review a camera.	10:53:16
25	Q	Okay. Were you involved in reviewing	10:53:18

1 video footage for any kind of incident that 10:53:28
2 occurred during your time as deputy warden of 10:53:36
3 security? 10:53:42
4 A Yes, I've reviewed camera footages 10:53:42
5 before. 10:53:45
6 Q And were any of those in relation to an 10:53:45
7 allegation of staff misconduct? 10:53:51
8 A It's possible, yes. I'm not sure -- I 10:53:56
9 don't recall a specific incident, but it's 10:54:11
10 possible. I just don't recall anything specific. 10:54:14
11 Q If there was an allegation of staff 10:54:19
12 misconduct in an area where there was a fixed 10:54:22
13 camera, and you were investigating that alleged 10:54:24
14 incident, would you review the camera footage? 10:54:29
15 A Yes. 10:54:36
16 Q And would you retain that camera footage? 10:54:37
17 A Yes, I would. 10:54:44
18 Q And that would be the case if it 10:54:50
19 supported the inmate's allegation or if it did not 10:54:54
20 show the allegation, you would still retain it as 10:55:00
21 relevant evidence, right? 10:55:04
22 A Either way, it would be evidence. 10:55:05
23 Q Right. Who had the ability to delete 10:55:08
24 video evidence, if anyone? 10:55:18
25 A I don't know. 10:55:23

1 MS. CROWDER: Excuse me, Beth. 10:55:35

2 MS. LITTRELL: Sure. 10:55:37

3 MS. CROWDER: Can I just make sure that 10:55:37

4 we're clear, for the purpose -- because 10:55:39

5 Mr. Anderson, I believe, testified at the outset 10:55:43

6 he had worked as a deputy warden of security at 10:55:46

7 other facilities as well. 10:55:51

8 So for clarity purposes, in terms of your 10:55:52

9 questions, are these narrowed in scope to the time 10:55:54

10 where you're talking about Coastal between June 10:55:56

11 and November, or are you talking about as a deputy 10:55:58

12 warden of security in general? 10:56:01

13 MS. LITTRELL: My questions are cabined 10:56:03

14 to the time period he was deputy warden of 10:56:06

15 security at Coastal, and in particular between 10:56:09

16 June 2020 and November 2020. 10:56:12

17 MS. CROWDER: Thank you. 10:56:15

18 Q Mr. Anderson, do you know who Ashley 10:56:24

19 Diamond is? 10:56:27

20 A Do I know Ashley Diamond? 10:56:28

21 Q Yes, sir. 10:56:29

22 A Yes. 10:56:30

23 Q And how do you know her? 10:56:30

24 A I met him -- I met her at the facility, 10:56:32

25 and I had a few conversations with Diamond. I 10:56:39

1 never make myself available to offenders for idle 10:56:43
2 time. I did have many conversations that were 10:56:49
3 required of my job, but I didn't spend much out of 10:56:55
4 time with Diamond to carry on much conversation. 10:57:00
5 Q Okay. Do you recall any conversations 10:57:05
6 with Mr. Benton or Mr. Holt, Mr. Toole, prior to 10:57:09
7 Ms. Diamond's arrival about Ms. Diamond? 10:57:15
8 A I do remember, prior to Ms. Diamond 10:57:20
9 coming, there was conversation taking place about 10:57:24
10 where Ms. Diamond could be properly housed in. 10:57:30
11 Q Okay. 10:57:33
12 A And throughout the search of that proper 10:57:34
13 facility, Coastal was identified, and agreed upon 10:57:39
14 that she'd be housed in N building. 10:57:44
15 Q Okay. You were part of those 10:57:47
16 discussions, or you heard about those discussions 10:57:50
17 after the fact? 10:57:52
18 A I was involved very limited to some 10:57:54
19 discussion, not all of it. 10:58:00
20 Q Okay. And who was -- participated in 10:58:01
21 those discussions that you were a direct 10:58:04
22 participant in? 10:58:06
23 A That would have been Warden Morales -- 10:58:09
24 let's see. At the time, I can't remember -- if 10:58:20
25 that was June of '20, I think would have been 10:58:24

1 Warden Morales and probably Mr. Shepard, the 10:58:28
2 regional director. 10:58:38

3 Q Did Warden Benton ever talk to you about 10:58:39
4 having received a letter from Ms. Diamond's 10:58:45
5 lawyers warning of a potential lawsuit if 10:58:53
6 Ms. Diamond was not protected from sexual assault? 10:58:58

7 A I don't recall that conversation. 10:59:03

8 Q Did Warden Benton ever inform you about a 10:59:07
9 duty to preserve video footage related to any 10:59:13
10 alleged incidents involving Ms. Diamond? 10:59:18

11 A I don't recall that. But preservation of 10:59:30
12 evidence is key in what we do. 10:59:35

13 Q Okay. But you don't recall a specific 10:59:37
14 instruction to ensure that any video relating to 10:59:41
15 alleged incidents involving Ms. Diamond should be 10:59:46
16 preserved? 10:59:50

17 A No, not when it comes down to a specific 10:59:53
18 individual. I don't recall him identifying a 10:59:56
19 specific individual to say we need -- no, I don't 10:59:58
20 recall that. 11:00:01

21 Q Okay. Did you receive any instruction 11:00:01
22 from Mr. Benton about reporting Ms. Diamond's 11:00:04
23 movements with a handheld camera when she was 11:00:08
24 outside the dorm? 11:00:12

25 A Are you asking -- when Diamond would come 11:00:20

1 out of the dormitory going somewhere? 11:00:23

2 Q Yes, sir. 11:00:25

3 A Being recorded? 11:00:26

4 Q Yes, sir. 11:00:27

5 A No, I don't remember it being recorded. 11:00:30

6 Now, Ms. Diamond was escorted to and fro -- to and 11:00:34

7 from her destination, from the building to where 11:00:43

8 she may be in need of going to, and then back to 11:00:48

9 the dormitory. 11:00:51

10 Q And were you involved in ensuring that 11:00:53

11 those escorts took place? 11:00:58

12 A Yes, ma'am. 11:01:03

13 Q Okay. 11:01:05

14 A Most of the time, not all of the time, 11:01:06

15 because I may have been out of the facility on 11:01:09

16 some days, and then I couldn't directly ensure 11:01:11

17 that it would happen. But days that I was in the 11:01:14

18 facility and she needed to go somewhere, I was 11:01:18

19 able to do that. 11:01:21

20 Q And how was she able to request that an 11:01:22

21 escort be made available to her when she needed to 11:01:30

22 go outside the dormitory? 11:01:34

23 A Well, one would be if needed medical 11:01:37

24 assistance, she would fill out a sick call. And 11:01:44

25 then once medical reviewed it and they deemed they 11:01:47

1 needed to see her, then they'd put her on a 11:01:52
2 call-out list. We would go get her and take her 11:01:56
3 to medical. They would treat her request or need. 11:01:59
4 And then we would return her back to the 11:02:02
5 dormitory. 11:02:04

6 Q What about for daily pill calls; did you 11:02:04
7 have officers who were escorting Ms. Diamond every 11:02:07
8 day to get her medications? 11:02:12

9 A Pill call, yeah. There was an officer 11:02:14
10 assigned to the pill call line, an officer 11:02:19
11 assigned to the building, and then an officer 11:02:20
12 would be monitoring the movement as it comes and 11:02:22
13 goes. 11:02:26

14 Q As relates to Ms. Diamond specifically 11:02:27
15 having an escort, did she have an escort to pill 11:02:30
16 call every day? 11:02:33

17 A To the best of my knowledge, yes. 11:02:34

18 Q Okay. Were any of those escorts required 11:02:36
19 to film Ms. Diamond with a handheld camera? 11:02:42

20 A I don't remember instructing anyone to 11:02:49
21 specifically film Diamond. 11:02:52

22 Q Okay. Did you see a memo that 11:02:55
23 Warden Benton sent out directing that Ms. Diamond 11:02:59
24 be filmed whenever she left the dormitory? 11:03:03

25 A Without being able to read one and review 11:03:14

1 it, nothing comes to mind. 11:03:17

2 Q Okay. So do you recall -- were you ever 11:03:20

3 made aware that Ms. Diamond alleged that unit 11:03:40

4 manager Rodney Jackson had sexually harassed her? 11:03:46

5 A I honestly don't remember. 11:04:07

6 Q Okay. 11:04:12

7 A It's been a fairly good while since I've 11:04:12

8 dealt with those. If there was something specific 11:04:15

9 that I could look at that could jog my memory, 11:04:21

10 then maybe I could give a better answer. 11:04:24

11 Q Do you recall, there's -- being asked to 11:04:26

12 preserve video of a dorm meeting in which it was 11:04:31

13 alleged that unit manager Jackson had made some 11:04:38

14 derogatory remarks about Ms. Diamond? 11:04:43

15 A Did I preserve a what? 11:04:49

16 Q Do you recall being requested to preserve 11:04:51

17 video of a dorm meeting in which unit manager 11:04:56

18 Jackson allegedly made derogatory remarks about 11:05:01

19 Ms. Diamond? 11:05:06

20 A No. 11:05:07

21 Q Okay. Were you made aware that 11:05:07

22 Ms. Diamond alleged that she had been the victim 11:05:12

23 of an attempted rape a few weeks after she was 11:05:14

24 placed into her dormitory -- her dormitory in 11:05:18

25 which she was housed for the majority of time she 11:05:25

1 was at Coastal? 11:05:28

2 A That I can recall right now, I can't 11:05:39

3 recall a specific -- I mean, if I had something in 11:05:44

4 front of me to review, I could give a -- I don't 11:05:50

5 remember that. 11:05:54

6 Q Okay. And again, the document that would 11:05:54

7 be helpful to refresh your recollection would be 11:06:01

8 your involvement in investigating an allegation of 11:06:05

9 sexual assault? 11:06:12

10 MR. CHALMERS: Objection, form. 11:06:14

11 A Yeah, it would be -- it would be 11:06:18

12 documented on the incident report if there was 11:06:20

13 something that was reported that might could 11:06:23

14 jog -- but I don't recall a specific incident with 11:06:28

15 that. I'm not saying that there was or wasn't, 11:06:32

16 but I just don't remember a specific one that I 11:06:35

17 would have been involved in. 11:06:38

18 Q Okay. To be clear, you don't recall 11:06:39

19 reviewing any video specifically related to any 11:06:47

20 allegation of sexual assault made on or on behalf 11:06:53

21 of Ms. Diamond; is that right? 11:06:57

22 A Correct. I don't recall a specific one. 11:06:59

23 Q Okay. Do you recall reviewing any video 11:07:02

24 in relation to Ms. Diamond -- or an allegation of 11:07:05

25 sexual assault made by or on behalf of 11:07:10

1 Ms. Diamond? 11:07:13

2 A Again, I really don't know how to answer 11:07:25

3 that. I don't remember specific incidents. I 11:07:27

4 reviewed a lot of video footages of -- in my 11:07:33

5 tenure as deputy warden. To go back and identify 11:07:39

6 this length of time back to a specific incident 11:07:44

7 with Ms. Diamond, it's very hard for me to 11:07:47

8 recollect that. 11:07:50

9 Q If you had, there would be some 11:07:54

10 documentation that you reviewed that video, 11:07:57

11 though, right? 11:08:00

12 A There would be an incident report 11:08:00

13 somewhere. 11:08:02

14 Q And your name would be associated with 11:08:02

15 that incident report based on your involvement in 11:08:05

16 reviewing the video? 11:08:09

17 A Yes. 11:08:10

18 Q Do you recall a time in which anyone said 11:08:14

19 to you that Ms. Diamond alleged that men were 11:08:22

20 sneaking into her room in the overnight hours and 11:08:26

21 sexually assaulting her? 11:08:30

22 A I do -- I do recall having conversation 11:08:37

23 with Diamond, advising Diamond to not allow other 11:08:40

24 offenders to come into her room, that she was the 11:08:45

25 only one to be housing herself, and keep others 11:08:50

1 out. 11:08:55

2 Now, if my memory serves me correctly, 11:08:56

3 you should be able to find some documentation 11:09:02

4 where she may have received some disciplinary 11:09:04

5 reports where she allowed things to go on at her 11:09:08

6 door and inside her door. But I don't have access 11:09:13

7 to any of that stuff. 11:09:17

8 Q Okay. But in terms -- 11:09:19

9 A She was warned many times by staff not to 11:09:21

10 allow folks into her cell, specifically being her 11:09:30

11 intake day when she first come to the facility, it 11:09:36

12 started then. Don't -- she got all the dos and 11:09:38

13 don'ts of what she needed to do. 11:09:43

14 Q Okay. In terms, though, of men coming 11:09:47

15 into her dorm unwelcome, did you recall being made 11:09:53

16 aware that that had occurred on two different 11:10:01

17 occasions in the overnight hours when the doors 11:10:07

18 were supposed to be locked? 11:10:10

19 A No, I don't recall that, and I don't 11:10:13

20 recall, in the conversations that I had -- that 11:10:17

21 I've had with Diamond, which are limited, Diamond 11:10:20

22 ever reporting any issue directly to me that she 11:10:23

23 was having a problem with other offenders in the 11:10:31

24 dormitory or any staff that I recall. 11:10:33

25 Q Do you recall that Ms. Diamond made two 11:10:38

1 PREA reports about men sneaking into her room 11:10:50
2 while she was sleeping and sexually assaulting her 11:10:57
3 in the overnight hours? 11:11:02
4 A Again, through the conversations -- 11:11:06
5 limited conversations that I had with Ms. Diamond, 11:11:09
6 she never reported to me, that I can recall, 11:11:12
7 having any issues with -- any issue with other 11:11:15
8 offenders in the dormitory or any staff, as I can 11:11:20
9 remember. 11:11:24
10 Again, if there was something that was 11:11:25
11 brought up, then there should be an incident 11:11:27
12 report or some document stating such that maybe 11:11:29
13 could jog my memory better. 11:11:38
14 Q Do you recall Mr. Betterson telling you 11:11:40
15 that Ms. Diamond had reported that she had been 11:11:44
16 sexually assaulted in her cell in the overnight 11:11:47
17 hours? 11:11:51
18 A I do remember him saying that he had to 11:11:53
19 do -- that he needed to investigate and do some 11:11:56
20 looking into Ms. Diamond on different things. But 11:12:02
21 the involvement of that was specific to him and 11:12:07
22 not me, as best I remember. 11:12:11
23 Q Okay. Would you agree that if men were 11:12:13
24 able to access Ms. Diamond's cell in the overnight 11:12:19
25 hours, that would be a security concern? 11:12:23

1 A If someone was able to access in the 11:12:27
2 overnight hours? 11:12:30

3 Q Yes. 11:12:31

4 A Rephrase your question, please. 11:12:32

5 Q Would you agree that it would be a 11:12:34
6 security concern if men were able to access each 11:12:36
7 other's cells in the overnight hours? 11:12:41

8 A Yes. 11:12:44

9 Q Okay. And would you want to review video 11:12:45
10 footage if you heard about an allegation that men 11:12:51
11 were accessing other cells in the overnight hours? 11:12:55

12 A Yes. 11:12:59

13 Q Okay. And do you recall, as you sit here 11:13:00
14 today, reviewing any video footage for that 11:13:04
15 particular concern? 11:13:07

16 A No, ma'am, I don't. 11:13:09

17 Q Okay. Were you involved in any way in 11:13:12
18 the decision to designate Ms. Diamond as a 11:13:26
19 security threat individual? 11:13:30

20 A No. 11:13:36

21 Q Okay. 11:13:38

22 A I don't remember being directly involved 11:13:38
23 in that. 11:13:40

24 Q Do you recall a time in which her 11:13:41
25 designation was changed to classify her as a 11:13:45

1 security threat individual? 11:13:49

2 A No, I do not. 11:13:51

3 Q Would you agree that unauthorized people 11:13:52

4 entering a dormitory is a security concern? 11:14:06

5 A Yes. 11:14:10

6 Q And would you agree that if that door 11:14:11

7 that is required to be locked that is the entrance 11:14:18

8 into Ms. Diamond's dormitory -- would you agree 11:14:23

9 that if that were left ajar, that would be a 11:14:29

10 security concern? 11:14:31

11 A Yes, it is. 11:14:32

12 Q In your almost 28 years in corrections, 11:14:33

13 would you agree that identifying a gang leader as 11:14:51

14 having committed some kind of a rule violation can 11:14:56

15 result in retaliation? 11:14:59

16 A Repeat the question. 11:15:05

17 Q Let me ask you a broader question. 11:15:07

18 Were there gang members who were housed 11:15:09

19 at Coastal? 11:15:14

20 A Were there gang members housed at 11:15:17

21 Coastal? 11:15:19

22 Q Yes, sir. 11:15:20

23 A Yes, ma'am. 11:15:21

24 Q Okay. And while you were at Coastal, 11:15:22

25 were there fights that broke out at Coastal? 11:15:27

Transcript of Michael Anderson

September 23, 2022

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1 A Yes, ma'am. We had some issues. 11:15:31

2 Q Okay. Were there stabbings? 11:15:34

3 A Yes, we've had that. 11:15:38

4 Q Do you recall any fatal stabbings? 11:15:42

5 A During my time there, no. 11:15:46

6 Q There were not during your time? 11:15:50

7 A Not that I can recall. 11:15:51

8 MS. LITTRELL: Okay. I would like to 11:16:06

9 take a ten-minute break at this point, review my 11:16:07

10 notes. We may get you out of here earlier than 11:16:09

11 expected, Mr. Anderson. 11:16:12

12 Does that work for everyone, to take -- 11:16:15

13 (Cross-talk.) 11:16:15

14 MS. LITTRELL: Go ahead. 11:16:17

15 THE WITNESS: I said thank you. 11:16:18

16 MS. LITTRELL: I got 11:17 on my -- why 11:16:24

17 don't we meet back at 11:30. Does that work for 11:16:24

18 everyone? 11:16:29

19 MS. CROWDER: Works for me. 11:16:30

20 MR. CHALMERS: That works. 11:16:31

21 VIDEOGRAPHER: The time is 11:16 a.m. We 11:16:32

22 are going off the record. 11:16:35

23 (Recess from 11:16 a.m. until 11:30 a.m.) 11:16:36

24 VIDEOGRAPHER: The time is 11:30 a.m. 11:30:44

25 We're now back on the record. 11:30:56

1	BY MS. LITTRELL:	11:31:01
2	Q Mr. Anderson, a few more questions for	11:31:07
3	you.	11:31:09
4	Do you -- I asked you if you had heard	11:31:10
5	about -- if Mr. Betterson had told you about any	11:31:11
6	letters that he received from Ms. Diamond's	11:31:15
7	lawyers.	11:31:18
8	Do you recall that question?	11:31:19
9	MR. CHALMERS: Counsel, I think you mean	11:31:21
10	Benton.	11:31:24
11	MS. LITTRELL: What did I say?	11:31:25
12	MR. CHALMERS: You said Betterson.	11:31:27
13	MS. LITTRELL: Thank you.	11:31:29
14	Q That is -- Mr. Chalmers is correct. I	11:31:30
15	was referring to Benton. But I'll also ask that	11:31:36
16	question.	11:31:39
17	Did you -- let me just rephrase the whole	11:31:40
18	question.	11:31:44
19	Have you seen any letters from the	11:31:44
20	Southern Poverty Law Center on behalf of	11:31:49
21	Ms. Diamond?	11:31:53
22	A Have I seen a letter from who?	11:31:58
23	Q From the Southern Poverty Law Center,	11:32:02
24	SPLC, on behalf of Ms. Diamond. Were you ever	11:32:05
25	shown any letters from SPLC on behalf of	11:32:09

1 Ms. Diamond? 11:32:14

2 A I really don't -- I really don't know the 11:32:20

3 answer to that. I don't -- I don't know. I don't 11:32:23

4 remember that. 11:32:32

5 Q Does that mean you may have been shown 11:32:34

6 letters from the SPLC on behalf of Ms. Diamond? 11:32:37

7 A It may be possible, but I don't remember. 11:32:43

8 Q You don't remember. 11:32:47

9 You wouldn't remember in what context 11:32:49

10 those letters would have been shown to you? 11:32:50

11 A I don't remember anything about SPLC. 11:32:53

12 Q Do you remember anything about any 11:32:57

13 lawyers sending letters on behalf of Ms. Diamond? 11:33:00

14 Do you remember hearing about any letters on 11:33:05

15 behalf of Ms. Diamond from lawyers? 11:33:08

16 A I didn't -- I'm sure that Diamond got 11:33:12

17 some legal correspondence. Anything specific, I'm 11:33:22

18 not sure of. 11:33:26

19 Q Do you remember, as you sit here today, 11:33:31

20 whether Warden Benton showed you or told you about 11:33:33

21 letters that he had received alleging that 11:33:36

22 Ms. Diamond had been sexually assaulted while at 11:33:42

23 Coastal? 11:33:44

24 A No, not anything specific. 11:33:52

25 Q Do you remember anything at all about 11:33:56

1 those letters? 11:33:58

2 A No, I don't remember anything about 11:34:01

3 any -- any letters. If I had something that I 11:34:06

4 could read, it might refresh my memory, then maybe 11:34:09

5 I could give a better answer. But I don't -- 11:34:13

6 that's -- I just don't remember that, recall -- I 11:34:16

7 just don't recall it. 11:34:23

8 Q Okay. I'm going to ask you about some 11:34:27

9 specific incidents. 11:34:34

10 July 3rd, there was a PREA allegation 11:34:40

11 made that alleged -- were you made aware of a PREA 11:34:52

12 allegation that took place in July, Mr. Anderson, 11:35:05

13 in which someone followed Ms. Diamond into her 11:35:07

14 cell, and two offenders rescued her from that 11:35:12

15 attempted or alleged sexual assault? 11:35:19

16 A July 3rd of 2020? 11:35:27

17 Q Yes, sir. 11:35:29

18 A I don't remember that either. 11:35:35

19 Q Do you recall hearing about a sexual -- 11:35:41

20 four sexual assaults that took place over a 11:35:50

21 three-day period in which Ms. Diamond was raped, 11:35:52

22 forced to perform oral sodomy, and otherwise 11:35:57

23 sexually assaulted four separate times over a 11:36:03

24 three-day period in September? 11:36:07

25 A I don't remember investigating anything 11:36:19

1 in relation to that. There would have to be some 11:36:22

2 document somewhere if that took place. 11:36:27

3 Q And in those documents, if you were 11:36:30

4 involved in the investigation, there would be some 11:36:32

5 reference to your involvement? 11:36:34

6 A Yes. 11:36:37

7 Q Are those allegations -- do those 11:36:42

8 allegations that I just related to you about four 11:36:48

9 sexual assaults in a three-day period -- would you 11:36:52

10 have wanted to know about those in relation to 11:36:54

11 your responsibilities as the deputy warden of 11:36:57

12 security? 11:37:00

13 A Well, it would have been a security 11:37:01

14 issue. Yes, I would -- I'd like to know. My 11:37:03

15 number one mission is safety of the offenders and 11:37:08

16 staff as well. 11:37:11

17 But I just don't remember that. 11:37:12

18 MS. LITTRELL: Okay. That's all the 11:37:27

19 questions I have. 11:37:28

20 MR. HENEFELD: Mr. Anderson, I don't have 11:37:36

21 any questions for you. Thank you very much, sir. 11:37:37

22 THE WITNESS: Thank you. 11:37:40

23 MR. CHALMERS: Mr. Anderson, I have a few 11:37:41

24 questions for you. 11:37:43

25 EXAMINATION 11:37:44

1 BY MR. CHALMERS: 11:37:45

2 Q Again, my name is Roger Chalmers. I 11:37:45

3 represent Commissioner Ward and other of the named 11:37:49

4 defendants in the case. 11:37:52

5 A Yes, sir. 11:37:53

6 Q So a few -- just a couple of questions. 11:37:53

7 When did you first get elevated to a 11:37:57

8 position of deputy warden of security? Do you 11:37:59

9 recall -- 11:37:59

10 (Cross-talk.) 11:38:04

11 A Sir? 11:38:04

12 Q Do you recall the year? 11:38:05

13 A February the 1st of 2018. 11:38:07

14 Q Okay. And that was at Coastal State 11:38:09

15 Prison? 11:38:12

16 A Yes, sir. 11:38:12

17 Q Okay. And you mentioned that your 11:38:13

18 responsibilities included ensuring the safe 11:38:17

19 operation of the facility and also making sure 11:38:19

20 inmates are safe and staff were safe; is that 11:38:22

21 right? 11:38:26

22 A Yes. 11:38:26

23 Q And you made daily rounds Monday to 11:38:26

24 Friday? 11:38:31

25 A I myself made daily rounds Monday through 11:38:32

1 Friday -- 11:38:37

2 (Cross-talk.) 11:38:40

3 Q Sorry. Go ahead. 11:38:40

4 A And then as a duty officer once a week, 11:38:42

5 when my duty role would come up, then I would make 11:38:49

6 rounds specific to that duty week, which would 11:38:54

7 include after hours and weekend rounds. 11:38:56

8 Q Okay. How often did you serve as a duty 11:38:58

9 officer at Coastal? 11:39:02

10 A During my tenure there, from February '18 11:39:05

11 until I was reassigned to Georgia State Prison in 11:39:09

12 November of '20. 11:39:14

13 Q Did you serve as duty officer multiple 11:39:16

14 times in that time period? 11:39:19

15 A Yes, sir. 11:39:21

16 Q Okay. Did the offenders at Coastal State 11:39:21

17 Prison -- did you make them aware of who you were? 11:39:27

18 Did they know -- 11:39:33

19 A Yes, sir. 11:39:33

20 Q Okay. So when you -- 11:39:33

21 A Yes, sir, they knew that I was the deputy 11:39:34

22 warden of security, and I had a good rapport with 11:39:37

23 the vast majority of the population. 11:39:41

24 Again, like I said earlier, I didn't make 11:39:45

25 it a habit of having long-term idle conversations 11:39:47

1 with offenders, but I was approachable enough 11:39:52
2 that, if there was something going on, that 11:39:55
3 offenders could come approach me with a problem, 11:39:58
4 and they knew that I would address it. 11:40:00

5 Q You were asked about lockdown when a 11:40:05
6 dorm -- when N building would go onto lockdown and 11:40:14
7 then when the doors would be opened. And you were 11:40:18
8 asked a few questions about whether offenders 11:40:22
9 could move about freely in the hours of the day 11:40:24
10 when it was not lockdown time. So I have a 11:40:29
11 question about that. 11:40:32

12 Is it correct that an inmate could not go 11:40:33
13 into another inmate's cell even when the doors 11:40:38
14 were open during the day? 11:40:44

15 A Yes. 11:40:46

16 MS. LITTRELL: Objection to the form. 11:40:47

17 Q What was the reason behind that? 11:40:50

18 A For safety issues. You couldn't monitor 11:40:54
19 what was going on inside of a cell from a 11:40:57
20 visibility point at any distance or through the 11:41:04
21 camera surveillance. 11:41:07

22 Q And then you also indicated that an 11:41:09
23 inmate can -- even during non-lockdown hours, say, 11:41:11
24 during the daytime, an offender could go into 11:41:16
25 her -- his cell, her cell, and shut the door, 11:41:20

1 correct? 11:41:24

2 A Yes. If he wanted to be by himself, go 11:41:25

3 to sleep, or use the rest room, or change clothes 11:41:29

4 or whatever, they could go in their cell and do 11:41:34

5 whatever it was they needed to do. 11:41:38

6 Q And by shutting the door, that would lock 11:41:40

7 the door, right? 11:41:42

8 A Yes. 11:41:43

9 Q And by locking the door in that way, an 11:41:44

10 offender on the other side of the door in the 11:41:47

11 dormitory could not get in the cell, right? 11:41:49

12 A That's right. 11:41:51

13 Q But the inmate could then call for the 11:41:52

14 dorm officer or somebody else like yourself or 11:41:56

15 someone making rounds to open the cell door later 11:41:58

16 on in the day if that inmate wanted to come back 11:42:02

17 out? 11:42:05

18 A Yes, sir. 11:42:05

19 Q Did Diamond -- 11:42:09

20 A Excuse me. 11:42:09

21 Q Did Diamond ever make any kind of 11:42:17

22 complaint to you? 11:42:19

23 A Like I stated earlier, I had a few 11:42:23

24 conversations with Diamond at different times and 11:42:26

25 different places in the facility. 11:42:32

1 I don't recall a specific time that 11:42:35
2 Diamond made a specific complaint to me about 11:42:36
3 anything that I felt would be of a security 11:42:43
4 concern or a safety concern. 11:42:47

5 Our conversations that I had with Diamond 11:42:50
6 were normally good, gave praise of staff, gave 11:42:53
7 praise of processes that we had implemented and 11:42:59
8 the housing arrangement that she had at the time. 11:43:04
9 My interaction with Diamond was, for the most 11:43:10
10 part, positive. 11:43:14

11 Q Did Diamond ever tell you that she could 11:43:18
12 not speak freely or openly about any concerns 11:43:21
13 because of fear of retaliation by staff? 11:43:26

14 A Not to me, she never did. 11:43:32

15 Q Did Diamond ever tell you that she could 11:43:34
16 not speak freely or openly about concerns because 11:43:38
17 of fear of gang members at Coastal? 11:43:41

18 A I don't remember her saying anything like 11:43:51
19 that, no. 11:43:55

20 She was -- she was very vocal with a lot 11:43:59
21 of people in the dormitory. I didn't see where 11:44:08
22 she didn't communicate or talk to other people in 11:44:13
23 the dormitory, either when she was outside of the 11:44:20
24 unit, the dormitory unit on a particular escort or 11:44:23
25 something, I didn't see where she refrained from 11:44:27

1	having conversations or speaking to anyone.	11:44:33
2	Q You mentioned that you've reviewed a lot	11:44:38
3	of video footage in your career; is that right?	11:44:41
4	A Yes.	11:44:45
5	Q And that would include a lot of video	11:44:45
6	footage in your time as deputy warden?	11:44:48
7	A Yes, sir.	11:44:50
8	Q Every time you viewed video footage, did	11:44:52
9	you save it, download it, put it on a CD?	11:44:56
10	A To the best of my knowledge, everything	11:45:00
11	that I reviewed was preserved, yes.	11:45:01
12	Q Okay. There weren't times when you would	11:45:05
13	review video footage and determine there was not a	11:45:08
14	need to save it to a CD?	11:45:10
15	A It's possible, but I don't recall doing	11:45:14
16	that.	11:45:25
17	MR. CHALMERS: I don't have anything	11:45:31
18	further, Mr. Anderson. Thank you very much for	11:45:32
19	your time.	11:45:33
20	THE WITNESS: Thank you, sir.	11:45:34
21	MS. LITTRELL: I'll have some follow-up	11:45:36
22	before we're done, some redirect.	11:45:39
23	Ms. Crowder?	11:45:46
24	MS. CROWDER: I don't have any questions.	11:45:49
25	Thank you.	11:45:51

1	THE WITNESS:	I'm sorry. I've got to	11:45:51
2	get --	someone opened the door. I had to ask them	11:45:54
3	to step	out.	11:45:56
4	MS. LITTRELL:	Thank you.	11:45:57
5	And are	they -- did they step out?	11:45:58
6	THE WITNESS:	Yeah. They just cracked	11:46:01
7	the door	open and spoke to me and then closed the	11:46:02
8	door is	all that happened.	11:46:05
9	MS. LITTRELL:	Okay.	11:46:06
10	EXAMINATION		11:46:08
11	BY MS. LITTRELL:		11:46:09
12	Q	Just a few quick follow-up questions, and	11:46:09
13	then we'll	let you get on with your day.	11:46:11
14	You answered	some questions about	11:46:14
15	Ms. Diamond's	dorm, and you testified that doors	11:46:21
16	were supposed	to lock from the inside when they	11:46:23
17	were closed,	correct?	11:46:28
18	A	When you pull the door shut, the door	11:46:30
19	closes. If	you -- on the inside of the door, you	11:46:33
20	pull it shut;	if you're on the outside of the	11:46:37
21	door, you	push it shut. Once it's closed, it	11:46:39
22	doesn't	matter which side of the door you're on,	11:46:44
23	it's	closed.	11:46:47
24	Q	And is it locked, was my understanding	11:46:48
25	was your	earlier testimony, that it would	11:46:51

1	automatically lock when it's closed?	11:46:54
2	A Yes, it will lock when it's closed.	11:46:55
3	Q You don't know whether Ms. Diamond's door	11:46:58
4	every day was functioning in terms of the locking	11:47:03
5	mechanisms as it was supposed to be, right?	11:47:08
6	A Every day at every -- no, I can't -- not	11:47:14
7	every day of the week, no, I can't honestly say	11:47:18
8	that.	11:47:20
9	Q And on the inside of the dorm, is there a	11:47:22
10	call button to request to be let out of dorms?	11:47:26
11	A To the best of my recollection, yes.	11:47:31
12	Q There was a call button?	11:47:34
13	A The best that I can remember, there was.	11:47:36
14	Q In every cell?	11:47:39
15	A The best that I can remember, there was.	11:47:43
16	Q And we talked about -- you testified that	11:47:49
17	Ms. Diamond did not tell you about any particular	11:47:54
18	sexual assaults, right?	11:47:57
19	A I don't -- again, in the conversations	11:47:59
20	that me and her had, which were mostly positive	11:48:01
21	conversations, I don't recall her reporting to me	11:48:06
22	any major issues involving her.	11:48:11
23	Q Are you aware that Ms. Diamond was	11:48:14
24	diagnosed as having post-traumatic stress	11:48:16
25	disorder?	11:48:20

1 A You broke up just a little bit. 11:48:20

2 Q Sure. Let me repeat the question. 11:48:22

3 Are you aware that Ms. Diamond was 11:48:24

4 diagnosed with post-traumatic stress disorder? 11:48:28

5 A I'm not familiar with her diagnosis of 11:48:31

6 mental health. 11:48:36

7 Q Okay. 11:48:36

8 A I do know she was seen by mental health 11:48:37

9 on a routine basis, but her specific diagnosis, I 11:48:41

10 don't know that. 11:48:44

11 Q Did anyone make you aware that she had 11:48:44

12 been diagnosed with PTSD as a result of multiple 11:48:48

13 sexual assaults in GDC custody? 11:48:54

14 MR. CHALMERS: Objection, form. 11:48:56

15 Q Did anyone make you aware of that 11:48:57

16 diagnosis? 11:49:00

17 A Again, I don't recall her specific mental 11:49:03

18 health diagnosis. 11:49:05

19 Q Would you agree that it can be traumatic 11:49:07

20 to talk about sexual assaults? 11:49:13

21 MR. CHALMERS: Objection. 11:49:15

22 A Sure. 11:49:16

23 Q Sorry. Can you repeat your answer? Can 11:49:16

24 you repeat your answer? 11:49:21

25 A The question was what? 11:49:22

1 Q Would you agree that it can be traumatic 11:49:24
2 to talk about sexual assaults that you have 11:49:27
3 experienced? 11:49:30
4 MR. CHALMERS: Same objection. 11:49:31
5 A Yes. 11:49:32
6 Q You're answering at the same time 11:49:35
7 Mr. Chalmers is speaking, so I don't know that I'm 11:49:39
8 getting your answer. 11:49:41
9 Is it "yes"? 11:49:42
10 A You said do I think it's traumatic -- 11:49:42
11 Q To talk about -- 11:49:48
12 A -- to talk about sexual harassment? 11:49:49
13 Q No, sexual assaults, having been the 11:49:51
14 victim of a sexual assault. 11:49:53
15 A Yes. 11:49:57
16 Q Okay. Are you aware that Ms. Diamond 11:50:03
17 reported to others that she was fearful of 11:50:07
18 providing details of sexual assault because she 11:50:12
19 was afraid of gang retaliation? 11:50:16
20 A No, ma'am. 11:50:20
21 Q No one ever told you that she had 11:50:21
22 reported that she was afraid to provide details 11:50:23
23 because she was afraid of gang retaliation? 11:50:27
24 A No, ma'am. I don't -- I don't recall 11:50:31
25 anyone telling me that. 11:50:34

1 Q And are you familiar with the term 11:50:36
2 "snitching"? 11:50:43
3 A The term "snitching"? 11:50:44
4 Q Yes, sir. 11:50:47
5 A Yes, ma'am. 11:50:48
6 Q What does that mean in the prison 11:50:49
7 context? 11:50:51
8 A It means you just tell something on 11:50:55
9 someone else. 11:50:58
10 Q And you tell someone -- you tell 11:50:59
11 something to GDC officials or police, correct? 11:51:03
12 A Not specifically, no. 11:51:08
13 Q So snitching would include telling 11:51:10
14 another offender -- 11:51:15
15 A An offender could say something to 11:51:15
16 another offender, and in this environment, they 11:51:18
17 could perceive that as snitching as well. 11:51:22
18 Q And can snitching result in retaliation? 11:51:25
19 A I can't honestly answer that. I'm not 11:51:37
20 the one -- someone's perception is their reality, 11:51:41
21 how they perceive something, or if they take 11:51:52
22 action, that's on that individual personally. I 11:51:57
23 can't speak on that. 11:51:59
24 Q Okay. In your almost 28-year career in 11:52:02
25 corrections, have you been told by any offender 11:52:06

1 that snitching on another offender can be 11:52:16

2 dangerous? 11:52:19

3 A I've heard offenders say they done a 11:52:23

4 specific thing because someone snitched. But 11:52:26

5 again, that's that individual's actions. 11:52:29

6 MS. LITTRELL: Okay. Thank you. That's 11:52:41

7 all the questions I have. 11:52:42

8 THE WITNESS: Thank you. 11:52:43

9 VIDEOGRAPHER: The time is 11:52 a.m. We 11:52:50

10 are going off the record. This completes today's 11:52:54

11 deposition. 11:52:56

12 COURT REPORTER: Counsel, If I can just 11:52:57

13 confirm your transcript orders. Are you ordering 11:53:16

14 a transcript, do you need a rough draft, and do 11:53:16

15 you need the final transcript sooner than two 11:53:16

16 weeks? 11:53:19

17 MS. LITTRELL: We do not need a rough. 11:53:19

18 And two weeks will be fine. We'll take a standard 11:53:25

19 delivery. 11:53:39

20 MR. HENEFELD: Same for me, standard 11:53:43

21 delivery. There was no exhibits, so... 11:53:44

22 MR. CHALMERS: Same for me. No rough. 11:53:50

23 And I don't need the video, just the hard 11:53:52

24 transcript, please. Thanks. 11:53:55

25 Mr. Anderson, thanks very much again for 11:53:58

1 your time.

11:54:00

2 THE WITNESS: Thank you, sir.

11:54:00

3 COURT REPORTER: Ms. Crowder, are you

11:54:00

4 ordering a transcript?

11:54:20

5 MS. CROWDER: No, ma'am. I'm just going

11:54:20

6 to facilitate the errata.

11:54:21

7 (Off the record at 11:54 a.m.)

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ACKNOWLEDGEMENT OF DEPONENT

I, MICHAEL ANDERSON, do hereby acknowledge that I have read and examined the foregoing testimony, and the same is a true, correct and complete transcription of the testimony given by me, and any corrections appear on the attached errata sheet signed by me.

(DATE)

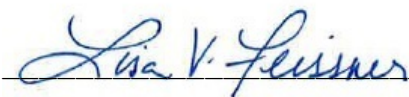
(SIGNATURE)

C E R T I F I C A T E

I, Lisa V. Feissner, RDR, CRR, CLR, do hereby certify that the witness was first duly sworn by me and that I was authorized to and did report said proceedings.

I further certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; that reading and signing was requested; and that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken; and that I have no interest, financial or otherwise, in this case.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of SEPTEMBER, 2022.



Lisa V. Feissner, RDR, CRR, CLR

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

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EXHIBIT 17

FILED
UNDER SEAL

EXHIBIT 18

the needs of the case, and/or that is overly broad, unduly burdensome or not reasonably calculated to lead to the discovery of admissible evidence.

3. Defendants object to each Document Request to the extent that it seeks information or documents protected from disclosure by the attorney-client privilege, deliberative process privilege, attorney work product doctrine, or any other applicable privilege or legal protection from disclosure. Any disclosure of such protected material is inadvertent and is not a waiver of an applicable right or privilege.

4. Defendants object to each Document Request to the extent that it seeks information or documents not in their possession, custody or control.

5. Defendants object to each Document Request to the extent that it is not limited to a time period relevant to this case.

6. Defendants' investigation and development of facts and circumstances relating to this action is ongoing. The responses and objections herein are made without prejudice to, and are not a waiver of, Defendants' right to supplement, clarify, revise, or correct any of the responses and objections herein based on information or documents obtained or made available in discovery, and to use and rely on such other facts or documents in discovery and at trial.

7. Defendants incorporate by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Pursuant to Fed. R. Civ. P. 34(b)(2)(C), unless specifically noted below, the above stated

general objections are preserved but no responsive materials are being withheld on the basis of the general objections.

OBJECTIONS AND RESPONSES TO REQUESTS FOR PRODUCTION

Subject to the foregoing General Objections, Defendant Timothy Ward responds to the Document Requests as follows:

DOCUMENT REQUEST 9

Copies of all documents that refer, reflect or relate to the installation, maintenance, service requests, reports and/or orders, and work requests, reports and/or orders for all video cameras in N-building at Coastal State Prison since January 01, 2019 to August 1, 2022, including any and all documentation relating to the “camera project” to which Defendant Ahmed Holt testified to during his deposition on May 31, 2022 in this case.

RESPONSE

Defendant objects to this Document Request, and to the accompanying definitions and instructions, to the extent that it purports to be served upon or call for response from other persons, including others who are not parties to the action, as permitted by Fed. R. Civ. P. 34. Subject to the stated objections, Defendants previously have produced all of the known documentation for the cameras in N building at Coastal State Prison.

Subject to the foregoing General Objections, Defendant Ahmed Holt responds to the Document Requests as follows:

DOCUMENT REQUEST 5

Copies of any documents that show the following information related to any consideration You gave to Ashley Diamond’s request for a female facility placement, to include:

- a. The number or percentage of close security inmates housed at Lee Arrendale State Prison, Pulaski State Prison, and Coastal State Prison on the first and last day of each month from November, 1, 2019 to August 1, 2022;
- b. The facility classification at Lee Arrendale State Prison, Pulaski State Prison, and Coastal State Prison on November 1, 2019 and on any subsequent date on which You are aware that such classification changed between November 2, 2019 and August 1, 2022;
- c. The “camera situation,” as that phrase was defined by You at the time you testified to same during your May 31, 2022 deposition in this case (Deposition of Ahmed Holt, 76:2-76:9), at Lee Arrendale State Prison, Pulaski State Prison, and Coastal State Prison during the following time frame: At the time You first considered this topic and on any date on which You became aware that such considerations changed between November 2, 2019 and August 1, 2022;
- d. The number of cameras in the dorms that house single and double cells at Lee Arrendale State Prison and Pulaski State Prison on November 1, 2019 and on any subsequent date on which You are aware that such numbers changed between November 2, 2019 and August 1, 2022;
- e. The housing configurations at Lee Arrendale State Prison and Pulaski State Prison, to include the number of single and double cells, on November 1, 2019 and on any date on which You are aware that any such configurations changed between November 2, 2019 and August 1, 2022;
- f. Considerations relevant to the “medical departments,” as that phrase was defined by You at the time you testified to same during your May 31, 2022 deposition in this case (Deposition of Ahmed Holt, 76:2-76:9), at Lee Arrendale State Prison, Pulaski State Prison, and Coastal State Prison during the following time frame: At the time You first considered this topic and on any date on which You are aware that such considerations changed between November 2, 2019 and August 1, 2022;
- g. Considerations relevant to the “mental health departments,” as that phrase was defined by You at the time you testified to same during your May 31, 2022 deposition in this case (Deposition of Ahmed Holt, 76:2-76:9), at Lee Arrendale State Prison, Pulaski State Prison, and Coastal State Prison during the following time frame: At the time You first considered this topic and on any date on which You are aware that such considerations changed between November 2, 2019 and August 1, 2022;
- h. The “local hospitals related to those facilities,” as that phrase was defined by You at the time you testified to same during your May 31, 2022 deposition in this case (Deposition of Ahmed Holt, 76:2-76:9), during the following time frame: At the time You first considered this topic and on any date on which You became aware that such information changed between November 1, 2019 and August 1, 2022.

RESPONSE

Defendant objects to this Document Request, and to the accompanying definitions and instructions, to the extent that it purports to be served upon or call for response from other persons, including others who are not parties to the action, as permitted by Fed. R. Civ. P. 34. Defendant further objects to this Document Request on the basis that it is vague and ambiguous in several of its parts. Subject to the stated objections, Defendant answers this Document Request as follows: I did not review documents as part of Ashley Diamond's facility placement other than as previously has been set forth in the responses to written discovery, declarations, and testimony previously given in this case, and incorporate those prior discovery responses and testimony as part of this response. Defendant has no additional responsive documents beyond the documents that previously have been produced in the case.

DOCUMENT REQUEST 6

To the extent not produced in response to Request No. 5, above, copies of any and all documents, including communications, notes, memorandum, and related items, that You referenced or referred to in Your response to Plaintiff's Interrogatory No. 3, served to you on August 26, 2022.

RESPONSE

Defendant objects to this Document Request, and to the accompanying definitions and instructions, to the extent that it purports to be served upon or call for response from other persons, including others who are not parties to the action, as permitted by Fed. R. Civ. P. 34. Subject to the stated objections, Defendant has no responsive documents.

Respectfully submitted,

Christopher M. Carr 112505
Attorney General

Loretta L. Pinkston-Pope 580385
Deputy Attorney General



Roger A. Chalmers 118720
Senior Assistant Attorney General

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CERTIFICATE OF SERVICE

I certify that on this date I served the foregoing by electronic mail on the
following counsel of record:

Andrea Chinyere Ezie
Paul Henefeld
Elizabeth Littrell
Scott D. McCoy

This 28th day of September, 2022.



Roger A. Chalmers

EXHIBIT 19



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Transcript of Carl Betterson

Date: July 15, 2022

Case: Diamond -v- Ward, et al.

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Email: transcripts@planetdepos.com

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1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF GEORGIA
3

4 -----x
5 ASHLEY DIAMOND, :
6 Plaintiff, : Civil Action No.
7 v. : 5:20-cv-00453-MTT
8 TIMOTHY WARD, et al., :
9 Defendants. :
10 -----x

11
12
13 VIDEOTAPED DEPOSITION OF CARL BETTERSON

14 Conducted Virtually

15 Friday, July 15, 2022

16 10:04 a.m. EDT
17
18
19
20

21 Job No.: 455529

22 Pages: 1 - 259

23 Reported by: Monique Vouthouris, CCR, RPR, CRR
24
25

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VIDEOTAPED DEPOSITION OF CARL BETTERSON
pursuant to subpoena, conducted virtually via Zoom
Videoconference, before Monique Vouthouris, CCR,
RPR, CRR, Notary Public in and for the States of New
Jersey and New York.

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GRACE ATCHISON, LACHESHA SMITH, and

RODNEY JACKSON:

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15 Atlanta, Georgia 30334

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17
18
19 ALSO PRESENT:

20 CHARLES JONES, Office of AG of Georgia

21 JEAN-LOUIS ZIESCH, Planet Depos Videographer

22 THEO GREEN, Planet Depos Technician

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C O N T E N T S

EXAMINATION OF CARL BETTERSON	PAGE
By Ms. Littrell	9

E X H I B I T S

(Attached to transcript.)

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Transcript of Carl Betterson
Conducted on July 15, 2022

6

E X H I B I T S C O N T I N U E D

(Attached to transcript.)

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E X H I B I T S C O N T I N U E D

(Attached to transcript.)

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1	P R O C E E D I N G S	
2		10:04:25
3	THE VIDEOGRAPHER: It is the beginning of	10:04:25
4	media number 1 of the videotaped deposition of Carl	10:04:26
5	Betterson in the matter of Ashley Diamond, et al.,	10:04:31
6	versus Timothy Ward, et al., in the U.S. District	10:04:35
7	Court for the Middle District of Georgia, Case	10:04:39
8	Number 5:20-cv-00453-MTT.	10:04:51
9	Today's date is July 15, 2022. The time	10:04:52
10	on the video monitor is 10:04 a.m. Eastern Standard	10:04:56
11	Time. The certified videographer today is	10:05:01
12	Jean-Louis Ziesch, representing Planet Depos. This	10:05:07
13	video deposition is taking place remotely.	10:05:09
14	Would counsel please identify yourself and	10:05:12
15	state whom you represent.	10:05:14
16	MS. LITTRELL: Beth Littrell representing	10:05:16
17	the plaintiff, Ashley Diamond.	10:05:18
18	MR. FLEISHER: Aaron Fleisher, Southern	10:05:24
19	Poverty Law Center, also on behalf of Ashley	10:05:26
20	Diamond.	10:05:27
21	MR. HENEFELD: Paul Henefeld on behalf of	10:05:29
22	Dr. Javel Jackson.	10:05:31
23	MR. CHALMERS: Roger Chalmers. I	10:05:34
24	represent the other defendants in the case other	10:05:36
25	than Javel Jackson.	10:05:38

Transcript of Carl Betterson
Conducted on July 15, 2022

9

1	MS. CROWDER: Elizabeth Crowder for Carl	10:05:41
2	Betterson.	10:05:46
3	THE VIDEOGRAPHER: The court reporter	10:05:47
4	today is Monique Vouthouris representing Planet	10:05:49
5	Depos.	10:05:52
6	Would the court reporter please swear in	10:05:52
7	the witness.	10:05:54
8	CARL BETTERSON,	10:06:15
9	being first duly sworn or affirmed by the Notary,	10:06:15
10	testifies as follows:	10:06:26
11	EXAMINATION	10:06:26
12	BY MS. LITTRELL:	10:06:28
13	Q And, Mr. Betterson, thank you for being	10:06:30
14	here.	10:06:32
15	Can you also state for the record your	10:06:34
16	date of birth?	10:06:36
17	A [REDACTED]	10:06:38
18	Q And is there any reason why you cannot	10:06:41
19	give full and honest answers to the questions that I	10:06:45
20	ask you here today?	10:06:50
21	A No, ma'am.	10:06:51
22	Q Okay. You're not under the influence of	10:06:54
23	any medications or alcohol?	10:06:56
24	A No, ma'am.	10:07:00
25	Q Okay. So have you been deposed before?	10:07:02

1 answer the question, I will assume that you 10:08:21
2 understood the question. Is that fair? 10:08:23
3 A Yes, ma'am. 10:08:25
4 Q Okay. And if you want to take a break, 10:08:26
5 just let me know. It's not a problem. My only 10:08:29
6 request is that if there's a question pending, 10:08:31
7 answer that question and let me know that you would 10:08:34
8 like to take a break. Is that fair? 10:08:37
9 A Yes, ma'am. 10:08:39
10 Q Let's see. So because we're taking this 10:08:42
11 deposition remotely with a court reporter, there's a 10:08:49
12 few special things to keep in mind. One is you have 10:08:51
13 to agree to keep your camera and audio -- camera, 10:08:54
14 audio and video on while we're on the record. Can 10:08:56
15 you do that? 10:08:59
16 A Yes, ma'am. 10:09:00
17 Q And do you understand that this deposition 10:09:01
18 is being recorded? 10:09:04
19 A I do. 10:09:05
20 Q Do you understand that your testimony 10:09:07
21 today could be used in the case and at trial? 10:09:09
22 A I do. 10:09:12
23 Q Will you agree to keep your camera at this 10:09:13
24 angle and view throughout the deposition? 10:09:16
25 A Yes. 10:09:19

1 Q Will you agree not to communicate with 10:09:19
2 anyone else by any means while we're on the record? 10:09:22
3 A Yes. 10:09:26
4 Q Do you agree not to look at anything but 10:09:27
5 the Zoom program on your computer while we're on the 10:09:30
6 record? 10:09:33
7 A I do. 10:09:34
8 Q Okay. Do you have any programs other than 10:09:35
9 the Zoom open on your computer right now? 10:09:36
10 A Yes. I have the -- what is this, Google 10:09:40
11 Chrome open I guess to open up the Zoom, access my 10:09:49
12 email. 10:09:53
13 Q Okay. Will you agree not to look at any 10:09:53
14 emails if they pop up? 10:09:55
15 A Correct. 10:09:59
16 Q Yeah. I don't want you to close the email 10:09:59
17 because you may need to go back if you drop off to 10:10:01
18 get back on to Zoom. 10:10:05
19 A Um-hmm. 10:10:08
20 Q But if you will agree not to read any 10:10:09
21 emails so we have your full, undivided attention, 10:10:12
22 and, because as you've agreed, you won't communicate 10:10:15
23 with anybody during the deposition; right? 10:10:17
24 A Right. So my son is here, he's autistic. 10:10:20
25 Q Okay. 10:10:20

Transcript of Carl Betterson
Conducted on July 15, 2022

13

1 A So I need to make you guys aware of that. 10:10:25

2 Q Thank you. 10:10:25

3 A But I had a conversation with him last 10:10:27

4 night, and if he wakes up and comes down this 10:10:30

5 morning, I may have to have him go back upstairs or 10:10:33

6 something of that nature. 10:10:33

7 Q Sure. Just let us know what's happening 10:10:36

8 and what you need. Obviously, family first, so if 10:10:39

9 you need to take a break to speak with him, or for 10:10:42

10 any other reason, just let us know. 10:10:45

11 A Okay. 10:10:47

12 Q Okay. And if anything pops up on your 10:10:47

13 screen, will you -- will you let me know? 10:10:50

14 A Yes. 10:10:51

15 Q If you have some text or something crazy 10:10:52

16 comes up. 10:10:55

17 Where are you testifying from today? 10:10:55

18 A My residence in Hinesville, Georgia. 10:10:57

19 Q Okay. And where -- where in that home? 10:11:03

20 Are you in a separate space? Are you in an open 10:11:05

21 space? 10:11:07

22 A In the kitchen. 10:11:08

23 Q Okay. Is there anyone in the room with 10:11:09

24 you? 10:11:12

25 A No, ma'am. 10:11:12

Transcript of Carl Betterson
Conducted on July 15, 2022

14

1 Q Okay. And other than your son, might 10:11:14
2 there be anyone else who could interrupt you by 10:11:16
3 coming into the room or overhear what we're talking 10:11:20
4 about? 10:11:24

5 A My fiancée is a nurse on base, so she 10:11:24
6 usually pops in during lunch, and that's usually 10:11:27
7 maybe about 1, 12:30. 10:11:30

8 Q Okay. Got it. And, again, just -- just 10:11:35
9 let us know if that happens, and if we need to take 10:11:37
10 a break in order to accommodate household members 10:11:40
11 needing to get in the kitchen and make you lunch or 10:11:45
12 for themselves. 10:11:49

13 Let's see. Do you have any electronic 10:11:51
14 devices other than the computer turned on with you 10:11:53
15 in the room? 10:11:55

16 A I have my mouse and my phone is here. 10:11:56

17 Q Okay. Is your phone on or off? 10:12:02

18 A It is on. 10:12:05

19 Q Okay. Will you either turn the phone off, 10:12:08
20 unless you need to be on call for some reason? 10:12:12

21 A By off, do you mean completely off? 10:12:17

22 Q So, well, let's begin -- 10:12:21

23 A I'll just turn it all the way off. I 10:12:24
24 don't have an issue it should be on. 10:12:30

25 Q That would be great. 10:12:30

1 A I just have to figure out how to turn an 10:12:31
2 iPhone off. It's not as simple as you think it is. 10:12:35
3 MR. CHALMERS: The down volume button and 10:12:41
4 the button on the right side. I just learned that 10:12:43
5 yesterday. At the same time. 10:12:46
6 A Okay. There we go. 10:12:55
7 Q Wonderful. Thank you. 10:12:58
8 Okay. Finally, if you have any connection 10:13:00
9 issues, like an audio lag or a video freeze, call 10:13:04
10 the Planet Depos number and we'll get it working 10:13:08
11 again for you I think is the best way to give you -- 10:13:13
12 I can give you that number, but I don't anticipate 10:13:18
13 that you have anything to write that down with. 10:13:21
14 A I can grab something. 10:13:26
15 Q Okay. Could have put it in your phone if 10:13:27
16 I hadn't made you turn it off. Sorry about that. 10:13:39
17 MR. CHALMERS: Counsel, while we're 10:13:54
18 waiting, can we agree that the home address will be 10:13:55
19 redacted, of course, from public filings, but also 10:13:59
20 that the home address stated on the record will be 10:14:02
21 treated as privileged and attorneys' eyes only and 10:14:06
22 will not be distributed to your client or any other 10:14:09
23 offender? 10:14:12
24 MS. LITTRELL: We can certainly agree -- 10:14:13
25 well, yes. Yes -- 10:14:16

Transcript of Carl Betterson
Conducted on July 15, 2022

16

1	MR. CHALMERS: There's no reason your	10:14:17
2	client needs to know the home address; correct?	10:14:19
3	MS. LITTRELL: Of course, yes. We need to	10:14:20
4	know the state and city, and that doesn't seem to be	10:14:23
5	a security concern. But I also don't see any reason	10:14:28
6	not to fully agree to your request.	10:14:31
7	THE WITNESS: It's a security concern for	10:14:33
8	me. I'm a former deputy warden, and, I mean, that's	10:14:34
9	a serious security concern for me and my family.	10:14:39
10	MR. CHALMERS: Just so we're clear,	10:14:42
11	counsel, can you just confirm that the address will	10:14:44
12	not be distributed to any -- to your client or any	10:14:47
13	offender?	10:14:50
14	MS. LITTRELL: Sure. Yes.	10:14:51
15	MR. CHALMERS: Thank you.	10:14:53
16	A The number?	10:14:54
17	Q It is [REDACTED].	10:14:56
18	A Thank you.	10:15:03
19	Q Thank you. Do you have any other	10:15:04
20	documents in front of you right now?	10:15:10
21	A No, ma'am.	10:15:12
22	Q So a little bit more about the deposition.	10:15:15
23	You say you've never been deposed before. Have you	10:15:19
24	ever testified under oath?	10:15:22
25	A Yes, ma'am.	10:15:23

1 Q Okay. And when was that? 10:15:24

2 A I testified during an incident at -- in 10:15:26

3 Albany, Georgia, maybe about six years ago, also in 10:15:35

4 an Ashley Diamond case. 10:15:39

5 Q And was that this Ashley Diamond case or a 10:15:40

6 prior Ashley Diamond case? 10:15:44

7 A This Ashley Diamond case. 10:15:45

8 Q And by the testimony that you're referring 10:15:47

9 to, is that the May 6th hearing in Macon -- 10:15:51

10 A Yes, ma'am. 10:15:56

11 Q -- that occurred? Okay. 10:15:57

12 And the other testimony that you gave, was 10:16:00

13 that in a court proceeding? 10:16:03

14 A Yes, ma'am. 10:16:04

15 Q Okay. And were you a defendant or a 10:16:05

16 witness? 10:16:07

17 A I believe I was a witness. 10:16:08

18 Q What was the name of that case, if you 10:16:12

19 recall? 10:16:15

20 A I think it was Ashley Diamond versus 10:16:15

21 Timothy Ward. 10:16:18

22 Q Okay. And I believe you testified that 10:16:20

23 you -- that there was another incident in which you 10:16:23

24 testified, is that right, besides Ms. Diamond's 10:16:26

25 earlier hearing? 10:16:29

1 Q In terms of preparing for today's 10:17:42
2 deposition, other than speaking with your attorney, 10:17:46
3 what other steps did you take, if any, to prepare 10:17:49
4 for today's deposition? 10:17:53

5 A I reviewed some -- some of my notes that I 10:17:54
6 did have. Just it's been almost two years ago, so 10:17:57
7 just not a whole lot. I'm no longer working for the 10:18:02
8 Department of Corrections, so I kind of left a lot 10:18:07
9 of that stuff behind and documents at that facility. 10:18:10
10 So it wasn't a whole lot of preparation that I could 10:18:13
11 actually do. 10:18:16

12 Q When you say you looked at your notes, do 10:18:17
13 you have a journal that you keep of some sort? 10:18:21

14 A No, ma'am. So I was provided with records 10:18:23
15 of the court proceedings to kind of just go over 10:18:27
16 what I talked about in the last proceeding. 10:18:32

17 Q Okay. And did you take notes on the 10:18:37
18 transcript or something? 10:18:39

19 A I did not. 10:18:41

20 Q Okay. So can you just describe a little 10:18:43
21 bit more what you mean by you reviewed your notes? 10:18:45

22 A Just what was provided to me, I considered 10:18:48
23 those notes. 10:18:53

24 Q Okay. Thank you. And were those GDC 10:18:55
25 records that you looked at? 10:18:57

1 A No, ma'am. Court transcripts. I don't 10:18:59
2 have access to any of that information anymore. 10:19:01
3 Q So do you know Ashley Diamond? 10:19:04
4 A As far as working for the Department of 10:19:12
5 Corrections, yes, in that aspect I do. 10:19:17
6 Q Okay. And you know she's the plaintiff in 10:19:20
7 this lawsuit; right? 10:19:24
8 A I do. 10:19:24
9 Q Did you know that she had sued the Georgia 10:19:25
10 Department of Corrections before this lawsuit? 10:19:28
11 A I did. I learned about that many years 10:19:29
12 ago when I started at Autry State Prison. 10:19:32
13 Q And what did you hear about that lawsuit? 10:19:36
14 A Not a lot. That there was some incidents 10:19:39
15 at a facility maybe and reported it and nothing was 10:19:47
16 done. This, like I said, was just hearsay at that 10:19:54
17 point. Some of the information actually came from 10:19:58
18 inmates in that institution at the time, I believe. 10:20:03
19 And just received a large lump sum of money for it. 10:20:06
20 So it wasn't anything definitive or anything 10:20:11
21 specific. I guess nobody knew. There was a lot of 10:20:14
22 speculation. 10:20:17
23 Q Okay. In terms of what you heard, did you 10:20:18
24 understand that she had been sexually assaulted in a 10:20:22
25 prison? 10:20:26

1 MR. CHALMERS: Objection. 10:20:27

2 A I believe so. I can't be a hundred 10:20:28

3 percent. Like I said, it was a long time ago. But 10:20:30

4 I'm fairly certain I would have known that. 10:20:33

5 Q Okay. Were you aware that her lawsuit led 10:20:36

6 to any policy changes with respect to transgender 10:20:43

7 inmates? 10:20:48

8 A I did not. At that time starting in the 10:20:48

9 Department of Corrections was a culture shock. So 10:20:53

10 my focus was -- was primarily on just case 10:20:56

11 management, trying to figure out, and at that time 10:20:59

12 even if that was something that I wanted to do. I'm 10:21:06

13 glad I stuck with it. But I didn't -- you know, she 10:21:09

14 wasn't at my institution, so I didn't really get 10:21:12

15 involved in that. 10:21:15

16 Q Okay. And you say that it was a culture 10:21:16

17 shock. 10:21:20

18 A Right. 10:21:21

19 Q Tell us some more about what you mean by 10:21:22

20 that. 10:21:24

21 A You know, working -- I came from child 10:21:24

22 protective services. I've always worked -- when I 10:21:28

23 graduated, I worked for the State of Georgia, and 10:21:30

24 working in an office building downtown Albany, 10:21:33

25 Georgia, and then going into a prison, it was just, 10:21:37

1 you know, something that I had never experienced. 10:21:42

2 And I'll be honest, I grew up in a really 10:21:44

3 rough neighborhood, so I wasn't afraid. It just was 10:21:46

4 different from what you see on TV and how everything 10:21:51

5 works inside of a correctional facility. 10:21:54

6 So it was just shortly after I got there I 10:21:58

7 realized that that was what I wanted to do. And I 10:22:02

8 did well; in a very short amount of time I made 10:22:05

9 deputy warden, so... 10:22:11

10 Q Wonderful. Had you come in contact with a 10:22:12

11 transgender person prior to your work in the 10:22:15

12 corrections industry? 10:22:18

13 A Yes, I have. I grew up -- where I grew up 10:22:20

14 with my mother, my next-door neighbor, I didn't -- I 10:22:30

15 didn't know they were transgender at the time, but I 10:22:35

16 recognize that now. A lot of their friends were 10:22:37

17 transgender. I have a cousin, a very young cousin 10:22:40

18 who's transgender. And, of course, working as a 10:22:47

19 security guard at many night clubs during my college 10:22:52

20 years, I ran into a lot of people that I'm not sure 10:22:57

21 if they were transgender or just homosexual. But, 10:23:01

22 yes, I have. 10:23:05

23 Q Do you know that Ashley Diamond is 10:23:05

24 transgender? 10:23:09

25 A Yes. 10:23:09

1 Q Did you know that when you met her? 10:23:09

2 A I didn't necessarily know that. Actually, 10:23:11

3 when I -- when I -- when Ashley Diamond came into 10:23:14

4 Coastal, I didn't -- I didn't -- I didn't recognize 10:23:21

5 her to be, you know, any different than another 10:23:26

6 offender at that institution because she -- she 10:23:32

7 didn't look -- she didn't have the wig on, and so I 10:23:36

8 didn't -- I just couldn't distinguish whether she 10:23:39

9 was a male or female until I actually sat down and 10:23:43

10 spoke with her and then I realized -- 10:23:46

11 (Audio disruption; court stenographer 10:23:46

12 clarification.) 10:23:46

13 A That she was a transgender once I actually 10:23:52

14 met her and saw who she was and talked to her. 10:23:55

15 Q And what was it about that first 10:23:59

16 conversation that alerted you to the fact that she 10:24:02

17 was transgender? 10:24:06

18 A The way she carried herself, she made it 10:24:07

19 known that she was transgender. But other than 10:24:12

20 that, you know, if I remember correctly, it was just 10:24:18

21 more sort of a conversation of just let me know if 10:24:22

22 you have any issues, and that was pretty much it. I 10:24:24

23 don't recall having any -- any specific conversation 10:24:32

24 just discussing being a transgender, homosexual or 10:24:35

25 gay, or anything of that nature. 10:24:40

1 Q And would you agree that she has feminine 10:24:42
2 mannerisms? 10:24:48

3 A I would agree. 10:24:49

4 Q Did you know that she had been on female 10:24:50
5 hormones for decades? 10:24:53

6 A At some point I did hear that. And I 10:24:55
7 think during her -- the process of her coming, of us 10:25:03
8 learning that she was coming to Coastal, I do 10:25:06
9 remember there was a conversation with medical that 10:25:11
10 the warden had and I had about making sure that she 10:25:15
11 had -- they had hormones readily available for her. 10:25:19
12 So at that point I did know about that, the hormone 10:25:24
13 treatment. 10:25:27

14 Q Did you have any interaction with her or 10:25:27
15 anyone at GDC that indicated to you that she needed 10:25:32
16 bras to be provided to her? 10:25:37

17 A I believe -- I can't be a hundred percent 10:25:41
18 sure. But I do know for our transgender population 10:25:44
19 there was some discussion about profiles being 10:25:49
20 inside of the system, so that if a transgender 10:25:51
21 needed underwear, that it could be ordered without 10:25:57
22 any issues. But I can't honestly say that I 10:26:01
23 remember a specific incident with Ashley Diamond, 10:26:06
24 but... 10:26:13

25 Q Did you come to be aware that she had 10:26:13

1 female breasts as a result of her hormone treatment? 10:26:16

2 A Not -- not particularly. You know, and I 10:26:22

3 say not particularly because we have transgenders at 10:26:29

4 that institution that wanted bras and female 10:26:36

5 panties, but they didn't have -- they weren't on any 10:26:45

6 hormone treatment or anything like that, so I didn't 10:26:50

7 really pay attention per se. But if they requested 10:26:53

8 it, that was my concern, not whether they had any 10:26:58

9 female anatomy or anything like that that would 10:27:00

10 require them to have it. 10:27:04

11 Q Okay. So you joined GDC from your prior 10:27:06

12 life when? When did you start your corrections 10:27:12

13 position? 10:27:20

14 A I believe it was 2014. 10:27:21

15 Q Okay. And prior to 2014, remind me what 10:27:24

16 other positions you had held, what was your previous 10:27:34

17 career? 10:27:38

18 A So prior to the Department of Corrections, 10:27:38

19 I worked for a telecommunications company. I also 10:27:42

20 -- I left that company and went to the department of 10:27:49

21 family and children services, I worked on the child 10:27:53

22 protective services. Excuse me. 10:27:56

23 I continued to work on my education during 10:28:02

24 that time, and left that institution and went to the 10:28:06

25 Georgia Department of Corrections. 10:28:17

1 Q And what positions did you have or hold 10:28:18
2 while you were employed at GDC? 10:28:22

3 A Quite a few, actually. I started as a 10:28:25
4 case manager. I worked under the -- as an STG gang 10:28:30
5 coordinator and investigator. So STG is the 10:28:36
6 Strategic Threat Group, that's any group that 10:28:41
7 presents a safety concern to the safety and security 10:28:44
8 of an institution. 10:28:46

9 I worked as a chief counselor, which I ran 10:28:49
10 the counseling department at Rutledge State Prison. 10:29:01
11 I left that institution, went to Rutledge State 10:29:05
12 Prison as the assistant superintendent. Did that 10:29:09
13 for I believe a year, a year or two. And then I 10:29:14
14 finally ended up at Coastal State Prison where I 10:29:18
15 worked as a deputy warden for two years before some 10:29:24
16 of my efforts were recognized by my current employer 10:29:28
17 and they offered me a position with them. 10:29:31

18 Q I just want to clarify, you said "STG." 10:29:35
19 My understanding is that stands for Security Threat 10:29:39
20 Group. Is that right? 10:29:43

21 A Correct, yes, ma'am. 10:29:43

22 Q So at Coastal, you said you worked there 10:29:44
23 for two years. Is that right? 10:29:47

24 A It's a little bit over two years. 10:29:49

25 Q Okay. Do you recall what date you 10:29:52

1 started, approximate month maybe and year? 10:29:54

2 A July 1st, 2019. 10:29:58

3 Q Okay. And what was your last day there? 10:30:01

4 A I believe it was September 15th, 2021. 10:30:03

5 Q What positions other than deputy warden of 10:30:13

6 care and treatment did you hold while you were at 10:30:20

7 Coastal, if any? 10:30:23

8 A No other positions. 10:30:24

9 Q What is a PREA compliance manager? 10:30:28

10 A PREA compliance manager, as a PREA 10:30:33

11 compliance manager basically I oversee the PREA 10:30:36

12 process to ensure that Coastal State Prison would 10:30:40

13 have been following the PREA guidelines set by the 10:30:44

14 United States government and ensuring that we met 10:30:48

15 those guidelines for every PREA case. 10:30:51

16 Q And did you hold that role as well? 10:30:55

17 A Right, that was -- that's a position that 10:30:59

18 falls under my duties as a deputy warden of care and 10:31:04

19 treatment. 10:31:08

20 Q Okay. What other duties did you have as 10:31:08

21 the deputy warden of care and treatment? 10:31:12

22 A Well, manage education, medical, 10:31:14

23 recreational services, some security issues, PREA, 10:31:19

24 of course. Several other things that fall under 10:31:28

25 that, you know. That's pretty much it. There's 10:31:36

1 nothing outside of that that's really, really 10:31:42

2 sticking out. But just those departments. 10:31:45

3 Programming, we ran programming as well. 10:31:48

4 Q And when you say medical, what was your 10:31:53

5 responsibility with respect to medical? 10:31:56

6 A Not a -- not a whole lot. Basically, if 10:31:58

7 we had issues with getting offenders to medical, we 10:32:01

8 need to schedule someone to be seen. If I went down 10:32:15

9 to the dormitory and I saw that medical needed to 10:32:19

10 get down there for a reason, whether it's COVID or 10:32:22

11 whether someone is reporting an issue from outside 10:32:25

12 the institution and I think that the participant -- 10:32:27

13 I'm sorry, not the participant -- that the offender 10:32:30

14 needs to be seen, you know, I arrange that. 10:32:33

15 But medical kind of operates on its own. 10:32:37

16 We just -- I'm just pretty much the liaison for the 10:32:40

17 warden. If he needs something done, I go talk to 10:32:44

18 medical. If they need something, I bring it to the 10:32:48

19 warden. Normally it's they request from me, if they 10:32:51

20 have an issue with getting a participant up to 10:32:55

21 medical to be seen, or someone is not coming, or if 10:32:57

22 they need a person in security to come down, that 10:33:01

23 type of thing, they would contact. 10:33:06

24 Q And when you say "they," do you mean 10:33:07

25 the -- do you mean the offender or do you mean the 10:33:11

1 warden? 10:33:14

2 A I mean the medical department. Someone in 10:33:15

3 medical, say, for example, if a nurse is saying that 10:33:18

4 they need to see a particular person and for some 10:33:20

5 reason they can't get into medical, they would 10:33:24

6 contact me and I would -- I would make it happen. 10:33:28

7 Q And so if I'm understanding correctly, as 10:33:31

8 the deputy warden of care and treatment, it was also 10:33:35

9 your responsibility to be the PREA compliance 10:33:37

10 manager? 10:33:40

11 A Yes, ma'am. 10:33:40

12 Q What training were you provided by GDC 10:33:42

13 that prepared you for your role as the PREA 10:33:46

14 compliance manager? 10:33:50

15 A One-on-one training from time to time with 10:33:51

16 Ashley -- I'm sorry. Not Ashley -- Grace Atchison. 10:33:54

17 We also had a yearly PREA compliance training, in 10:34:00

18 various parts of the state where we would receive 10:34:05

19 training as a PREA compliance manager, new changes 10:34:09

20 to policy, investigative techniques when working to 10:34:12

21 try to work a PREA case effectively, and that's 10:34:17

22 pretty much it. 10:34:21

23 Q So I would like to take those a little one 10:34:25

24 at a time. 10:34:28

25 So you said yearly PREA compliance 10:34:29

1 training around the state. Were those in person or 10:34:31
2 web-based? 10:34:35

3 A They were in person, ma'am. 10:34:36

4 Q And what was the average length of time 10:34:38
5 that you were in those trainings? 10:34:42

6 A I believe it was for a better part of a 10:34:46
7 day; we would get there maybe about 8 that morning 10:34:50
8 and leave about 3 that evening. 10:34:52

9 Q And what was the training during the day, 10:34:54
10 what was the training -- can you describe what the 10:34:58
11 trainings of modules looked like? 10:35:07

12 And let me explain further. Were there 10:35:09
13 panel presentations? Were there slide 10:35:11
14 presentations? Was it group, I don't know, meetings 10:35:14
15 where you talked amongst yourselves? Just describe 10:35:17
16 what the training was like. 10:35:22

17 A So the training is group training. There 10:35:23
18 are a number of different people from around the 10:35:26
19 state that come into a large auditorium, a slide 10:35:28
20 presentation by multiple people within the 10:35:31
21 Department of Corrections. You're encouraged to 10:35:36
22 have one-on-one -- not one-on-one conversation, but 10:35:39
23 interact during that information session, and a lot 10:35:43
24 of people did, most of the time was geared towards 10:35:46
25 questions that came up during this and how to 10:35:50

1 resolve issues. 10:35:53

2 Anything in -- the other part of it was 10:35:57

3 just basically policy changes, issues that we found 10:36:00

4 that had occurred in PREA cases that we've worked as 10:36:04

5 a state agency and just ways to make it better. 10:36:07

6 Q And were those -- those what you say 10:36:12

7 better part of a day trainings, that happened once a 10:36:16

8 year. Did I get both of those things right? 10:36:19

9 A I'm sorry. Can you repeat that? 10:36:24

10 Q They were -- they happened once a year, 10:36:26

11 the trainings that you're talking about. Is that 10:36:30

12 right? 10:36:33

13 A Yes. 10:36:33

14 Q Okay. And they usually lasted the better 10:36:33

15 part of a day. Is that right? 10:36:36

16 A Yes. 10:36:38

17 Q And were they PREA only or was PREA part 10:36:38

18 of additional content that was -- that was provided? 10:36:44

19 A To the best of my knowledge, it was just 10:36:50

20 PREA only. I don't recall anything else being 10:36:53

21 talked about during that, during those sessions. 10:36:58

22 Just PREA material. 10:37:01

23 Q Okay. And was your attendance mandatory? 10:37:03

24 A Yes, my attendance was mandatory. My 10:37:08

25 attendance was mandatory. Anybody who was going to 10:37:12

1 be a part of the PREA team's attendance was 10:37:16

2 mandatory. So, yes, my attendance was mandatory. 10:37:20

3 Q And so at Coastal, who would -- who would 10:37:24

4 those titles be in terms of people who were required 10:37:28

5 to attend the annual PREA trainings? 10:37:33

6 A Myself, of course, deputy warden of care 10:37:37

7 and treatment. We would have a member of mental 10:37:47

8 health. Usually we had two members of mental 10:37:49

9 health, a member of security and a counselor. I 10:37:52

10 can't remember the counselor's title, but basically 10:37:59

11 their position would have been to go back and 10:38:02

12 check -- PREA retaliation monitor and that would be 10:38:05

13 the counselor's title, just to go back and check on 10:38:10

14 a regular basis for I believe up to 90 days -- 10:38:13

15 (Audio disruption; court stenographer 10:38:13

16 clarification.) 10:38:25

17 A Right. I believe the PREA retaliation 10:38:25

18 monitor would check with the offender for up to 90 10:38:29

19 days or it might have been 120 days -- I can't 10:38:34

20 remember that paperwork -- to make sure that there 10:38:37

21 were no new allegations of retaliation in regards to 10:38:41

22 the PREA, and that's, you know, whether from staff 10:38:46

23 or other offenders at that institution. 10:38:51

24 Q And are you describing the SART team when 10:38:56

25 you're giving me the names of the people who were or 10:39:00

1 the titles of the people who were required to 10:39:03

2 attend. Are those -- is that an overlap? 10:39:05

3 A Yes, ma'am. 10:39:09

4 Q Okay. So the SART team was required -- 10:39:10

5 your understanding is the SART team was required to 10:39:16

6 attend annual PREA trainings that you have just 10:39:18

7 described? 10:39:22

8 A Yes, ma'am. 10:39:23

9 Q Okay. Did you get a certification or any 10:39:24

10 kind of documentation proving that you had attended 10:39:30

11 those trainings? 10:39:34

12 A I believe you may have received an email 10:39:35

13 saying that you, you know, completed SART training. 10:39:39

14 I'm almost certain that we received something, 10:39:45

15 because per AC8, which is an accreditation that the 10:39:48

16 Department of Corrections each facility receives, we 10:39:53

17 had to document that. And we also had to -- I 10:39:55

18 believe we had to show that we've completed that 10:39:58

19 training to the person that comes in and does the 10:40:01

20 PREA audit. The PREA audit is done by the federal 10:40:06

21 government -- 10:40:09

22 (Audio disruption; court stenographer 10:40:09

23 clarification.) 10:40:20

24 A The PREA audit is done by the federal 10:40:20

25 government, and they come in and I believe that 10:40:23

1 we're required to produce that information, that 10:40:27
2 document saying that we received PREA training, or 10:40:30
3 some type of PREA training. But I can't be a 10:40:33
4 hundred percent sure on that. He may have just -- 10:40:36
5 he may have just asked for an email to show that we 10:40:39
6 went to training. I'm not sure. 10:40:42

7 Q Is it your understanding that if there was 10:40:45
8 a confirmation or certification that you had gone to 10:40:49
9 the trainings, it would be in your personnel file? 10:40:52

10 A Yes. Any training that we received, we 10:40:55
11 received POST credit hours training for. So I do 10:41:00
12 believe that's the document that I would have had. 10:41:04
13 I would have at least seen that we received I 10:41:07
14 believe it was eight hours of training that would 10:41:10
15 POST record. 10:41:15

16 Q And to the best of your recollection, was 10:41:16
17 there any either exam or evaluation of any type that 10:41:19
18 was required at the trainings to show that you had 10:41:25
19 learned the information that had been presented? 10:41:31

20 A No, ma'am. 10:41:35

21 Q And you also mentioned one-on-one with 10:41:37
22 Ms. Atchison. Can you tell me some more, describe 10:41:42
23 what you mean by that? 10:41:45

24 A Yes. If I had an issue or a question that 10:41:46
25 arose regarding a PREA case, she was always 10:41:48

1 available for me to call and reach out to. 10:41:52

2 There was another person that I spoke with 10:41:55

3 as well, I can't remember who he was, but I could 10:41:58

4 always -- I always had support if I had any issues 10:42:01

5 on how to process or work a PREA case. If it was 10:42:05

6 something new to me that I wasn't a hundred percent 10:42:08

7 sure about, I would reach out to Grace. 10:42:11

8 Q So that sounds like it was not training, 10:42:15

9 but someone available to answer questions that you 10:42:19

10 might have. Is that -- is that accurate? 10:42:23

11 A Yes. But I'm not sure if this is for 10:42:27

12 everyone. Grace did visit Coastal, and when she did 10:42:31

13 visit, we did pull PREA cases and we went through 10:42:36

14 PREA cases and talk about how, you know, to deal 10:42:41

15 with PREA cases, and, you know, anything that she 10:42:44

16 found could have been done better. So I do think 10:42:46

17 that's more of a one-on-one training. 10:42:49

18 Q Okay. Did she review the work that you 10:42:52

19 did as the PREA compliance manager? 10:42:55

20 A I don't want to make assumptions. 10:42:58

21 Everything was -- was sent up to Grace, all of the 10:43:03

22 PREA material that in the system I believe she had 10:43:09

23 access to it. But I don't want to say that she 10:43:12

24 actually reviewed that information because I don't 10:43:15

25 know specifically what she did or if there was a 10:43:17

1 member of her team that reviewed that. But I do 10:43:20
2 recall if I entered a PREA case into a system and if 10:43:23
3 they didn't -- if they looked at -- if the case was 10:43:31
4 reviewed, it had questions, they did contact me 10:43:35
5 about it. So I know there was some review done, but 10:43:39
6 I can't specifically remember who actually contacted 10:43:43
7 me or what case -- 10:43:45

8 (Audio disruption; court stenographer 10:43:45
9 clarification.) 10:43:45

10 A Or what case they contacted me on 10:43:53
11 specifically, but I do know we had several cases 10:43:55
12 that we spoke about once they were sent up through 10:44:00
13 the GDC system. 10:44:04

14 Q If Ms. Atchison directed you to do 10:44:07
15 something with regard to amending a PREA 10:44:12
16 documentation, would you -- would you be required to 10:44:17
17 follow her direction? 10:44:21

18 A I would. I wouldn't necessarily say I 10:44:23
19 would be required. If she says that -- I'll give 10:44:26
20 you an example. If Grace, Ms. Atchison, said, well, 10:44:28
21 I don't quite understand this, I would try to 10:44:34
22 provide clarity on it. But if it involved me 10:44:37
23 changing something that would change the way the 10:44:41
24 narrative actually appeared or read, I didn't have 10:44:46
25 to do it because that, you know, it's my report. 10:44:49

1 But being that we're one department, there 10:44:54
2 was no -- I wouldn't have seen a need not -- to say 10:44:59
3 no at any point. I don't recall ever telling her I 10:45:03
4 don't want to make a change to a document, or, you 10:45:07
5 know, I don't agree with their decision, you know, 10:45:11
6 so... 10:45:16

7 Q Okay. Did Ms. Atchison ever ask you to 10:45:17
8 take additional investigative steps with respect to 10:45:32
9 a PREA allegation? 10:45:37

10 A Not -- no, not in particularly. You got 10:45:41
11 to understand that I worked as a gang investigator 10:45:44
12 for several years with the Department of 10:45:47
13 Corrections, so my investigative skills were pretty 10:45:49
14 good, you know, and I use a lot -- I don't want to 10:45:53
15 say any techniques. I just had -- I just developed 10:45:57
16 skills over the years investigating gangs within an 10:46:00
17 institution, that I had a handle on investigating 10:46:04
18 cases. 10:46:07

19 So, I'm sorry, did I answer your question? 10:46:09
20 I don't recall anything. 10:46:12

21 Q If she had asked you to take additional 10:46:14
22 investigative steps, would you have done so? 10:46:17

23 A In what manner? 10:46:20

24 Q If she reviewed a PREA investigation and 10:46:22
25 said did you, for example, interview the victim's 10:46:26

1 cellmate and you said no, and she suggested that you 10:46:34
2 should do so before, you know, before the case is 10:46:39
3 finalized, would you have -- would you have taken 10:46:43
4 her advice? 10:46:45

5 A Yes, I more than likely would have. 10:46:47

6 Q Okay. Did GDC provide any training that 10:46:50
7 you recall specifically about how to treat 10:47:00
8 transgender people in custody? 10:47:03

9 A I know that there was a policy in place. 10:47:06
10 You know, my -- that policy is geared towards 10:47:15
11 security more so. I wasn't -- I didn't have to -- I 10:47:21
12 didn't do strip searches as a deputy warden or 10:47:27
13 anything like that. So it wasn't my priority to 10:47:30
14 ensure that -- you know, my staff knew that, but I 10:47:34
15 did make the deputy warden of security aware that 10:47:38
16 they need to be familiar -- that his staff need to 10:47:42
17 be familiar with that policy. 10:47:45

18 Q And other than bringing to your awareness 10:47:48
19 if there was a specific policy about transgender 10:47:54
20 offenders, do you recall any training you were 10:47:58
21 provided? 10:48:02

22 A Outright training, no. But I do recall 10:48:03
23 discussions about pronouns, addressing. And 10:48:10
24 actually, I actually conducted a training with staff 10:48:16
25 members at Coastal State Prison when I found out 10:48:19

1 there was an issue with, you know, pronoun usage at 10:48:24
2 that institution. So, you know, we discussed the 10:48:30
3 fact that -- and it wasn't anything that was 10:48:33
4 malicious that was being done. But I do recall 10:48:36
5 explaining to security staff members that it's one 10:48:40
6 thing to accidentally, you know, say "he" when you 10:48:43
7 should be saying "she," but it's another thing to be 10:48:47
8 malicious in what you're doing to try to get at an 10:48:52
9 offender and any effort about that, and it would be 10:48:56
10 difficult to turn off 20 years to apologize to an 10:48:59
11 offender. I told them, I said, you don't 10:49:05
12 necessarily have to apologize, but you do need to 10:49:09
13 let them -- you need to correct yourself when that 10:49:13
14 happens, if you say "he," you know, stop and say 10:49:16
15 "she." And I say it's nothing wrong with making a 10:49:21
16 mistake as long as it's not intentional in nature. 10:49:24
17 And you have to understand also that 10:49:27
18 you're in an institution where there is 2,000 male 10:49:30
19 offenders, and in a line of a hundred offenders one 10:49:35
20 walks by, and Ashley for -- give an example, if 10:49:43
21 Ashley walks by, she doesn't have the wig, she 10:49:46
22 doesn't have the makeup, she doesn't have -- other 10:49:49
23 than her feminine qualities or actions, you wouldn't 10:49:52
24 know right off that she's a transgender. 10:49:59
25 So it happens from time to time when 10:50:05

1 people say "he" when they should be saying "she," 10:50:07
2 and my directive to them was to correct it as soon 10:50:11
3 as possible. 10:50:16

4 Q And was that directive based on training 10:50:17
5 you had received or some other information that you 10:50:19
6 had? 10:50:21

7 A That directive was based on me not wanting 10:50:22
8 to have -- wanting to do a PREA case -- 10:50:25

9 (Audio disruption; court stenographer 10:50:25
10 clarification.) 10:50:33

11 A That directive was given out because I 10:50:33
12 didn't want to have to continue to do frivolous PREA 10:50:36
13 cases. If a transgender was called a "he" when she 10:50:39
14 should have been called a "she," you know, 90 10:50:46
15 percent of the time they would get upset about it 10:50:48
16 and file a PREA. Even though the PREA it wasn't 10:50:52
17 exactly -- it didn't meet the criteria definition of 10:50:55
18 a PREA case, we would still have to investigate, and 10:50:57
19 that's resources and time that we would have to use 10:51:01
20 that could be best used in other areas. And it was 10:51:04
21 basically used as a tactic to get back at an 10:51:06
22 officer. 10:51:10

23 So, you know, just to ease my case load I 10:51:11
24 had that training with them, to let them know that 10:51:14
25 that's something that we definitely need to get a 10:51:17

1 handle on. We didn't have, you know, a thousand 10:51:20
2 transgenders. We had very few, I think we had at 10:51:23
3 one point maybe 15. So in a line of a hundred, you 10:51:28
4 know, they could easily walk by you and you just 10:51:31
5 wouldn't know it, wouldn't pay attention because 10:51:34
6 you're not just focused on transgenders when you're 10:51:36
7 escorting or monitoring movement; you're looking at 10:51:41
8 the institution as a whole. 10:51:44

9 So it could -- you know, if a person was 10:51:45
10 out of line, outside of the blue line, and you just 10:51:48
11 said, hey, man, get in line, you know, that could 10:51:51
12 set -- that would set some of them off. "I'm not a 10:51:55
13 man. I'm a woman." And, you know, you just 10:51:59
14 wouldn't see it. It wasn't intentional. It was 10:52:00
15 just, you know, you're looking at a line of 200 men 10:52:03
16 for the most part and maybe one female, just -- you 10:52:09
17 just -- it just would go by some of the officers, 10:52:14
18 they just would miss it. 10:52:17

19 And like I said, it wasn't intentional. 10:52:19
20 It was just, you know, if you're escorting a 10:52:21
21 thousand people a day, it's difficult to just single 10:52:24
22 one of them out or two of them out to say, you know, 10:52:28
23 hey, ma'am, you know. Just something that would 10:52:32
24 happen. 10:52:38

25 Q Is it -- is it possible that some COs 10:52:41

1 misgendered offenders intentionally? Is that 10:52:47
2 possible? 10:52:50

3 MR. CHALMERS: Objection. Objection. 10:52:50

4 Q You can answer the question. Unless your 10:52:52
5 -- unless an attorney tells you not to answer, the 10:52:54
6 objection will be noted on the record, but you can 10:53:00
7 go ahead and answer. 10:53:02

8 A Well, one of our trainings with the 10:53:04
9 Department of Corrections told us teach us not to -- 10:53:07
10 teaches us not to speculate, so I don't want to 10:53:11
11 speculate on that question. So I don't -- I choose 10:53:14
12 not to provide a response for that. 10:53:19

13 Q If a transgender offender said that they 10:53:28
14 felt disrespected as a result of being misgendered, 10:53:33
15 would that make sense to you? 10:53:41

16 A I would look into it as a -- as a deputy 10:53:43
17 warden, I would look into it, yes, ma'am. It would 10:53:48
18 -- it would create a concern for me. I'm not sure 10:53:50
19 if it would make sense or not make sense. If 10:53:53
20 someone has a complaint, it makes sense for me -- it 10:53:56
21 would have made sense for me to look into that 10:53:59
22 complaint to ensure that, you know, hey, if you're 10:54:03
23 doing that, you should stop because you're going to 10:54:06
24 create a headache for me. 10:54:10

25 Q I think my more specific question is can 10:54:13

1 you understand how being called the wrong pronoun 10:54:20
2 would be -- would feel disrespectful? 10:54:25
3 MR. CHALMERS: Objection. 10:54:30
4 A I'm sorry. Did I miss something? 10:54:39
5 Q Did you hear my question? Can you 10:54:43
6 understand how it would feel disrespectful if 10:54:48
7 someone called you the wrong pronoun? 10:54:52
8 MR. CHALMERS: Objection. 10:54:54
9 Q And so, again, the rules of a deposition 10:54:55
10 are that lawyers get to object, but unless they tell 10:54:58
11 you not to answer the question, you're obligated to 10:55:02
12 go ahead and answer the question. 10:55:07
13 A Okay. Can you repeat the question once 10:55:08
14 more, Ms. Littrell? 10:55:12
15 Q Sure. Can you understand how if someone 10:55:14
16 calls you the wrong pronoun, that it can be 10:55:18
17 disrespectful? 10:55:22
18 A 100 percent. As an African-American male, 10:55:23
19 I have been called some names that -- and I can 10:55:28
20 understand exactly how that would feel. 10:55:31
21 Q Would it be helpful, in your opinion, to 10:55:33
22 be able to respect all of the inmates' gender 10:55:40
23 identities and call them by the right pronouns if 10:55:45
24 they were -- if the transgender women were able to 10:55:49
25 wear a wig, for example? 10:55:52

1 A I don't think the wig or the garments are 10:55:54
2 as important as a conversation with staff. My 10:55:59
3 understanding is that you could -- you could wear a 10:56:07
4 dress and a wig and not be gay or transgender; you 10:56:09
5 could just like to dress as a woman. 10:56:14

6 So I think more the better way to resolve 10:56:19
7 the issue is to have a conversation to make 10:56:22
8 awareness, you know, make it aware to staff what's 10:56:28
9 going on than just putting a wig on a person. 10:56:31

10 Q I guess I was responding to your 10:56:34
11 explanation that in a facility, a male facility with 10:56:39
12 a thousand people and only a few people who identify 10:56:44
13 as female and are transgender, that because their 10:56:50
14 appearance was required to conform to the 10:56:57
15 requirements of the male facility, it was hard for 10:57:01
16 the COs, for the officers to automatically make the 10:57:04
17 association and use the right pronouns. 10:57:10

18 A Correct. 10:57:13

19 Q And so if those offenders were able to 10:57:14
20 grow their hair out and perhaps reflect their female 10:57:19
21 identity outwardly, that sounds to me like it would 10:57:26
22 help the officers be able to be more respectful 10:57:31
23 towards them in terms of pronoun. Would you agree 10:57:37
24 with that? 10:57:42

25 MR. CHALMERS: Objection. 10:57:43

1 A I see -- I see what you're saying, but I 10:57:43
2 can't a hundred percent agree with that. And I 10:57:47
3 think it would take for -- (audio interruption) -- 10:57:49
4 can you hear me okay? 10:57:56
5 Q You were cutting out at a certain point. 10:57:57
6 A For a person that has not worked in 10:58:00
7 corrections to understand what it looks like to move 10:58:03
8 200 offenders on a flat top at one time, even if 10:58:06
9 Ms. Diamond had a wig on and you're moving 150, 200 10:58:15
10 people around an institution at one time, that 10:58:26
11 doesn't necessarily mean you're going to spot her 10:58:28
12 out of that large group and say that's a woman. I'm 10:58:32
13 sorry. I do see where you're going with that. But 10:58:35
14 in a large group like that it wouldn't be very easy 10:58:39
15 to spot any one person in particular. 10:58:42
16 Q What about in a small group of people? 10:58:46
17 A Right, it would be a lot easier in a 10:58:49
18 smaller group of people. 10:58:51
19 Q Okay. In the training that you received 10:58:53
20 by GDC that prepared you to be a PREA compliance 10:58:57
21 manager, what training or information did you 10:59:01
22 receive specifically regarding identifying sexual 10:59:04
23 harassment? 10:59:13
24 A Sexual harassment on the employee side 10:59:13
25 was -- was a training that we took annually as well. 10:59:21

1 But inside of that training we received which was 10:59:24
2 called POS training, which is a training that we 10:59:29
3 take yearly regarding policy changes and different 10:59:31
4 things like that, and we did discuss, you know, 10:59:36
5 sexual harassment, inmate dealing, things of that 10:59:38
6 nature in that training. 10:59:42

7 Q What about inmate-on-inmate sexual 10:59:45
8 harassment, what did GDC train you in terms of being 10:59:48
9 able to identify what sexual harassment looks like? 10:59:52

10 A That was covered in the PREA training, and 10:59:58
11 if I'm not mistaken -- I don't want to say because I 11:00:06
12 hadn't been involved in PREA in nearly a year and a 11:00:11
13 half, so a lot of that information I've lost. But 11:00:13
14 it did point out the difference between assault, 11:00:17
15 harassment, which identified what actually 11:00:20
16 constituted a PREA allegation versus what would 11:00:24
17 constitute a substantiated PREA case. 11:00:29

18 Q Okay. I think I still am a little unclear 11:00:32
19 on what you recall GDC training providing to you in 11:00:41
20 terms of identifying sexual harassment. So just to 11:00:47
21 the best of your -- 11:00:53

22 A Okay. 11:00:54

23 Q -- to the best of your memory now, and I 11:00:56
24 know you don't have the documents in front of you. 11:00:59
25 I understand you've not worked for Coastal for some 11:01:01

1 time -- but what do you recall sexual harassment 11:01:04
2 between inmates would look like? 11:01:07

3 A And I could be crossing them up with GDC 11:01:10
4 training for employees. But, I mean, it would have 11:01:17
5 been repeated advancements of a particular person 11:01:22
6 towards another. But, again, that could -- that 11:01:26
7 could have been the training I took last two months 11:01:29
8 ago with Savannah Technical College, because I do 11:01:32
9 remember seeing that as well. So I'm not a hundred 11:01:36
10 percent sure about that. 11:01:39

11 Q And what did -- what did GDC training -- 11:01:40
12 or how did GDC training prepare you to understand 11:01:46
13 what it meant by repeated? More than once? 11:01:52

14 A Yeah, more than once. Of course, to 11:02:01
15 repeat, it's going to be more than once. 11:02:04

16 But when you're -- when you're talking 11:02:07
17 about my position within the Department of 11:02:09
18 Corrections, gave me the ability to -- to go to take 11:02:14
19 policy a little bit further, not to take away. So 11:02:20
20 if an offender, you know, came to me and said, you 11:02:24
21 know, I feel threatened because someone, you know, 11:02:30
22 told me he thought I was beautiful, or something 11:02:35
23 like that, I would look into that on the first -- 11:02:38
24 the first time they reported it because that's not 11:02:41
25 normal behavior -- 11:02:45

1 (Audio disruption; court stenographer 11:02:45
2 clarification.) 11:02:55
3 A Right. But when you're in a correctional 11:02:55
4 environment, that's not normal behavior. So you -- 11:02:58
5 it's no secret that sexual assault does occur within 11:03:04
6 institutions, so you just want to challenge that as 11:03:08
7 quickly as possible to resolve it. 11:03:11
8 Q Okay. In terms of whether or not that was 11:03:16
9 a PREA violation, the example that you just used 11:03:17
10 where an offender says that another offender called 11:03:22
11 them pretty, would that be considered a sexual -- a 11:03:27
12 PREA violation for sexual harassment? 11:03:31
13 A My understanding now is that, you know -- 11:03:33
14 well, at that time that would have not been 11:03:37
15 considered a PREA violation. That would have been 11:03:39
16 a -- excuse me -- that would have been a cause for 11:03:42
17 concern. I would have looked at that, but it would 11:03:46
18 not have constituted a PREA violation. 11:03:51
19 Q And if that person had said that they 11:03:56
20 found them pretty and they would like to sleep with 11:04:00
21 them, would that be considered repeated if it was in 11:04:02
22 the same conversation? 11:04:09
23 A No, it would not have been considered 11:04:12
24 repeated. But I've had a situation similar to that 11:04:14
25 where, you know, someone made an advance like that 11:04:21

1 to a participant -- I'm sorry. I keep saying 11:04:25
2 "participant" because I'm in programming now -- but 11:04:28
3 made an advancement towards an offender. What I did 11:04:31
4 was I did check the PREA, check the allegations, see 11:04:34
5 if they had any previous allegations of PREA 11:04:37
6 assault, or not check their PREA, if they had a PREA 11:04:41
7 tag where it was described as aggressor or victim, 11:04:44
8 just to kind of, you know, look at the situation and 11:04:48
9 see if there's a real threat. 11:04:49

10 You have to understand that PREA is used 11:04:51
11 as a tactic to sometimes get people kicked out of 11:04:53
12 the dorm, to retaliate against other offenders. So 11:05:00
13 you have to be really careful about, you know, 11:05:04
14 processing a PREA case on someone that could 11:05:07
15 potentially be false. 11:05:12

16 Q Okay. You said that it's a tactic. Do 11:05:14
17 you mean to say that it can be a tactic, it's not 11:05:18
18 always -- 11:05:21

19 A Yes. It's not always a tactic. It can 11:05:21
20 be, correct. 11:05:24

21 Q And in order to use it as a tactic to get 11:05:25
22 someone in trouble, you would have to identify that 11:05:28
23 person; right? 11:05:31

24 A Yes. Or not necessarily. If you wanted 11:05:33
25 to get -- if we had -- I've had cases where 11:05:37

1 offenders wanted to get moved out of a dorm because 11:05:41
2 they, you know, have a debt with another person or 11:05:44
3 something like that, they would claim that they were 11:05:46
4 being harassed, and we would later find out that 11:05:48
5 they just owed money, and they may have been 11:05:52
6 gambling inside the dormitory or something like that 11:05:55
7 and they just wanted to get out of the dorm. So it 11:05:58
8 doesn't necessarily -- they may not necessarily 11:06:01
9 identify a perpetrator. They just may make an 11:06:03
10 allegation to get out of the dormitory. 11:06:07

11 Q Going back to that, I'm not sure if it's a 11:06:14
12 hypothetical or a real situation, but the scenario 11:06:19
13 in which in one conversation an offender makes, for 11:06:22
14 example, three different sexual advances in the same 11:06:27
15 conversation, did GDC train you to understand 11:06:31
16 whether that would be considered repeated? 11:06:36

17 A Not to my knowledge. 11:06:41

18 Q Okay. So was there some discretion 11:06:45
19 involved in determining whether something was 11:06:48
20 repeated or not? 11:06:50

21 A I wouldn't say that there was discretion. 11:06:54
22 So if you were having a conversation and in that 11:06:59
23 conversation a participant would have said, "Well, 11:07:03
24 he said that I was cute and he wanted to, you know, 11:07:09
25 come over and see me and I said no." And he said, 11:07:13

1 you know, "10 minutes later he came over and he 11:07:17
2 asked me again and I still told him no. And when we 11:07:19
3 were leaving out of the chow hall, he walked over to 11:07:24
4 me and just winked his eye," I would have considered 11:07:27
5 that repeated. 11:07:28

6 Q So three separate advances -- 11:07:29

7 A Correct. Correct. 11:07:31

8 Q -- would be considered repeated. But 11:07:32
9 three separate requests in the same instance would 11:07:35
10 not be repeated? 11:07:39

11 A Right. 11:07:41

12 Q Okay. 11:07:42

13 A In the same conversation, the same 11:07:43
14 sentence if he say -- I'll give an example. If you 11:07:48
15 say, "Hey, you're cute. I want to come see you. 11:07:50
16 Can I come see you when we leave," that would have 11:07:53
17 been considered one advance. 11:07:57

18 Q Okay. And if the recipient of those 11:07:59
19 requests said no to all of those, and then the 11:08:02
20 follow-up from the perpetrator was, "Well, I really 11:08:09
21 think you're really hot and sexy and, you know, I 11:08:12
22 would like to sleep with you some time," would that 11:08:16
23 then be considered repeated, or are we still in the 11:08:19
24 same conversation as one instance? 11:08:22

25 A That may have been considered repeated. 11:08:24

1 Doesn't necessarily mean that would have constituted 11:08:29
2 a PREA. 11:08:31

3 Q Right. 11:08:33

4 A So but it would have been considered -- I 11:08:34
5 would have considered that multiple advances. But, 11:08:35
6 you know, I can't speak for another PREA 11:08:40
7 coordinator. PREAs are very tight-lipped within the 11:08:44
8 GDC so it's not like I can call another facility and 11:08:50
9 tell them exactly what I found. I can call Grace or 11:08:54
10 call one of her team members and let them know what 11:08:58
11 I found and get their input on it, but... 11:09:00

12 Q Okay. And would it be considered repeated 11:09:04
13 sexual harassment sufficient to be a PREA violation 11:09:11
14 if someone was subjected to sexual advances by 11:09:14
15 multiple men over the course of a week? So they're 11:09:23
16 experiencing repeated sexual advances but not by the 11:09:30
17 same person, would that be considered repeated 11:09:35
18 sufficient to be a PREA violation? 11:09:39

19 A Well, you have PREA, PREA, and I can't 11:09:41
20 remember the exact -- what acts exactly constitute a 11:09:44
21 PREA, but you have to understand that the PREA 11:09:49
22 guidelines aren't set by the Georgia Department of 11:09:51
23 Corrections. They're set by the federal government. 11:09:55

24 So what would have been a concern for us 11:09:57
25 is something that we would have tried to address 11:10:00

1 still may not have constituted a PREA under a 11:10:04
2 PREA -- under PREA policy. 11:10:07

3 So, for example, you know, if you said if 11:10:10
4 someone is making an advance and we want them to 11:10:15
5 stop, we may -- I may hear somebody say something 11:10:19
6 and I may tell them, hey, lock that guy up, put him 11:10:23
7 in the hole for what he said, that still does not 11:10:27
8 constitute a PREA. 11:10:30

9 So, like I said, it's not our PREA 11:10:32
10 guidelines. It's the federal government's PREA 11:10:35
11 guidelines. So where we still can file a PREA 11:10:38
12 report, possibly. It may not even make it to the 11:10:41
13 next stage, because, you know, once you go through 11:10:44
14 the process of selection through the PREA, it may 11:10:46
15 just close it out then, you know, before you even 11:10:50
16 get to a completed case. It's just the way the 11:10:54
17 PREA, the federal government has it set up. 11:10:57

18 Q Does the federal government determine 11:11:00
19 whether or not a PREA allegation is founded or 11:11:05
20 substantiated? 11:11:09

21 A They -- they guide us towards what -- what 11:11:12
22 would constitute a substantiated or unsubstantiated 11:11:20
23 case. Like I said, I can't really a hundred percent 11:11:27
24 remember the process in SCRIBE that we used. It was 11:11:31
25 a lot of questions that were answered. 11:11:34

1 You know, when you get a PREA case, it's 11:11:35
2 not open and shut. I mean, you're going to be there 11:11:38
3 -- for a PREA case you're going to be there the 11:11:41
4 better part of two or three hours just doing 11:11:44
5 documentation. So, you know, throughout the 11:11:48
6 checklist that you go through the investigation, and 11:11:52
7 then at a point you make a determination based on 11:11:56
8 what you found and in conjunction with the 11:12:01
9 information that's in the PREA training whether it 11:12:05
10 is substantiated or unsubstantiated. 11:12:10

11 Q Is it your understanding, though, that at 11:12:13
12 Coastal when you were investigating a PREA 11:12:17
13 allegation, that the federal government became 11:12:20
14 involved in determining whether or not that PREA 11:12:23
15 allegation rose to the level of a PREA violation? 11:12:27

16 A I'm sorry. Can you repeat the question 11:12:32
17 once again? 11:12:37

18 Q Yeah. Was it your understanding that the 11:12:38
19 federal government was involved in the individual 11:12:42
20 PREA allegations that you were investigating at 11:12:45
21 Coastal? 11:12:50

22 A No more than every PREA case that I -- 11:12:51
23 that I get was subject to review by the PREA auditor 11:12:54
24 once we had an audit. So everything that I did was 11:13:00
25 going -- was to be reviewed by an auditor, so we -- 11:13:04

1 we made sure that they had all the documentation 11:13:10
2 that they would need to review the case. But we 11:13:13
3 didn't necessarily think that the federal government 11:13:16
4 was actually looking in on each and every PREA case. 11:13:20
5 Q Right. So a federal agent was not 11:13:25
6 involved -- 11:13:27
7 A Correct. 11:13:28
8 Q -- in the individual determinations? 11:13:28
9 A Right. 11:13:30
10 Q But I think your testimony indicated that 11:13:30
11 they provided the guidelines that you instituted. 11:13:35
12 Is that accurate? 11:13:39
13 A Yes, ma'am. 11:13:40
14 Q And if the word "repeated" was not defined 11:13:46
15 in the PREA regulations, then who would determine 11:13:49
16 what constituted "repeated"? 11:13:56
17 A I guess it would be -- it would be Grace 11:13:58
18 and her team. But, again, I can't recall any 11:14:02
19 specific training on repeated, but I remember 11:14:10
20 hearing the word "repeated" repeated, you know. But 11:14:15
21 I just can't, you know, remember exactly, it's been 11:14:20
22 so long ago, I can't remember exactly what that was. 11:14:25
23 Q So based on the training that you did get 11:14:29
24 and based on your memory now about that training, if 11:14:31
25 an offender came to you and said, "I am getting 11:14:34

1 sexual advancements and sexual gestures made towards 11:14:40
2 me on a repeated basis by offenders unknown to me," 11:14:48
3 would that be considered sexual harassment? 11:14:57
4 A I would think so. 11:15:00
5 Q And would that be a PREA violation? 11:15:06
6 A It would not be a PREA violation. To my 11:15:09
7 knowledge, it wouldn't. Again, I can't remember 11:15:19
8 exactly the PREA policy at this point because I'm 11:15:21
9 not as familiar with it as I was. I do recall 11:15:23
10 repeated being discussed at some point with Grace, 11:15:32
11 but I just can't remember exactly what that 11:15:35
12 entailed. 11:15:38
13 Q Okay. But Ms. Atchison would be sort of 11:15:40
14 the final decision-maker as to how to interpret the 11:15:43
15 word "repeated"? 11:15:51
16 A Yes. 11:15:54
17 Q Okay. What did you learn in your PREA 11:15:54
18 training with respect to whether an offender 11:15:59
19 touching another offender on the buttocks, whether 11:16:02
20 that would be a PREA violation or not? 11:16:08
21 A I can't -- I can't remember that. But I 11:16:11
22 do know I would have -- I believe that I would have 11:16:25
23 started a PREA case on that, but I'm not sure if 11:16:30
24 that still would have constituted a PREA, a 11:16:33
25 substantiated PREA case based on what's -- what the 11:16:39

1 government considers a substantiated case. I do 11:16:44
2 feel like that may have been the cause for a PREA to 11:16:47
3 be filed. But I don't -- I'm not exactly a hundred 11:16:50
4 percent sure that that would have actually resulted 11:16:53
5 in a substantiated PREA case. 11:16:55

6 Q Okay. And that's based on the training 11:16:58
7 that you can recall as you sit here today? 11:17:00

8 A Yes. I'm just not a hundred percent sure 11:17:03
9 on. It's been so long I've worked a PREA case. 11:17:06

10 Q Okay. Do you recall whether or not you 11:17:10
11 were trained to know that someone masturbating, or 11:17:15
12 exhibiting their genitals in a lewd manner up to and 11:17:23
13 including masturbating in the presence of another 11:17:29
14 inmate, whether that would be considered either 11:17:31
15 sexual abuse or sexual harassment sufficient to be a 11:17:34
16 PREA violation? 11:17:37

17 A I just can't remember, ma'am. 11:17:44

18 Q Okay. Okay. 11:17:47

19 MS. LITTRELL: At this time I'm going to 11:17:58
20 ask Mr. Green, who is the technician today, to pull 11:18:00
21 up a document for me. 11:18:03

22 THE VIDEOGRAPHER: Is it a good time to 11:18:04
23 change the tape? 11:18:05

24 MR. CHALMERS: Counsel, can I ask is it a 11:18:08
25 good time to take a 5 or 10-minute break? I need to 11:18:10

1 step away for a second. 11:18:14

2 MS. LITTRELL: It is a fine time for me to 11:18:16

3 take let's say a 10-minute break. It's 11:18 right 11:18:19

4 now. Maybe we can say 11:30 we can come back on the 11:18:23

5 record. 11:18:28

6 Would that be okay with you, 11:18:28

7 Mr. Betterson? 11:18:32

8 THE WITNESS: Yes, ma'am. 11:18:32

9 THE VIDEOGRAPHER: So it is 11:18 a.m. We 11:18:33

10 go off the record. 11:18:37

11 (Recess 11:18 a.m. - 11:31 a.m.) 11:18:38

12 THE VIDEOGRAPHER: It is the beginning of 11:31:30

13 media number 2 of the testimony of Carl Betterson. 11:31:33

14 It is 11:31 a.m. We're back on the record. 11:31:37

15 BY MS. LITTRELL: 11:31:42

16 Q Mr. Betterson, when we went on a break I 11:31:43

17 was about to ask Mr. Green, who is our technician 11:31:49

18 for today's deposition, to pull up an exhibit, pull 11:31:52

19 up a document and ask the court reporter to mark it 11:31:57

20 as an exhibit, and the document is numbered or Bates 11:31:59

21 stamped identified as DEF_1362. 11:32:06

22 THE TECHNICIAN: Stand by. 11:32:14

23 (Betterson Exhibit 1 marked for 11:32:34

24 identification.) 11:32:39

25 MR. CHALMERS: And, counsel, can you share 11:32:39

1 the documents with counsel? 11:32:41

2 MS. LITTRELL: I can't, but I would like 11:32:43

3 to ask Mr. Green to ensure that any document I ask 11:32:45

4 him to pull up is shared with -- with counsel, all 11:32:50

5 counsel. 11:32:59

6 THE TECHNICIAN: Understood. 11:33:00

7 MS. LITTRELL: And, counsel, if for some 11:33:11

8 reason there are technical difficulties and you are 11:33:14

9 unable to see the document, please let us know. 11:33:19

10 BY MS. LITTRELL: 11:33:31

11 Q All right. Mr. Betterson, can you see a 11:33:31

12 document on your screen right now that starts at the 11:33:33

13 top with "Georgia Department of Corrections Standard 11:33:37

14 Operating Procedures"? 11:33:41

15 A Yes. 11:33:43

16 MS. LITTRELL: And, Mr. Green, can I -- 11:33:43

17 Q Well, let me, I'm sorry, ask you if you 11:33:46

18 have seen this document before? 11:33:53

19 A Are you asking me if I've seen it? 11:33:58

20 Q Yes, sir. 11:34:01

21 A Can you scroll all the way down to the 11:34:03

22 bottom? 11:34:06

23 I believe I have, yes, ma'am. 11:34:15

24 Q And this is Policy 208.06. Do you see 11:34:18

25 that? SOP 208.06, do you see that? 11:34:24

1 Abuse by an Offender"?

2 A Yes.

3 Q Okay. And then it starts with "Sexual

4 abuse of an offender, detainee, or resident by

5 another offender, detainee, or resident includes any

6 of the following acts if the" -- and now we're going

7 to move to page 4 -- "if the victim does not

8 consent, is coerced into any such act by overt or

9 applied threats of violence, or is unable to consent

10 or refuse," and then there are four further

11 definitions to help identify whether or not sexual

12 abuse that would violate PREA policy has occurred.

13 Do you agree with that characterization?

14 MR. CHALMERS: Objection. Form.

15 A I'm sorry. What was your question again?

16 Q The question is: Does subsection K

17 identify the types of activities that are considered

18 a PREA violation under the GDC PREA policy?

19 A These are two different policies. The

20 PREA policy and GDC policy, although they -- they

21 have some similarities, they are two totally

22 different policies.

23 Q So right now we're talking about the GDC

24 PREA policy. Is that -- can we cabin our questions

25 and responses to the GDC PREA policy?

1 A Can you scroll back up to the section K 11:37:56
2 again? This policy says "Sexual Abuse by Offender." 11:37:59
3 It doesn't say anything about PREA. 11:38:05
4 Q Okay. Do you see at the very top that the 11:38:08
5 policy name is the "PREA Sexually Abusive Behavior 11:38:10
6 Prevention and Intervention Program"? 11:38:15
7 A Right. But it doesn't spell out that it 11:38:17
8 would actually constitute a PREA or a substantiated 11:38:19
9 PREA case. 11:38:23
10 Q Okay. So what does this -- what does this 11:38:25
11 definition -- what do you understand this definition 11:38:29
12 to denote? 11:38:32
13 A As a guidance for us to use, use for to 11:38:36
14 monitor the actions of offenders. 11:38:45
15 Q Okay. And what do you understand this -- 11:38:53
16 this definition -- how do you understand this to 11:38:55
17 assist in determining whether or not a PREA 11:38:59
18 violation has occurred? 11:39:02
19 A Scroll back down to the next page, please. 11:39:05
20 I'll give you an example. Like you asked 11:39:19
21 a question if somebody made a sexual advance, you 11:39:21
22 know, if you -- 11:39:25
23 (Audio disruption; court stenographer 11:39:25
24 clarification.) 11:39:25
25 A If you look at her -- Ms. Littrell, if you 11:39:30

1 look at your example that we used earlier about 11:39:35
2 someone making an advancement, that's not 11:39:38
3 specifically spelled out here in the policy. But it 11:39:42
4 does say if there was an implied threat behind that, 11:39:44
5 example, you know, if a person says, you know, "Hey, 11:39:53
6 I'm going to take you out if you say no, I'm going 11:39:58
7 to break your neck," or something like that, that's 11:40:02
8 different than just, you know, someone actually 11:40:06
9 saying, "Hey, I think you look nice." 11:40:08

10 So it's a guideline for us, but it's not 11:40:10
11 definitive on every single case. Every single case 11:40:14
12 is different. Even though there are similarities, 11:40:19
13 we can -- any policy is just really just a guide for 11:40:23
14 you to use to make a final determination, because 11:40:27
15 you can't spell out every -- PREAs are so random, 11:40:31
16 this is like you have a thousand page policy to try 11:40:35
17 to cover every single possible action that could 11:40:38
18 occur within a PREA. So this is just a guideline 11:40:42
19 for us to use. 11:40:45

20 Q And using that guideline, do you then 11:40:48
21 apply your own determination based on some 11:40:53
22 discretionary authority that you have been granted? 11:41:02

23 A Once you come to the -- it's really I 11:41:05
24 wouldn't say my determination. The final 11:41:09
25 determination would be based on an investigation of 11:41:14

1 the incident. At that point based on evidence that 11:41:16
2 was gathered where there was physical evidence, the 11:41:20
3 SANE nurse, evidence from the SANE nurse, you would 11:41:28
4 make a determination on whether that investigation 11:41:29
5 is substantiated or unsubstantiated at that point. 11:41:32

6 Q So it sounds a little bit like you're 11:41:36
7 describing to me the disposition of a PREA 11:41:40
8 allegation, and I'm at this point asking you about 11:41:44
9 whether or not the allegation rises to the level of 11:41:51
10 a PREA violation. Does that distinction make sense? 11:41:56

11 A I guess -- I think I understand what 11:42:03
12 you're asking. But I'm not sure if you kind of 11:42:05
13 understand what a PREA actually works in conjunction 11:42:12
14 with the policy that you're actually looking at 11:42:17
15 here. 11:42:20

16 Q Okay. 11:42:20

17 A So like I said, this is a guide for us to 11:42:21
18 use, so we actually go use this guide as a 11:42:24
19 reference. And this is not just a reference for 11:42:29
20 PREA, this is a reference for every person within 11:42:33
21 the Department of Corrections. So my knowledge of 11:42:37
22 PREA goes -- and how to actually investigate and 11:42:41
23 document a PREA goes past the average employee's 11:42:45
24 knowledge. So, you know, this is a guide. But once 11:42:49
25 we use this guide, we still have to actually go 11:42:54

1 delve into the actual PREA policy itself whether 11:42:57
2 it's based on what the federal government has in 11:43:02
3 place policies and we look at what we have here. So 11:43:06
4 it's two-fold. It's not just a single cut and dry, 11:43:12
5 you know, process. 11:43:17

6 Go ahead. 11:43:19

7 Q Where would you find that additional 11:43:19
8 policy that you were required to look at? 11:43:24

9 A PREA standards I think it was, there's 11:43:30
10 training that we go through actually with the 11:43:36
11 federal government with PREA. And actually, that 11:43:39
12 was actually the document that we're -- we have to 11:43:41
13 provide to the federal auditor. So we go through a 11:43:44
14 federal PREA training as well, investigation and a 11:43:49
15 couple of other trainings I'm not sure, and it 11:43:53
16 guides us as well. So there are a number of 11:43:57
17 different documents that we get from the federal 11:44:02
18 government as well regarding PREA. 11:44:04

19 Q And where were those documents either 11:44:07
20 stored or how did you access those documents that 11:44:12
21 you -- 11:44:15

22 A Go ahead. I'm sorry. 11:44:16

23 Q The question was where are those documents 11:44:18
24 stored or how did you access the documents that you 11:44:21
25 use to determine whether something was a PREA 11:44:25

1 violation or not other than this policy we're 11:44:27
2 looking at? 11:44:30
3 MR. CHALMERS: Objection. 11:44:31
4 Q You can answer. 11:44:34
5 A There's a federal website that has that 11:44:36
6 information, and I can't remember what the website 11:44:39
7 was. 11:44:41
8 Q Okay. And did you use that federal 11:44:44
9 website when you were investigating PREA allegations 11:44:46
10 at Coastal? 11:44:50
11 A Yes. Not every single case. 11:44:52
12 MS. LITTRELL: Okay. Mr. Green, can you 11:45:00
13 scroll up one page at a time? And up one more page. 11:45:02
14 Q Okay. Do you see, Mr. Betterson, that in 11:45:15
15 section 3 it says "Definitions" and then starts with 11:45:18
16 letters, A, and on this page A through E. 11:45:24
17 MS. LITTRELL: And if you'll scroll up one 11:45:28
18 more page, Mr. Green. 11:45:30
19 Q And you see the "Introduction and 11:45:34
20 Summary," and you see that it says it's the GDC at 11:45:39
21 the very top, "Introduction and Summary," A has "a 11:45:42
22 zero-tolerance policy toward all forms of sexual 11:45:48
23 abuse, sexual harassment and sexual activity among 11:45:51
24 offenders. The purpose of this policy is to 11:45:54
25 strengthen the department's efforts to prevent 11:45:57

1 occurrences of this nature by implementing key 11:45:59
2 provisions in the United States Department of 11:46:01
3 Justice's standards on the prevention, detection, 11:46:04
4 and response to sexual abuse in confinement 11:46:06
5 facilities, in accordance with the Prison Rape 11:46:11
6 Elimination Act of 2003," which is PREA. "This 11:46:16
7 policy provides guidelines to address the following 11:46:16
8 prohibited sexually abusive and/or harassing 11:46:19
9 behavior," and that's an offender perpetrator 11:46:22
10 against a victim and staff perpetrator against 11:46:25
11 offender victim. 11:46:28

12 So I am understanding this policy to be 11:46:30
13 the GDC policy on -- on responding to allegations of 11:46:34
14 either sexual abuse or sexual harassment. 11:46:43

15 How are you understanding this policy? 11:46:46

16 A I'm reading it as a general guideline for 11:46:51
17 staff members to actually be aware of policy as far 11:46:55
18 as within a GDC facility. 11:47:03

19 MS. LITTRELL: And, Mr. Green, if you will 11:47:06
20 scroll down, back down to K on page 3, which is 11:47:10
21 under "Definitions." 11:47:18

22 Q And we see that the definition that -- the 11:47:19
23 phrase that is being defined is sexual abuse by an 11:47:23
24 offender, and on the next page it gives four types 11:47:27
25 of actions that under this definition would be 11:47:38

1 considered sexual abuse. And number 4, if you could 11:47:44
2 read that and then let me know when you're finished. 11:47:50
3 A Like I'm -- basically what it says, you 11:48:09
4 know, any touching of the genitalia, anus, groin, 11:48:12
5 breast or thigh, anything like that, as well as, you 11:48:16
6 know, or excluding, you know, accidental contact or 11:48:22
7 during a physical altercation or something like 11:48:27
8 that. 11:48:29
9 Q So that would include the touching the 11:48:30
10 buttocks of another person; right? 11:48:33
11 A Correct. 11:48:35
12 Q And according to this definition, it 11:48:35
13 doesn't matter whether it's directly or through the 11:48:38
14 clothing; right? 11:48:41
15 A Correct. 11:48:43
16 Q Okay. And so earlier I had asked you if 11:48:44
17 touching someone on the buttocks would be considered 11:48:47
18 a PREA violation. Does this refresh your 11:48:50
19 recollection that, in fact, touching someone in an 11:48:54
20 unwanted way would be considered a PREA violation? 11:48:59
21 A Right. But it doesn't -- it doesn't 11:49:03
22 necessarily mean that it will result in a PREA case 11:49:07
23 that would consider a PREA case to be substantiated 11:49:13
24 or unsubstantiated -- 11:49:18
25 Q And that's about -- and that's about the 11:49:20

1 disposition of it. But in terms of this meeting the 11:49:21
2 definition of a PREA violation -- 11:49:25
3 A It could be filed -- 11:49:25
4 (Audio disruption; court stenographer 11:49:25
5 clarification.) 11:49:25
6 A Right, it could be filed as a result of a 11:49:26
7 touching, yes. 11:49:32
8 Q It could be filed -- 11:49:35
9 A A PREA case could be filed as a result of 11:49:37
10 touching. 11:49:39
11 Q Okay. And if it was shown that the 11:49:39
12 touching occurred, would that be a violation, a PREA 11:49:42
13 violation? 11:49:49
14 A Yeah, to the best of my knowledge, yes, it 11:49:50
15 would be. 11:49:53
16 Q Okay. 11:49:54
17 A If, in fact, you conducted the -- if the 11:49:55
18 investigation was conducted and the allegation was 11:49:59
19 found to be true, so, you know, it may be a PREA 11:50:02
20 file. But I'll give you an example of if you walk 11:50:12
21 into a crowd, if you're at a concert and you walk 11:50:16
22 into a crowd of a thousand people and someone 11:50:25
23 touches you, yes, that would be, for all intents and 11:50:27
24 purposes, that would be a PREA. 11:50:33
25 But you're in a crowd of a thousand 11:50:35

1 people, who actually committed the act? You know, 11:50:36
2 how do you go about, you know, identifying who 11:50:41
3 actually committed the act if you can't figure out 11:50:44
4 who was the actual perpetrator. As another term -- 11:50:46
5 Q Can I stop you there just to get a 11:50:52
6 clarifying question in? 11:50:54
7 A Um-hmm. 11:50:56
8 Q So that example is helpful, and it 11:50:57
9 suggests to me that if you can't identify the 11:51:00
10 offender, then it's not a PREA violation. 11:51:05
11 A No, that's absolutely not true. 11:51:08
12 Q Okay. 11:51:10
13 A What I'm saying is that there's actually 11:51:10
14 that does constitute a PREA, that it's a PREA that 11:51:13
15 should be filed. But depending on the outcome of 11:51:17
16 that investigation, you know, you use all the tools 11:51:22
17 available, whether there's cameras, whether there's 11:51:26
18 witnesses, any tools available to try to corroborate 11:51:29
19 what the actual -- corroborate the allegation of 11:51:32
20 sexual abuse. And based on that, you know, it may 11:51:36
21 be, you know, sometimes you have substantiated, 11:51:39
22 unsubstantiated, and a couple other terms that are 11:51:46
23 selected within a PREA case that says it's likely to 11:51:49
24 have occurred, but it's not -- you know, not -- 11:51:52
25 you're not able to prove it, and there's just no 11:51:54

1 guarantee that it will be a straightforward 11:51:59
2 substantiated PREA case. 11:52:02

3 There's so many avenues that -- that can 11:52:04
4 pop up when you're dealing with PREA just based on 11:52:07
5 the information that you're given or not given. 11:52:11

6 Q Okay. So in the example that you were -- 11:52:14
7 that you were giving, if we can play that out just a 11:52:17
8 little bit, so in an environment in which there are 11:52:20
9 a lot of people moving, and someone files a PREA 11:52:25
10 allegation and says that I was grabbed on the rear 11:52:32
11 when I was, you know, walking down the hall, the 11:52:37
12 first question is does that allegation rise to the 11:52:42
13 level of a potential PREA violation? 11:52:46

14 A Yes. 11:52:50

15 Q Okay. And then -- 11:52:51

16 A Well, when you say -- I'm sorry. When you 11:52:53
17 say a PREA violation, are you -- I think that's what 11:52:55
18 we're miscommunicating on. 11:52:59

19 Q Okay. 11:53:01

20 A So when you say violation, are you -- are 11:53:01
21 you referring to the end result, or are you just 11:53:04
22 referring to just the ability to just file a PREA 11:53:06
23 case? 11:53:10

24 Q Well, my understanding is that anyone can 11:53:11
25 file a PREA case about any actions or verbal, you 11:53:15

1 know, offenses they can file the case, so that's one 11:53:24
2 thing. The second step is does this allegation rise 11:53:27
3 to the level of a potential PREA violation, and then 11:53:31
4 the third step is was it a PREA violation. 11:53:36

5 A Right. So your question is? 11:53:41

6 Q Step 2. 11:53:44

7 A Okay. 11:53:46

8 Q Does -- does that scenario in which 11:53:46
9 someone is -- someone reports that they have been 11:53:50
10 grabbed on the rear when they were walking through a 11:53:52
11 large group of people, does that rise to the level 11:53:56
12 of a potential PREA violation? 11:53:59

13 A Yes. 11:54:01

14 Q And if they say they don't know the name 11:54:03
15 of the person who did that, does that still rise to 11:54:06
16 the level of a potential PREA violation? 11:54:10

17 A Yes. 11:54:13

18 Q And if you reviewed video that confirmed 11:54:14
19 that that person was grabbed on the rear by an 11:54:18
20 individual, but the video wasn't clear enough to be 11:54:22
21 able to identify who that perpetrator was, would 11:54:26
22 that be considered a PREA violation? Would that be 11:54:31
23 substantiated? 11:54:36

24 A Based on what you're saying just 11:54:38
25 straightforward, yes. But there are some other 11:54:44

1 circumstances involved in that that could change 11:54:48
2 that, you know. The interaction prior to that, you 11:54:51
3 know, anything that we would consider doubtful that 11:55:00
4 it occurred, the alleged victim could have felt 11:55:05
5 someone touch his butt, but the camera to us could 11:55:11
6 have indicated that it was accidental contact. So, 11:55:14
7 you know, just straightforward if someone walks up 11:55:18
8 and grabs someone's buttock with an open hand or 11:55:21
9 something of that nature, and it was perceived to be 11:55:25
10 completely intentional, I would say yes, that would 11:55:30
11 constitute a PREA violation. 11:55:32

12 Q And that's even if you don't know who the 11:55:34
13 offender is? 11:55:37

14 A Yes. 11:55:39

15 Q Okay. Thanks. That's helpful. 11:55:39

16 And then scroll down -- I think this could 11:55:42
17 be helpful as well -- to the next page, page 5, and 11:55:45
18 do you see there where it's the subsection M and it 11:55:54
19 appears to be the definition of sexual harassment, 11:56:00
20 and I think this is where we talked about earlier 11:56:03
21 the word "repeated" comes into play. Would you 11:56:06
22 agree? So if you'll just read that to yourself and 11:56:10
23 let me know when you're finished. 11:56:14

24 It looks like you said you were ready, but 11:56:45
25 we didn't hear you -- 11:56:48

Transcript of Carl Betterson
Conducted on July 15, 2022

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1	A	Correct.	11:58:05
2		MS. LITTRELL: All right. You can take	11:58:07
3		this document down.	11:58:08
4	Q	Mr. Betterson, who was your direct	11:58:10
5		supervisor in your role as the deputy warden of care	11:58:13
6		and treatment?	11:58:17
7	A	Brooks L. Benton, Warden Brooks L. Benton.	11:58:18
8	Q	Okay. And was he your direct supervisor	11:58:23
9		the entire time you were working at Coastal?	11:58:27
10	A	Yes, ma'am.	11:58:31
11	Q	Did you have any other direct supervisors,	11:58:32
12		or indirect supervisors I should ask, anybody else	11:58:34
13		over you?	11:58:38
14	A	If the warden was out, I wouldn't say he	11:58:38
15		was actually over me, but he was the head of the,	11:58:41
16		you know, in the chain of command the deputy warden	11:58:46
17		of security moved up to number 1 in command and my	11:58:51
18		position from number 3 moved to number 2 in the GDC	11:58:55
19		facility. So I would still fall under the directive	11:59:00
20		of the deputy warden of care and treatment, although	11:59:04
21		we were still technically equal rank.	11:59:05
22	Q	Okay. Did you consider Ms. Atchison a	11:59:11
23		supervisor in any capacity?	11:59:14
24	A	I considered her to be not -- not my	11:59:18
25		direct -- not my supervisor, but she was the manager	11:59:24

1 over the PREA department. 11:59:27

2 Q And was Mr. Benton your supervisor when it 11:59:30

3 came to your efforts to investigate PREA 11:59:37

4 allegations? 11:59:41

5 A I'm sorry. Can you -- just a second. My 11:59:42

6 son just walked in. Can you give me just a second? 11:59:46

7 Q Absolutely. 11:59:46

8 MS. LITTRELL: Let's take a break until -- 11:59:51

9 five-minute break. 11:59:52

10 THE WITNESS: Okay. Thank you. 11:59:55

11 MS. LITTRELL: Come back at 12:05. 11:59:56

12 THE VIDEOGRAPHER: Okay. It is 11:59 p.m. 12:00:00

13 -- a.m. We are off the record. 12:00:05

14 (Recess 12:00 p.m. - 12:06 p.m.) 12:00:06

15 THE VIDEOGRAPHER: It is the beginning 12:06:33

16 of -- excuse me. It is 12:06 p.m. We're back on 12:06:40

17 record. 12:06:45

18 BY MS. LITTRELL: 12:06:47

19 Q Mr. Betterson, we -- I think I had asked 12:06:48

20 you about your supervisors when you were at Coastal, 12:06:51

21 and one question I'm not sure we got the answer to 12:06:56

22 -- we may have, but I forgot -- so I'm going to ask 12:07:00

23 you again, which was who supervised your efforts to 12:07:05

24 investigate PREA allegations? 12:07:07

25 A It would have been the deputy -- I'm sorry 12:07:09

1 -- the warden, Brooks L. Benton. 12:07:14

2 Q And that would be including investigations 12:07:17

3 into Ashley Diamond's PREA allegations? 12:07:19

4 A Warden Benton was the final person to -- 12:07:21

5 final reviewer to sign off -- and the signer of PREA 12:07:25

6 complaints. 12:07:33

7 Q Okay. And in your experience, did Mr. -- 12:07:33

8 Warden Benton, did he review the efforts that you 12:07:37

9 had taken or did he simply sign off and kind of 12:07:41

10 rubber stamp what you had done? 12:07:45

11 A No. He reviewed them. I do recall -- and 12:07:48

12 it wasn't an Ashley Diamond case. I can't remember 12:07:54

13 who the guy was -- but there was an allegation of 12:07:58

14 sexual assault -- 12:08:12

15 (Audio distortion - court stenographer 12:08:12

16 clarification.) 12:08:12

17 A I'm sorry. I was trying to recall it as I 12:08:18

18 was talking about it. So there's an allegation of 12:08:20

19 sexual assault between two individuals, the SANE 12:08:23

20 nurse was called in, and I believe he -- the 12:08:27

21 information that I received regarding evidence of a 12:08:32

22 sexual assault was given to me by an actual nurse 12:08:37

23 and the information he received came back from a 12:08:43

24 SANE nurse, and I concluded that it was 12:08:49

25 substantiated based on the information I received 12:08:57

1 from the nurse. And he reviewed it and, you know, 12:08:59
2 caught the discrepancies that the information I had 12:09:02
3 was from a nurse and not the actual -- from an 12:09:04
4 institutional nurse and not the actual sexual 12:09:08
5 examination nurse. So he did review those cases. I 12:09:11
6 can't say -- you know, I wasn't there when he 12:09:14
7 reviewed them. Once I completed them, I forwarded 12:09:16
8 them to his office. And then based on that, he 12:09:18
9 actually did look at those allegations and review 12:09:21
10 them. 12:09:26

11 Q And did he have the authority to present 12:09:26
12 you with information that you did not have? 12:09:31

13 A Yes, he did. So he's the -- he's the 12:09:36
14 highest level of authority at that institution at 12:09:41
15 that time, so he would be privy to information that 12:09:45
16 maybe I wouldn't even have. I'm not sure what it 12:09:48
17 would have been because, you know, everything -- I 12:09:54
18 pretty much felt as though I, you know, had 12:09:57
19 information, all information regarding the PREA. 12:09:59
20 But he may have had informants in that institution 12:10:02
21 that I was not aware of that provided him with 12:10:05
22 information, times, dates, things of that nature. 12:10:08
23 But ultimately, yes, he was the -- he's the highest 12:10:11
24 authority at that institution. 12:10:14

25 Q Was it your expectation that if he had 12:10:16

1 additional information about a PREA allegation you 12:10:19
2 were investigating, that he would provide that to 12:10:21
3 you? 12:10:25
4 A Yes. 12:10:25
5 Q Okay. And did that ever occur in your 12:10:26
6 experience? 12:10:29
7 A I believe so. In some cases we did 12:10:31
8 discuss findings and how to interpret those findings 12:10:37
9 in a better way to get more information involving 12:10:41
10 PREA cases. So, yes. 12:10:45
11 Q Okay. You mentioned a SANE nurse. Can 12:10:49
12 you just define what you mean, what that 12:10:55
13 abbreviation stands for? 12:10:57
14 A A SANE nurse is a sexual assault 12:10:59
15 examination nurse and they specialize in -- 12:11:03
16 specialize in examining a victim of sexual assault, 12:11:06
17 collecting the DNA evidence, evidence to support or 12:11:09
18 deny a claim of sexual abuse or assault. 12:11:14
19 Q And that would be based on a physical 12:11:16
20 examination of the victim? 12:11:18
21 A Yes, ma'am. 12:11:20
22 Q Okay. And do you think it might stand for 12:11:21
23 sexual assault nurse examiner? 12:11:25
24 A I'm sorry? 12:11:29
25 Q What do you think "SANE" stands for? 12:11:31

1 A Sexual assault nurse examination. I can't 12:11:35
2 remember exactly what the acronym is for. 12:11:39
3 Q Okay. That sounds right to me. 12:11:41
4 MS. LITTRELL: I'm going to ask Mr. Green 12:11:43
5 to pull back up what's now been marked Exhibit 1. 12:11:45
6 Q Okay. Do you see Exhibit 1 back up on the 12:11:55
7 screen, Mr. Betterson? 12:11:58
8 A Yes. 12:12:00
9 Q And this is what we just talked about a 12:12:01
10 little bit ago and agreed that we could identify as 12:12:04
11 the GDC PREA policy; is that right? 12:12:08
12 A Yes. 12:12:13
13 MS. LITTRELL: Okay. If you'll go ahead 12:12:14
14 and skip to page 33, Mr. Green, and scroll down one. 12:12:15
15 I guess we're going to need to scroll back up one 12:12:35
16 and then another one. Great. So on page 32, and at 12:12:38
17 the bottom of this document it's DEF -- it's cut off 12:12:44
18 a little bit so I'm going to ask you to scroll up 12:12:50
19 slightly so we can read what the Bates number is. 12:12:54
20 Yes. It's DEF_1393. 12:12:57
21 Q There's a section that says "Attachments," 12:13:02
22 and at the top you see this is still Policy 208.06, 12:13:08
23 it's the GDC PREA policy and it lists 11 12:13:12
24 attachments. Do you see that? 12:13:15
25 A Yes. 12:13:17

1 MS. LITTRELL: Okay. And, Mr. Green, if 12:13:17
2 you will please scroll to the top of what will say 12:13:19
3 Attachment 2, I believe it's on page 36. 12:13:27
4 Okay. Sorry. Do you want to give me 12:13:44
5 control of the screen and maybe I can -- maybe I 12:13:46
6 already have it. Let's see. Great. So I'll take 12:13:50
7 control of this document. 12:13:57
8 Q Now, do you see on page 35 of Exhibit 1 12:13:58
9 it's SOP 208 Attachment 2. Have you ever seen this 12:14:01
10 document before? 12:14:06
11 A Yes. It's not in a document form within 12:14:07
12 -- it's actually -- it's actually -- it's a 12:14:13
13 document, but it's actually inside of SCRIBE, which 12:14:16
14 is a program that we use within GDC, so it's in an 12:14:19
15 electronic form. 12:14:23
16 Q Okay. And what is this document? 12:14:29
17 A Once a person comes into an institution 12:14:31
18 give them an assessment to check basically their -- 12:14:35
19 during transport to see if any sexual assault has 12:14:39
20 occurred or any changes since their last PREA exam 12:14:43
21 had anything occurred. 12:14:47
22 Q This appears to me to be the PREA 12:14:49
23 classification screening instrument to determine 12:14:53
24 whether the offender is either a sexual victim or a 12:14:56
25 sexual aggressor. 12:15:00

1 A Yeah. Well, this is a -- this is a bigger 12:15:01
2 part of a process for GDC. It's not just a sole 12:15:04
3 document. It's classification, there's a 12:15:08
4 classification process within an institution when 12:15:10
5 someone comes in and this is a part of the screening 12:15:12
6 once they come into an institution. 12:15:15

7 Q Okay. Are you familiar with a PREA 12:15:19
8 classification when it comes to an offender being 12:15:23
9 identified as a sexual -- I'm sorry -- a PREA victim 12:15:27
10 or a PREA aggressor, or both? 12:15:30

11 A I vaguely remember it, but my -- what I -- 12:15:34
12 what I remember basically it's you go through a list 12:15:39
13 of questions, and once you select the questions, 12:15:43
14 answer the question, the system determines, based on 12:15:49
15 the answers, whether they're classified as victim or 12:15:53
16 aggressor. 12:15:56

17 Q Okay. And as the PREA compliance manager, 12:15:57
18 were you privy to the information with regard to 12:16:00
19 each offender as to whether they were a PREA victim 12:16:04
20 or a PREA aggressor? 12:16:08

21 A Yes. 12:16:10

22 Q Okay. I'm scrolling to the next 12:16:11
23 attachment to the GDC PREA policy, which is 12:16:22
24 Attachment 3. Have you seen this form before, 12:16:26
25 Mr. Betterson? 12:16:31

1 put under their signature "refused"? 12:18:06

2 A I think normally -- I've never had that 12:18:10

3 issue until we came -- until we dealt with Diamond. 12:18:14

4 I think the warden decided that that would be the 12:18:20

5 best option, just to put refused to sign and have a 12:18:23

6 team member present to verify that. 12:18:27

7 Q Okay. And was it the first time that an 12:18:30

8 offender refused to sign, whether that was 12:18:38

9 Ms. Diamond or anyone else, was that the point at 12:18:41

10 which the word "refused" was written and a date next 12:18:44

11 to that? 12:18:50

12 A If I remember correctly, we -- at that 12:18:51

13 point Diamond had filed numerous PREA cases, refused 12:18:55

14 to sign any of them. And I think we had a meeting 12:19:01

15 with the warden, called her back into my office, 12:19:06

16 myself and I think the evidence-based coordinator 12:19:13

17 may have been there, I think that's who it was, and 12:19:17

18 we offered to give her an opportunity on that 12:19:19

19 particular day to sign one, if not all of them. She 12:19:21

20 just refused. 12:19:27

21 Q Okay. If we can go down the form just to 12:19:30

22 ensure that I understand what the abbreviations are. 12:19:38

23 At the top under "Allegation Type" it says "S/I 12:19:42

24 Abuse." What does that mean? 12:19:48

25 A Staff on inmate. 12:19:50

1 Q Okay. And then below that, does that 12:19:52
2 indicate staff on inmate harassment? 12:19:54
3 A Correct. 12:19:57
4 Q And then under that, "I/I" means 12:19:58
5 inmate-on-inmate abuse, and "I/I" means 12:20:01
6 inmate-on-inmate harassment; correct? 12:20:06
7 A Correct. I believe that's accurate. 12:20:08
8 Q And then under "Disposition" there are 12:20:10
9 four boxes; one is "Unfounded," another is 12:20:13
10 "Unsubstantiated," and the third is "Referred to 12:20:19
11 OPS." What is OPS? 12:20:24
12 A I can't remember what it's an acronym for, 12:20:25
13 but basically it's an investigative unit to do a 12:20:28
14 further investigation on the PREA case, for them to 12:20:31
15 use more advanced equipment I guess to look into the 12:20:34
16 investigation. But it's basically special OPS to 12:20:37
17 the Department of Corrections. 12:20:40
18 Q Okay. And is it -- do you think it might 12:20:42
19 be Office of Professional Standards? Yes? Is that 12:20:44
20 a yes? 12:20:50
21 A Yes. Yes, it is. Yes. 12:20:51
22 Q Okay. You cut out. 12:20:54
23 And then there are, if it's substantiated, 12:20:57
24 there's another round of boxes to fill in for action 12:21:03
25 taken. Is that accurate? 12:21:06

1 That suggests that in order to mark something 12:22:32
2 unfounded, there would need to be proof that the 12:22:36
3 allegation did not occur. Is that -- is that 12:22:40
4 accurate? 12:22:44
5 A Yes. 12:22:45
6 Q Okay. And for unsubstantiated it means 12:22:46
7 that SART could not prove or disprove the 12:22:50
8 allegation. And if it's referred to OPS, SART 12:22:52
9 determined additional review is warranted and it was 12:22:57
10 forwarded; correct? 12:23:00
11 Correct? Is that right? 12:23:05
12 A Yes. 12:23:05
13 Q And then substantiated means that SART 12:23:06
14 determined that the allegation did occur. 12:23:10
15 A Correct. 12:23:17
16 Q Correct? Okay. And at the very bottom it 12:23:17
17 says that this form has to be placed in the PREA 12:23:19
18 investigative file and maintained for the length of 12:23:20
19 the offender's incarceration plus 5 years or 10 12:23:22
20 years from the initial report, whichever is greater. 12:23:26
21 Did you understand that to be the rules of 12:23:30
22 the institution? 12:23:31
23 A Yes. 12:23:33
24 Q Okay. Attachment 4 is the next attachment 12:23:33
25 connected and associated with GDC policy, and this 12:23:43

1 one is the "Sexual Allegation Response Checklist." 12:23:47
2 Do you see that? 12:23:50
3 A Correct. 12:23:51
4 Q And this is at the bottom marked Bates 12:23:52
5 stamp DEF_1399. 12:23:56
6 What is this document? 12:23:59
7 A It's a guideline to ensure that we 12:24:02
8 followed the process completely for the PREA 12:24:04
9 investigation. 12:24:10
10 Q And when is this checklist required to be 12:24:11
11 completed? 12:24:16
12 A There is no requirement time. You can 12:24:17
13 start the checklist in the beginning or you can once 12:24:20
14 you complete the -- complete the investigation, go 12:24:23
15 back and look and ensure that everything was done, 12:24:28
16 but I'm -- it's possible that there's a start time, 12:24:30
17 but I wasn't aware of it. 12:24:33
18 Q Okay. And in your experience, what was 12:24:36
19 your practice with respect to filling out this 12:24:38
20 checklist? 12:24:42
21 (Audio disruption; court stenographer 12:24:42
22 clarification.) 12:24:51
23 A I believe my -- the process I used was to 12:24:51
24 print the checklist off at the onset of the PREA 12:24:56
25 investigation and go through the list as we 12:25:01

1 progress. Everything wasn't always done, you know, 12:25:04
2 right away. Based on the investigation, it could be 12:25:08
3 a few weeks, could be a few -- 12:25:12
4 (Audio disruption; court stenographer 12:25:12
5 clarification.) 12:25:18
6 A Could be a few days before we progress to 12:25:18
7 each section of that. 12:25:22
8 Q Progress to each section of the form, is 12:25:29
9 that what you said? 12:25:32
10 A Correct. 12:25:33
11 Q Okay. It appears to me that this 12:25:34
12 checklist is a helpful aid to ensure that all of the 12:25:38
13 actions that are required are taken in a timely 12:25:43
14 manner. Would you agree with that characterization? 12:25:48
15 A Yes. 12:25:53
16 Q Okay. 12:25:54
17 A I wouldn't say in a timely manner. I 12:25:54
18 would say it's a guide for us to try to get 12:25:56
19 everything to make sure we have everything 12:26:00
20 processed. But, again, you know, some of this is 12:26:03
21 based on, you know, cooperation of witnesses. Some 12:26:06
22 of it is dragged out whether or not, you know, 12:26:12
23 different things happen in the facility where there 12:26:15
24 is no movement. But it is a general guide for us to 12:26:19
25 try to be timely with the process. 12:26:22

1 Q Okay. And do you see in the fifth box 12:26:24
2 down it starts with the word "Recover"? 12:26:26

3 A Um-hmm. 12:26:29

4 Q "Recover, download, and document any video 12:26:30
5 monitoring recording." That suggests to me that 12:26:33
6 there is a process to ensure that if video exists 12:26:43
7 that could prove or disprove the allegations, that 12:26:49
8 the process was started to ensure that that video 12:26:53
9 recording is -- is preserved. Is that accurate? 12:26:58

10 A If there's -- if there's video recording 12:27:04
11 available, yes. 12:27:07

12 Q Okay. And you would mark this as yes 12:27:08
13 prior to reviewing the video; right? 12:27:14

14 (Audio disruption; court stenographer 12:27:14
15 clarification.) 12:27:32

16 A Not necessarily. Video evidence is not 12:27:32
17 readily available to everyone at the institution for 12:27:35
18 security reasons. So we may start an investigation, 12:27:38
19 but we might not actually get the video downloaded 12:27:40
20 and sent to us for several days after the alleged 12:27:45
21 incident. So sometimes they have to call in the 12:27:48
22 technician to actually come in and download that 12:27:51
23 information for us. So as soon as we're able to get 12:27:53
24 that video evidence, we download it. 12:27:58

25 But, for example, I wasn't able to have -- 12:28:03

1 I was granted access to video evidence, but it 12:28:06
2 wasn't -- I may -- I would probably say two months 12:28:09
3 before I left GDC. So during that time when Diamond 12:28:13
4 was there I didn't personally have access to that 12:28:19
5 video. And even when I did have access, we still 12:28:22
6 would have to call someone in to download those 12:28:25
7 documents. 12:28:29

8 Q So what exactly was the process to -- to 12:28:29
9 download video of any alleged incident? 12:28:35

10 A My understanding was that we would forward 12:28:39
11 the request to the deputy warden of security to 12:28:42
12 review the footage and see if there was anything 12:28:45
13 available to use, and if there was, then we would 12:28:49
14 request that it would be downloaded. And, again, 12:28:52
15 sometimes I do believe, if I'm not mistaken, I do 12:28:56
16 believe we would have to call in a technician from 12:29:00
17 time to time due to us not being able to download 12:29:02
18 that evidence. 12:29:06

19 Q And who was the deputy warden of security 12:29:06
20 during the times that Ms. Diamond made her PREA 12:29:09
21 allegations in 2020 and 2021? 12:29:13

22 A It was Michael Anderson initially when I 12:29:17
23 started, and then Zechariah Jones took over once he 12:29:21
24 was moved to another facility. 12:29:29

25 Q Okay. And then on the form we looked at 12:29:33

1 before, which is where you arrive at the 12:29:35
2 disposition, one of the options is "Unfounded," and 12:29:39
3 we talked about that meaning that you've disproven 12:29:43
4 that the allegation took place; right? 12:29:47

5 And so if there were video of the incident 12:29:51
6 that disproved the allegation, that -- that evidence 12:29:55
7 would be relevant to the investigation; correct? 12:30:01

8 A But more relevant to the investigation 12:30:06
9 would be the cooperation of the victim. In regards 12:30:08
10 to Diamond mostly -- pretty much on all of her cases 12:30:12
11 she was reluctant to speak with us about anything, 12:30:18
12 citing that she had to have an attorney present. So 12:30:21
13 we couldn't -- we wouldn't have been able to get 12:30:25
14 video information because we wouldn't know when the 12:30:27
15 incident occurred or how it occurred or who were the 12:30:30
16 alleged perpetrators. 12:30:32

17 So, you know, if there was video evidence, 12:30:34
18 and you got to understand it's data, that amount of 12:30:36
19 data being recorded, you can't store it forever. 12:30:40
20 And if she was reluctant to provide us information 12:30:44
21 on when an incident occurred, we would not have been 12:30:48
22 able to possibly download that information at the 12:30:50
23 time. 12:30:53

24 I'm not able to discuss -- I will not 12:30:53
25 discuss security, any security knowledge that I have 12:30:57

1 with that institution. I don't think that I should 12:31:02
2 share that information. But there is a time frame 12:31:04
3 that -- 12:31:11
4 (Audio disruption; court stenographer 12:31:11
5 clarification.) 12:31:15
6 A That we have before we lose that video 12:31:15
7 evidence. 12:31:18
8 Q Understood. And to the extent, 12:31:21
9 Mr. Betterson, that you are or you testify about 12:31:24
10 anything that in your opinion would implicate 12:31:27
11 security concerns, we have an ongoing agreement with 12:31:31
12 counsel and a protective order in place -- 12:31:36
13 A Okay. 12:31:36
14 Q -- and we can mark the pages of this 12:31:38
15 deposition as confidential. So if that happens, 12:31:40
16 please let me know and we will make some 12:31:44
17 accommodations. We want you to be able to testify 12:31:46
18 fully and also respect the needs of the prison and 12:31:50
19 security of everyone involved. 12:31:54
20 A Yes, ma'am. 12:31:57
21 Q And so it's your understanding that video 12:31:58
22 is kept for a particular period of time before it is 12:32:02
23 either deleted or written over, and we know what 12:32:08
24 that period of time is from other testimony. 12:32:13
25 A Right. 12:32:16

1 Q But just with respect to proving or 12:32:16
2 disproving -- I'm sorry. Let me start again. 12:32:21

3 With respect to investigating a PREA 12:32:25
4 allegation to arrive at a disposition that either 12:32:28
5 proves, disproves or leads you to a conclusion that 12:32:34
6 you can neither prove nor disprove that it occurred, 12:32:42
7 you would agree that video that shows nothing 12:32:45
8 happening on the date and time that someone says it 12:32:50
9 did would be relevant information for the 12:32:54
10 investigation? 12:32:57

11 MR. CHALMERS: Objection. 12:32:58

12 Q You can answer. 12:33:01

13 A I'm sorry. Can you repeat the question 12:33:02
14 again? 12:33:08

15 Q With respect to an investigation of a PREA 12:33:09
16 allegation, you would agree that video showing that 12:33:11
17 nothing occurred would be relevant to determine 12:33:18
18 whether or not the PREA allegation did or did not 12:33:21
19 happen? 12:33:26

20 MR. CHALMERS: Same objection. 12:33:28

21 A Part. But you have to understand with 12:33:39
22 video evidence you're talking about a situation 12:33:42
23 where cameras are not always -- you can't always 12:33:46
24 determine that something happened based on a camera 12:33:53
25 even if people are in the frame. Some of these 12:33:56

1 cameras are, you know, just not as good as other 12:33:59
2 cameras. So with that being said, if -- you can't 12:34:02
3 make a determination based on a video all the time. 12:34:08
4 Q Would the video, nonetheless, be important 12:34:13
5 for you to review? 12:34:18
6 A Yes, it would be. 12:34:19
7 Q And is there a place on this form or in 12:34:19
8 any other documentation where you could record the 12:34:26
9 reason that the video was unhelpful? 12:34:31
10 A I would say yes. I would say yes. But if 12:34:39
11 there is -- if there was -- if there was a covert 12:34:52
12 camera placed in an institution, even I may not know 12:34:56
13 about it. I may have to get information from a 12:34:59
14 person that does know where that camera is that can 12:35:02
15 review it, and they may not tell me that -- you 12:35:05
16 know, they may withhold information as far as the 12:35:08
17 angle or what they saw, but they may say, well, I 12:35:12
18 didn't see anything when I reviewed the footage that 12:35:17
19 would suggest, you know, that something occurred, 12:35:21
20 and then I would -- you know, I wouldn't say that in 12:35:23
21 this document. I would more than likely say that 12:35:25
22 video evidence was reviewed and it was determined 12:35:27
23 that it was not useful, or something like that. 12:35:28
24 Q Okay. So video evidence was reviewed, it 12:35:31
25 would be documented that it was reviewed and it did 12:35:34

1 not show something -- 12:35:38

2 A For the most part, yes. And that's if we 12:35:40

3 knew when the incident occurred. 12:35:43

4 But, again, you have to realize with 12:35:45

5 Diamond, she just would not -- she was a hundred 12:35:47

6 percent of the time reluctant to help us with any of 12:35:50

7 our investigation. So we just didn't have access to 12:35:53

8 the video right away to take immediate action to see 12:35:57

9 if an interaction had occurred if it occurred in the 12:36:02

10 area that was video monitored. 12:36:05

11 Q Okay. Let's see. Is it your 12:36:11

12 understanding that this checklist is to be filled 12:36:17

13 out in every case of a PREA allegation? 12:36:20

14 A It should. It should be, yes. 12:36:24

15 Q Okay. And at the bottom there's a 12:36:26

16 retention schedule. Do you see that that is the 12:36:28

17 same as what we saw before, it's 10 years? 12:36:31

18 A Yes. 12:36:38

19 Q Okay. And just kind of scrolling down to 12:36:39

20 make sure I understand all of the forms or 12:36:41

21 procedures, this is the procedure for the SANE 12:36:46

22 Evaluation/Forensic Collection, and this is what we 12:36:52

23 talked about before that's the responsibility of the 12:36:56

24 SANE nurse? 12:36:58

25 A Yes. 12:36:59

1 Q And is it your understanding with respect 12:37:06
2 to the SANE -- SANE nurse, that if there's an 12:37:09
3 allegation that involves penetration, there's an 12:37:13
4 opportunity for the victim to have a forensic 12:37:17
5 examination? Is that right? 12:37:21
6 A Yes. 12:37:23
7 Q And that's to collect DNA or any other 12:37:24
8 evidence that would be relevant to the 12:37:27
9 investigation? 12:37:28
10 A Yes. 12:37:30
11 Q Is the SANE nurse also authorized to 12:37:32
12 conduct a forensic examination on the alleged 12:37:37
13 perpetrator to collect DNA evidence? 12:37:43
14 A I do not -- I'm not sure about that. I do 12:37:48
15 not know the answer to that. 12:37:51
16 Q Okay. And then on Attachment 6, have you 12:37:52
17 seen this before? 12:37:56
18 A Yes. This looks like a part of the PREA 12:37:58
19 investigation. 12:38:04
20 Q Okay. 12:38:05
21 A If I'm not mistaken, but it's in 12:38:06
22 electronic form. 12:38:09
23 Q And this is different from the checklist 12:38:10
24 that we looked at before. Correct? 12:38:13
25 A Correct. 12:38:17

1 Q It's a summary of all the investigative 12:38:17
2 steps taken which suggest that it's completed after 12:38:20
3 the investigation is concluded. Is that accurate? 12:38:23
4 A Correct. 12:38:27
5 Q Okay. And there is a box for a summary of 12:38:28
6 investigation. Is this where video was reviewed 12:38:34
7 that didn't show anything, you would expect to put 12:38:38
8 those notes here? 12:38:42
9 A Yes. 12:38:45
10 Q And then below that where it has "Evidence 12:38:45
11 gathered," if there was -- if you did have enough 12:38:48
12 information to pull the video, looked at the video, 12:38:52
13 and it didn't show what the victim said happened, 12:38:56
14 would that be noted there? 12:39:00
15 A Not generally. "Summary of 12:39:02
16 Investigation," it's possible that I could have 12:39:04
17 noted it there. But where you're looking at 12:39:06
18 evidence gathered, that's -- it doesn't look like 12:39:10
19 that in SCRIBE. I don't know why -- I don't know if 12:39:14
20 it's just populating like that because that's how 12:39:18
21 they design it. But in the SCRIBE program there's 12:39:21
22 another form that appears when you're completing 12:39:24
23 that investigation that asks you for that evidence 12:39:26
24 and it was another box that comes up and says was 12:39:28
25 any video evidence gathered, I think it says yes or 12:39:32

1 no, or why, or why not, or something like that, 12:39:37

2 that's where you would probably document that. 12:39:39

3 Q Okay. But you could document it in this 12:39:42

4 box the "Summary of Investigation" as well? 12:39:45

5 A You could. But like I said, if there's 12:39:47

6 another section for it, it may not be documented in 12:39:50

7 that. 12:39:53

8 Q Okay. It should be documented somewhere. 12:39:53

9 Correct? 12:39:56

10 A Correct. 12:39:56

11 Q Okay. Let's see what this is. Okay. 12:39:58

12 Attachment 7, we're now on page 46 of Exhibit 1, and 12:40:05

13 at the bottom it's DEF_1407. What is this document? 12:40:08

14 A This looks like the PREA Response Plan. 12:40:25

15 Basically it tells anyone who come in they'll be 12:40:29

16 able to look at how to respond or who the contact 12:40:33

17 persons are. Essentially, it's just a SART team, 12:40:36

18 how to contact with them, how to contact backup 12:40:39

19 members and things of that nature and the process 12:40:42

20 for that institution. 12:40:44

21 Q And have you seen Coastal's Local 12:40:45

22 Procedure Directive and Coordinated Response Plan, 12:40:50

23 have you seen this form filled out for Coastal? 12:40:53

24 A Yes, it was filled out for Coastal. 12:40:56

25 MS. LITTRELL: Okay. And I would just 12:40:58

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1 note on the record, Mr. Chalmers, we have not seen 12:40:59
2 Coastal's form, completed form that comports with 12:41:03
3 Attachment 7, and so I would just ask that you would 12:41:10
4 supplement discovery and see if we can get a copy of 12:41:13
5 that. 12:41:15

6 MR. CHALMERS: I won't supplement based on 12:41:16
7 this request, Beth. But if you would like to send 12:41:19
8 me a note and indicate which discovery request it's 12:41:23
9 responsive to, I'm happy to respond to that. 12:41:26

10 MS. LITTRELL: Sounds like a plan. 12:41:29

11 Well, Adobe, at least on my end, has 12:41:38
12 decided to stop drawing. I don't know, Mr. Green, 12:41:42
13 if there's a refresh or something. Can folks see 12:41:46
14 that there's no -- the document appears blank at 12:41:50
15 this point, at least on my screen? Or is it my 12:41:54
16 computer? 12:41:57

17 THE WITNESS: It appears blank on my 12:41:58
18 screen also, ma'am. 12:42:00

19 MS. LITTRELL: Okay. Mr. Green, if 12:42:05
20 there's anything you can do, do your magic. If not, 12:42:06
21 we'll move on. 12:42:10

22 THE TECHNICIAN: I believe that's how the 12:42:11
23 document was received. 12:42:12

24 MS. LITTRELL: Okay. All right. Let's -- 12:42:15
25 let's take a break right now while we each try and 12:42:22

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1 determine why that occurred. I've seen this 12:42:28
2 document before as it was produced to us, which is 12:42:33
3 what I uploaded for purposes of this deposition, and 12:42:36
4 it was -- it had writings all the way through. So 12:42:39
5 I'll figure that technical difficulty out. 12:42:42
6 I think it's also a really great time to 12:42:45
7 take a break for lunch. Would 45 minutes suffice 12:42:49
8 for lunch for everyone? Which would put us back 12:42:53
9 here at 1:30. 12:42:59
10 THE WITNESS: Yeah, that's fine. 12:43:01
11 THE VIDEOGRAPHER: Okay. It is 12:43 p.m. 12:43:01
12 We go off the record. 12:43:04
13 (Recess 12:43 p.m. - 1:31 p.m.) 12:43:06
14 THE VIDEOGRAPHER: It is the beginning of 13:31:14
15 media number 3 of the testimony of Carl Betterson. 13:31:18
16 It is 1:31 p.m. We're back on the record. 13:31:22
17 BY MS. LITTRELL: 13:31:26
18 Q Good afternoon, Mr. Betterson. I hope you 13:31:31
19 enjoyed your lunch. 13:31:33
20 When we were last talking, we had an 13:31:36
21 exhibit up on the screen, Exhibit 1, we ran into 13:31:39
22 some technical difficulties. I understand from 13:31:42
23 Mr. Green that those have been resolved. So I'm 13:31:45
24 going to ask him to pull back up Exhibit 1 and just 13:31:48
25 ask you a few more questions about that exhibit. 13:31:51

1 All right. Can everybody see that okay? 13:32:03
2 I'm just going to scroll down now to what is marked 13:32:10
3 at the top Attachment 10 of Exhibit 1, at the bottom 13:32:13
4 it's DEF_1411, and it is page 50 of 51 of this -- of 13:32:17
5 this exhibit. 13:32:23
6 And, Mr. Betterson, can you -- do you 13:32:25
7 recognize this form? 13:32:29
8 A Yes. 13:32:33
9 Q And what is it? 13:32:34
10 A It's basically just the -- just notifying 13:32:36
11 staff that there has been a PREA complaint. 13:32:44
12 Q Okay. And this is different than a 13:32:47
13 checklist that we talked about before; right? 13:32:49
14 A Correct. 13:32:53
15 Q Okay. This checklist appears to ask what 13:32:55
16 actions were taken, the initial notification form, 13:32:59
17 asks to identify who was notified. Is that 13:33:05
18 accurate? 13:33:11
19 A Correct. 13:33:11
20 Q Okay. And now I'm going to jump up in the 13:33:12
21 same document, Exhibit 1, to page 4, and I had a 13:33:15
22 question for you. I'm sorry. It is actually on 13:33:25
23 page 3, what is at the bottom DEF_1364, and on 13:33:28
24 subsection J, this is in the definitions, the 13:33:34
25 "Sexual Abuse/Harassment Response Team." So this 13:33:38

1 identifies the composition of what we keep referring 13:33:46
2 to as SART, and I would like for you to -- I guess I 13:33:49
3 should stop there and say is that accurate? 13:33:55
4 A Yes. 13:33:58
5 Q Okay. And while you were at Coastal, were 13:33:59
6 these -- were these positions on the SART team 13:34:10
7 filled in 2020? 13:34:13
8 A Yes, for the most part. There was some 13:34:19
9 transition in investigators around that time. 13:34:23
10 Q Okay. So maybe a better question just to 13:34:26
11 get a bird's-eye view is are these roles static? Or 13:34:34
12 do people roll on and off of them? 13:34:40
13 A Static, but you have, you know, people 13:34:43
14 transition at different jobs. You know, some people 13:34:46
15 retire, you have to fill them at that point. 13:34:49
16 Q And are they filled in by title? Or is 13:34:54
17 there some other method that someone decides who is 13:35:00
18 going to serve in each of these roles? 13:35:05
19 A They're not necessarily filled by title, 13:35:08
20 more so ability. Say, for example, the SART mental 13:35:12
21 health person -- 13:35:16
22 (Audio disruption; court stenographer 13:35:16
23 clarification.) 13:35:28
24 A Right. For example, the SART mental 13:35:28
25 health team member, it could be -- it could be 13:35:30

1 mental health case manager. What we look for in a 13:35:35
2 SART team member is people who would be better 13:35:41
3 suited to work in that, you know, work in that type 13:35:44
4 of -- to work in that type of situation or work 13:35:48
5 these type of cases. But we wouldn't just randomly 13:35:52
6 pick anybody. We definitely talk to them and see 13:35:56
7 who is willing to do it, because working PREA cases, 13:36:01
8 like I said, it takes hours. It's not just an open 13:36:04
9 and shut case. So they would have to be willing to 13:36:09
10 actually do it. 13:36:11

11 Q And who decides who fills those roles? 13:36:11

12 A Ultimately the warden has the last say-so. 13:36:14
13 I would -- I would seek out people for these 13:36:19
14 positions (audio distortion) as part of this. 13:36:21

15 Q I was going to ask you to start again 13:36:29
16 because you cut out. It's just your mic. You're 13:36:31
17 not doing anything abnormal. 13:36:34

18 MS. LITTRELL: Can I ask the court 13:36:37
19 reporter to just read back the last line she heard 13:36:41
20 in the answer, the last word in the answer? 13:36:44

21 (Record read.) 13:36:52

22 A I would seek out people for position -- 13:36:58
23 seek out people who would be willing to participate 13:37:03
24 in PREA. Like I said, it's a lot of work, so you 13:37:09
25 don't want to have anybody who is reluctant to do 13:37:13

1 the work. 13:37:16

2 Q Okay. And so would you seek them out per 13:37:17

3 incident? Or was there another timeline? 13:37:21

4 A Definitely -- definitely not per incident. 13:37:25

5 We would interview them or talk to them about PREA 13:37:28

6 and what it entailed, and if they were willing to 13:37:41

7 take on that task, then we would go further into 13:37:45

8 details of how to process it and see if they would 13:37:49

9 be capable of doing that and -- 13:37:52

10 (Audio disruption; court stenographer 13:37:52

11 clarification.) 13:37:52

12 THE WITNESS: Sorry. Is my internet 13:38:00

13 connection bad or... 13:38:01

14 MS. LITTRELL: It seems like your 13:38:03

15 microphone is just not picking up every word. But I 13:38:04

16 can't say that that's not a result of bad internet. 13:38:10

17 But you're coming through; there's no problem with 13:38:12

18 your video. 13:38:15

19 THE WITNESS: Okay. Can you hear me now? 13:38:16

20 MS. LITTRELL: Do you have -- maybe you 13:38:18

21 have headphones or anything you might want to switch 13:38:19

22 to and see if the microphone is more steady? 13:38:22

23 THE VIDEOGRAPHER: I may have a 13:38:25

24 suggestion. Can you -- can you go in your audio 13:38:27

25 setting -- 13:38:31

1 MS. LITTRELL: Let's go off the record and 13:38:32
2 get the technical issue taken care of. 13:38:33
3 THE VIDEOGRAPHER: Okay. It is 1:38 p.m. 13:38:36
4 We go off the record. 13:38:39
5 (Recess 1:38 p.m. - 1:41 p.m.) 13:38:41
6 THE VIDEOGRAPHER: It is 1:41 p.m. We are 13:41:03
7 back on record. 13:41:07
8 BY MS. LITTRELL: 13:41:08
9 Q Mr. Betterson, we were looking at Exhibit 13:41:09
10 1 a minute ago and we were talking about the roles 13:41:13
11 of the SART team, the composition of the SART team 13:41:20
12 while you were at Coastal. 13:41:27
13 A Um-hmm. 13:41:28
14 MS. LITTRELL: And if I can get the tech 13:41:30
15 to pull that document back up so I have a visual 13:41:31
16 aid, that would be helpful. Great. There we go. 13:41:37
17 Q So you would identify someone willing to 13:41:42
18 serve in each of these roles, and then, if I'm 13:41:46
19 understanding correctly, that became the SART team, 13:41:50
20 and those people stayed on the SART team unless 13:41:53
21 someone left the facility. Is that accurate? 13:41:58
22 A For the most part, or they indicated to me 13:42:03
23 that they no longer wanted to be on the SART team. 13:42:08
24 That's not a position that you can really kind of 13:42:11
25 force someone into because you're not going to get 13:42:13

1 the work you need completed. 13:42:18

2 Q Okay. 13:42:20

3 A A SART investigator, that's normally a 13:42:21

4 security person's responsibility unless -- unless as 13:42:24

5 the, you know, the head of this team I felt like it 13:42:32

6 warranted my services, I would have to send a 13:42:35

7 request to the deputy warden of security to request 13:42:40

8 that person be placed on the team. 13:42:42

9 Q Okay. So while you were at Coastal, who 13:42:47

10 served in the role of the SART investigator on the 13:42:51

11 SART team during 2020 and 2021? And if it's more 13:42:54

12 than one person, name all of the people. 13:42:59

13 A There were a couple of people. I think it 13:43:03

14 was I served as an investigator. Sergeant Bryant, 13:43:07

15 Lieutenant -- I can't think of her name, but she's 13:43:16

16 retired, medically retired. And it was a unit 13:43:23

17 manager, I think that's Mr. Ferrie, he also served 13:43:26

18 as an investigator. 13:43:31

19 Q Can you spell that last name? 13:43:32

20 A F-e-r-r-i-e, I believe. 13:43:35

21 Q Okay. That's a lot of people. If I'm -- 13:43:39

22 if I understood your original description, those 13:43:42

23 positions would be sequentially filled. Someone was 13:43:49

24 the investigator, didn't want to be the 13:43:53

25 investigator, stepped down off the SART team, and 13:43:55

1 you found someone else to replace them. Is that 13:43:58
2 right? 13:44:01
3 A Not necessarily. 13:44:01
4 Her name was Lieutenant Sawyer. 13:44:02
5 Q Thank you. 13:44:05
6 A So in the case with Lieutenant Sawyer, I 13:44:05
7 believe she was placed on another shift, which kind 13:44:09
8 of created a conflict with us communicating about 13:44:11
9 the investigations, so that was the reason. 13:44:14
10 Lieutenant Bryant was moved to another 13:44:18
11 position within the institution on the same shift, 13:44:21
12 but her position required her to be at that post a 13:44:24
13 hundred percent of the time, so she wasn't really 13:44:30
14 able to assist us with our investigations. 13:44:32
15 Mr. Ferrie was on -- on that SART team 13:44:35
16 when I arrived at that institution, so, you know, 13:44:38
17 I'm assuming, and this is an assumption, that he was 13:44:41
18 an investigator. I do remember Ms. Cantera being a 13:44:43
19 mental health person, so... 13:44:47
20 Q Okay. And do you remember any other -- 13:44:54
21 the names of any other people who were -- who served 13:44:55
22 as the SART mental health team member? 13:44:59
23 A I don't remember the names. I remember 13:45:08
24 faces, but I just don't remember the names. 13:45:10
25 Q Okay. And, again, they're on the team 13:45:12

1 until they needed to be off the team, and then you 13:45:15
2 would identify another person to fill that role; 13:45:18
3 correct? 13:45:20
4 A Correct. 13:45:21
5 Q Okay. Were there people on the SART team 13:45:27
6 that held more than one role on the SART team at the 13:45:31
7 same time? 13:45:36
8 A Not necessarily. I would have been the 13:45:38
9 investigator on some of those cases. 13:45:48
10 Q And what was your other role on the SART 13:45:52
11 team? 13:45:56
12 A PREA compliance manager. 13:45:56
13 Q So that's not listed here. So explain to 13:45:59
14 me how the PREA compliance manager interfaces with 13:46:04
15 the SART. 13:46:06
16 A Basically we, you know, we talk to them 13:46:07
17 about SART cases -- SART cases. I'm sorry -- PREAs, 13:46:10
18 making sure that they've done everything they needed 13:46:16
19 to do, they needed to do, gather information from 13:46:18
20 them, make sure that the investigation was completed 13:46:21
21 properly, and just oversee the overall process 13:46:30
22 investigation, make sure all the components were 13:46:34
23 completed by the team. 13:46:37
24 Q Okay. So you were both over the SART team 13:46:39
25 but also a member of it? 13:46:45

1 A Yes, from -- at time -- well, I'm always a 13:46:46
2 member of the SART team because I oversee the work 13:46:49
3 that they do. I wouldn't be listed technically as 13:46:52
4 one of the people that complete information within 13:46:58
5 the PREA investigation unless I was taking on one of 13:47:00
6 those roles. 13:47:06
7 Q Okay. And why would you take on one of 13:47:07
8 those roles? 13:47:09
9 A Because everyone is not trained in the 13:47:10
10 facility -- 13:47:18
11 (Audio disruption; court stenographer 13:47:18
12 clarification.) 13:47:26
13 A In PREA, so that PREA training is once 13:47:26
14 yearly, so there may be some time that elapses 13:47:34
15 between training, and being that I do have training 13:47:40
16 as an investigator in PREA and other areas, I would 13:47:43
17 have taken on that role to ensure that it was 13:47:47
18 completed. 13:47:49
19 Q What training specifically did GDC provide 13:47:51
20 that prepared you for your role as a SART 13:47:55
21 investigator? Do you recall? 13:47:58
22 A The annual SART training. 13:48:01
23 Q And just to finish that question about 13:48:05
24 whether there were people who took on more than one 13:48:07
25 role, could a -- could a SART investigator also be 13:48:09

1 the retaliation monitor? 13:48:17

2 A No. Technically they could be. But at 13:48:19

3 our -- at our institution I assigned a counselor to 13:48:21

4 handle that responsibility. So as a -- 13:48:24

5 Q Which responsibility? 13:48:28

6 A As the retaliation monitor. 13:48:29

7 Q Okay. A counselor, my understanding was 13:48:32

8 that Ms. Cantera was a mental health counselor? 13:48:36

9 A She was a mental health counselor, but she 13:48:40

10 wasn't the retaliation monitor. I think she may 13:48:45

11 have been the retaliation monitor initially. But I 13:48:48

12 did make some changes to the SART team once we got 13:48:51

13 settled in. 13:48:56

14 When you start at an institution, what you 13:48:57

15 don't want to do is go in and tear down everything 13:49:00

16 they already have in place. You kind of want to see 13:49:03

17 what can be changed. 13:49:06

18 Q Sure. 13:49:06

19 A I saw that we needed a separate person for 13:49:08

20 the retaliation monitor. And I'm not sure that 13:49:11

21 there wasn't a separate person, or if someone 13:49:14

22 actually had that responsibility left. I remember 13:49:16

23 assigning one of our case managers, treatment case 13:49:21

24 managers that responsibility. I think once she 13:49:27

25 left, I did some retaliation monitoring, or I gave 13:49:32

1 it to the -- the evidence-based coordinator to 13:49:36
2 handle, which is she's now a deputy warden as well, 13:49:41
3 so... 13:49:44
4 Q One of the documents we looked at earlier 13:49:46
5 was a form for the local PREA procedure, the local 13:49:50
6 procedure that you said that you had seen, and it 13:49:55
7 had places to fill in where all of these roles -- 13:50:00
8 the names of all of these roles. Do you recall that 13:50:07
9 without me having to pull it back up? 13:50:09
10 A Not particularly. 13:50:13
11 Q Okay. I'm just trying to find out if -- 13:50:19
12 or I'll just ask you when people left a position on 13:50:22
13 the SART team and someone else stepped in, was that 13:50:27
14 documented anywhere? 13:50:29
15 A I'm not sure. I don't think so. There 13:50:33
16 was an initial -- usually yearly there's an update 13:50:43
17 made I believe in a memo format to describe members 13:50:49
18 of the SART team. I can't say that that memo to 13:50:54
19 staff is updated once someone has moved out of that 13:51:02
20 position. I'm not sure -- 13:51:08
21 (Audio disruption; court stenographer 13:51:08
22 clarification.) 13:51:12
23 A I think that that document came from the 13:51:12
24 warden's office. 13:51:15
25 Q Okay. The facility internal victim 13:51:16

1 advocate, who was that? 13:51:22

2 A I believe the victim had the ability to 13:51:28

3 ask if they wanted a separate advocate, but I -- 13:51:38

4 (Audio disruption; court stenographer 13:51:38

5 clarification.) 13:51:48

6 A But I do believe that it was another case 13:51:48

7 manager, but I can't remember who was given that 13:51:52

8 task. But in any event, any event -- that I do 13:51:54

9 recall any event that -- 13:52:00

10 (Audio disruption; court stenographer 13:52:00

11 clarification.) 13:52:10

12 A In the event that the victim doesn't want 13:52:10

13 the advocate that we -- that we have assigned, they 13:52:24

14 could request an advocate, request another team -- 13:52:27

15 another person at that facility be their advocate 13:52:30

16 and we would accommodate them that way as well. 13:52:33

17 Q This suggests to me that that person is 13:52:37

18 supposed to be a member of the -- this team. 13:52:39

19 A Correct. 13:52:43

20 Q Okay. And does this team meet on any 13:52:44

21 regular basis? 13:52:49

22 A Yes. We meet pretty much after every 13:52:50

23 investigation is concluded to discuss the findings. 13:52:56

24 Some of the findings are cut and dry and they are 13:53:03

25 done in just a few minutes, and others they take a 13:53:07

1 while based on information. 13:53:11

2 Q And when the -- did the team always meet 13:53:13

3 in person? 13:53:16

4 A Not always in person. Sometimes, 13:53:17

5 depending on what was going on, they may be out, 13:53:21

6 would meet via phone conversation, that one of the 13:53:26

7 team members could not make it for some reason, if 13:53:30

8 they were out, we still had contact by phone to 13:53:33

9 resolve issues if I had questions. 13:53:37

10 Q And that position that's the victim 13:53:40

11 advocate, was that person on the team meetings if 13:53:42

12 the victim had not requested an advocate? 13:53:46

13 A Yes -- 13:53:50

14 (Audio disruption; court stenographer 13:53:50

15 clarification.) 13:54:07

16 A Yes, for the most part. Sometimes we 13:54:07

17 would offer an advocate and they wouldn't accept, 13:54:13

18 and at that time there was nothing we could do. 13:54:18

19 Q But in the team meetings where you talked 13:54:21

20 about the -- 13:54:24

21 A Yes. Yeah. 13:54:25

22 Q -- were they always in that regardless of 13:54:26

23 whether or not the victim had requested an 13:54:29

24 advocate -- 13:54:33

25 A No, ma'am. No, ma'am. 13:54:33

1 Q Okay. Thank you. 13:54:35

2 A An advocate, you have to understand that 13:54:40

3 an advocate, PREA is sensitive information, so even 13:54:42

4 though they're a member of that team, if a person 13:54:51

5 requested someone, we would try to accommodate them 13:54:53

6 as best as possible. But, you know, we would get 13:54:56

7 requests for an advocate to be another offender in 13:55:00

8 the PREA case and we couldn't allow that in our -- 13:55:03

9 you know, we would get a request for people who just 13:55:08

10 refused to be an advocate for -- for a participant. 13:55:14

11 So in a situation like that, you know, we just 13:55:20

12 didn't have an advocate and we didn't just try to 13:55:25

13 put anybody in that position because they would 13:55:29

14 be -- they would have sensitive information and we 13:55:32

15 didn't want that to get out. 13:55:35

16 Q Well, maybe I'm misunderstanding the 13:55:36

17 policy. The definition of the SART team, the SART 13:55:38

18 team is "locally composed multidisciplinary team, 13:55:43

19 with both security and non-security staff, who work 13:55:47

20 together to fulfill the guidelines" in the policy. 13:55:50

21 And it says the team includes and it has these five 13:55:55

22 people, and my understanding from your description 13:55:59

23 earlier was all of these roles were filled -- 13:56:01

24 A Correct. 13:56:05

25 Q -- by people, known people, and if someone 13:56:05

1 decided they didn't want to do it anymore, you found 13:56:09
2 somebody else to fill that position in -- 13:56:13
3 A Correct. 13:56:16
4 Q -- and then that team met after there was 13:56:16
5 a PREA allegation to discuss and decide the 13:56:19
6 disposition of that; right? 13:56:23
7 A Correct. 13:56:25
8 Q And so the facility/internal victim 13:56:25
9 advocate appears to me to be a role that's always 13:56:28
10 filled on the SART team. 13:56:32
11 A Correct. 13:56:33
12 Q Am I misunderstanding that? 13:56:34
13 A No, you're not. 13:56:35
14 Q Okay. And so that person who filled that 13:56:36
15 role while you were at Coastal during 2020 and 2021, 13:56:40
16 who was that? 13:56:46
17 A I can't remember her name. She was a case 13:56:47
18 manager. I can't remember her name. Also, the 13:56:51
19 retaliation monitor, I'm looking at her face, but I 13:56:53
20 just I can't remember their names. 13:56:56
21 Q Okay. But there was a person who served 13:56:58
22 in that role -- 13:57:00
23 A Correct. 13:57:00
24 Q -- and who met with you, the SART team? 13:57:01
25 A Correct. 13:57:04

1 Q Okay. And did you understand -- what did 13:57:07
2 you understand that role to be, victim advocate? 13:57:11

3 A Advocate is to ensure that there was 13:57:18
4 nothing being done maliciously during the course of 13:57:21
5 the investigation, to work on behalf of the victim 13:57:25
6 to ensure that everything was done to assist -- to 13:57:29
7 assist them in their best interest (audio 13:57:35
8 interruption.) 13:57:35

9 Q You cut out after "in best interest". 13:57:43

10 A Working in the best interest of the 13:57:47
11 victim. They wouldn't provide any information. 13:57:49
12 They would just make sure that nothing nefarious was 13:57:51
13 going on on our end. 13:57:56

14 Q Okay. Who was responsible to ensure that 13:57:58
15 there was a proper investigation conducted? 13:58:00

16 A I was. I was, myself and the warden, and 13:58:03
17 it just went up the chain of command, which Grace's 13:58:07
18 group is not actually in our chain of command, but 13:58:10
19 it would fall on their group to be the final 13:58:14
20 reviewer, so myself and the warden reviewed. 13:58:18

21 Q And whose responsibility was it to exhaust 13:58:21
22 all avenues of investigation prior to disposition? 13:58:25

23 A The investigator. 13:58:29

24 Q And are you familiar with a different 13:58:38
25 lettering, let's see if it's on here, SAIRT, a SAIRT 13:58:41

1 team? 13:58:50

2 A Um-hmm. 13:58:51

3 Q What is the difference between a SAIRT 13:58:51

4 team and a SART team? 13:58:54

5 A My -- I believe the SAIRT team is not 13:58:56

6 really -- it doesn't really deal with the actual 13:59:01

7 PREA incident. We would review PREA incidents that 13:59:06

8 had occurred and see what we could do to ensure that 13:59:10

9 they wouldn't happen again, if I'm not mistaken. 13:59:13

10 Q Okay. Yeah, and I see that now. I'm 13:59:16

11 sorry. It's on -- for the record, it's on page 3 of 13:59:18

12 Exhibit 1, DEF_1364, and it's under subsection I. 13:59:21

13 MS. LITTRELL: You can take this document 13:59:29

14 down now. 13:59:31

15 Q So, Mr. Betterson, in terms of the 13:59:35

16 responsibilities of investigating PREA, based on the 13:59:39

17 training that GDC provided to you, is it true that 13:59:46

18 all evidence direct and circumstantial is required 13:59:50

19 to be collected and preserved? 13:59:54

20 A Yes. 13:59:56

21 Q And evidence includes any electronic 13:59:57

22 monitoring data. Is that right? 14:00:01

23 A Correct. 14:00:05

24 Q Okay. And what do you understand 14:00:06

25 electronic monitoring data to include? 14:00:09

1 A Any -- within our facility, any video 14:00:12
2 audio surveillance that's captured. 14:00:16

3 Q Okay. And the investigation includes 14:00:21
4 interviewing witnesses; correct? 14:00:27

5 A Yes, ma'am. 14:00:29

6 Q Interviewing all witnesses? 14:00:29

7 A That are directly involved, yes. Any 14:00:34
8 witness who may have information, yes. So pretty 14:00:40
9 much yes. We may -- if we speak to someone, if 14:00:50
10 someone is identified as a witness, we do a 14:00:53
11 preliminary interview with them and ask them do they 14:00:56
12 have any information about it, and if they say no, 14:00:59
13 then we would not pull them in an office and go 14:01:02
14 through that process. 14:01:05

15 But for the most part, if they're a 14:01:06
16 witness, we would talk to them and attempt to get 14:01:08
17 them to write a witness statement regarding it, but 14:01:11
18 sometimes they will refuse to write statements. You 14:01:15
19 know, that's -- that's a big thing in the 14:01:18
20 institution, where they feel like if they write a 14:01:19
21 statement they're going against the prisoner code. 14:01:22
22 So we would try to get as much information as 14:01:26
23 possible, but... 14:01:28

24 Q And could you tell me a little bit more 14:01:30
25 about the prisoner code, as you understand it? 14:01:33

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1 A Just, you know -- you know, it's like 14:01:36
2 giving statements to -- we were considered the 14:01:39
3 police, so any time they would talk to us, it would 14:01:42
4 be like talking to the police. And if you called a 14:01:45
5 person into the office, the longer they stayed in 14:01:49
6 the office, or the longer they stayed away from the 14:01:52
7 dormitory, they could be perceived to be snitching 14:01:56
8 or (audio disruption) if something like that 14:01:59
9 occurred, if a PREA occurred and the person may know 14:02:01
10 about it, but they won't say anything about it 14:02:04
11 because they may consider it snitching, so...

12 Q And can there be adverse consequences for 14:02:08
13 being labeled a snitch? 14:02:11

14 A There could be. I'm assuming that, you 14:02:14
15 know, you could receive some type of retaliation, 14:02:16
16 receive some type of retaliation. I've never really 14:02:18
17 seen that at Coastal State Prison. Coastal State 14:02:24
18 Prison is -- at that time wasn't a very tough 14:02:33
19 institution. It was more of a programming 14:02:35
20 environment. At Autry State Prison I did see some 14:02:39
21 instances of retaliation, very rarely. Not that it 14:02:41
22 didn't occur, but I just wasn't privy to that 14:02:46
23 information. 14:02:49

24 Q In your experience as, you know, in 14:02:50
25 corrections, whether at Coastal or previous to that, 14:02:53

1 was your experience that someone could be retaliated 14:03:00
2 against if they were labeled a snitch not only by 14:03:04
3 the person they snitched on, but perhaps by an 14:03:10
4 associate of theirs? 14:03:13
5 A No more than any person on the street, you 14:03:16
6 know, so... 14:03:19
7 Q Okay. 14:03:20
8 A So I assume so. 14:03:20
9 Q Okay. So in terms of interviewing, we're 14:03:22
10 talking about interviewing witnesses, you would 14:03:27
11 interview all of the witnesses who were identified; 14:03:30
12 right -- 14:03:33
13 A Um-hmm. 14:03:33
14 Q -- who were willing to talk to you? 14:03:34
15 A Right. 14:03:36
16 Q What about -- what affirmative efforts did 14:03:37
17 investigators take to identify witnesses on their 14:03:44
18 own? 14:03:48
19 A Some video surveillance, we would try to 14:03:51
20 see if we were able to get any information. And I'm 14:03:55
21 assuming you're talking about -- you're just talking 14:03:58
22 about PREAs in general, or just specific to 14:04:01
23 Ms. Diamond? 14:04:04
24 Q No. PREAs in general. 14:04:04
25 A We would use surveillance, and if we had a 14:04:06

1 camera in an area, we would check a camera. You 14:04:08
2 know, we would -- if there was an area where there 14:04:12
3 were other offenders working or known to be working, 14:04:16
4 we would try to talk to them about it. But nine 14:04:20
5 times out of ten you wouldn't find a person that was 14:04:25
6 willing to talk to you out in the open. 14:04:28

7 A lot of times what I did was instead of 14:04:31
8 -- after the initial incident occurred, place a fake 14:04:35
9 call out for an offender, so, you know, I would send 14:04:40
10 them out a call out saying parole review or 14:04:44
11 something like that, to get them up. And that way 14:04:48
12 if somebody saw the slip, or they brought the slip 14:04:51
13 back and somebody wanted to know why they came up to 14:04:54
14 my office, they would have a slip saying parole 14:04:58
15 review or something just to kind of throw them off. 14:05:02
16 Even that didn't work sometime. It was just an 14:05:02
17 opportunity for them to have a way out if someone 14:05:08
18 saw them coming to my office. 14:05:10

19 Q What about let's say in the event of 14:05:12
20 someone who made a PREA allegation that something 14:05:19
21 occurred in a particular place and that, you know, 14:05:23
22 he or she screamed when it happened, as part of the 14:05:27
23 investigation, even if they didn't identify the 14:05:34
24 person in the cell next door, is it possible that a 14:05:38
25 PREA investigator would ask the person in the cell 14:05:42

1 next door did you hear anything? 14:05:45

2 A It's possible. You know -- 14:05:47

3 Q Should that happen under that scenario? 14:05:53

4 A Depending on when it occurred, yes. I 14:05:57

5 would say yes, it should happen, for the most part. 14:06:01

6 Q Okay. But I'm trying to understand, so, 14:06:05

7 you know, list for me the types of action that a 14:06:08

8 PREA investigator could take beyond the information 14:06:12

9 provided by the victim. 14:06:18

10 A That's almost like a loaded question, 14:06:22

11 because, you know, depending on what the incident 14:06:26

12 entailed, it could be any number of actions taken. 14:06:29

13 But depending on what's going on in that institution 14:06:32

14 at that time, it may limit you. 14:06:36

15 I can try to be as generic as possible. 14:06:38

16 But if an incident occurred in a cell at night, the 14:06:42

17 first person I would probably talk to is an officer, 14:06:53

18 then I would definitely ask people nearby if they 14:07:02

19 heard anything (audio disruption) cameras -- 14:07:06

20 Q What did you say about cameras? I'm 14:07:10

21 sorry. You cut out. 14:07:12

22 A I said I would review cameras if they were 14:07:13

23 available. But you got to understand that this is 14:07:16

24 all dependent on information that's provided by a 14:07:20

25 victim. And this is Ashley Diamond's case and we 14:07:23

1 would have asked information and it would be met 14:07:27
2 with 100 percent resistance. So obtaining 14:07:30
3 information to support her case was difficult. We 14:07:33
4 would just basically have to start stabbing in the 14:07:36
5 dark in hopes of hearing or finding something and, 14:07:39
6 you know -- 14:07:42
7 Q Okay. 14:07:43
8 A -- that wouldn't be fruitful. 14:07:44
9 Q Okay. It sounds like if you have, though, 14:07:46
10 enough information to go on, for example, the dates 14:07:49
11 that something happened, the location, that would 14:07:54
12 get you started, and that there's some other 14:07:58
13 investigative techniques that you would employ? 14:08:00
14 A Correct. 14:08:03
15 Q When you -- during the investigative 14:08:04
16 process when you were investigating PREA 14:08:06
17 allegations, did you take notes of the witness 14:08:09
18 interviews? 14:08:11
19 A I didn't necessarily take notes. I did 14:08:12
20 require them to do a witness statement. And yes, I 14:08:15
21 did take notes; I actually documented our 14:08:18
22 conversations in the -- in the PREA, in the PREA 14:08:21
23 pamphlet packet. But they were also asked to write 14:08:28
24 a statement. Some would; some wouldn't. 14:08:31
25 Q Okay. The notes that you took, are they 14:08:35

1 all uploaded in some way, shape or form to SCRIBE? 14:08:37

2 A Yes. While synopsis is uploaded, there's 14:08:42

3 a limitation -- there's a limitation on the amount 14:08:46

4 of information that you can put in that system at 14:08:49

5 one time. So there's a character limit and you had 14:08:51

6 to pretty much put every single thing inside of the 14:08:57

7 -- inside of that document because of the size 14:09:05

8 limit. But if it's relevant and that was important, 14:09:09

9 it needed to go inside of it. So if a person says, 14:09:13

10 you know, I don't want to be a part of this, you 14:09:17

11 know, I want to leave. But they also say, you know, 14:09:22

12 I don't -- I don't -- I didn't hear anything that 14:09:26

13 night, I wouldn't put in there the fact that they 14:09:28

14 don't want to be part of it. I would just put in 14:09:31

15 that they stated they didn't hear anything that 14:09:34

16 night. 14:09:37

17 Q Right. But if there's any -- I guess also 14:09:37

18 my main question is are there any notes that you 14:09:39

19 kept on a separate pad or something that you kept in 14:09:41

20 your drawer or somehow was not reported in SCRIBE? 14:09:45

21 A It's possible. I'm sure I jotted things 14:09:50

22 down. But I'm not a big writer, so I don't expect 14:10:00

23 that I would just write out things. 14:10:03

24 But I can tell you what I probably did at 14:10:06

25 that time was -- and I don't have access to that 14:10:09

1 computer any more -- I would type up information to 14:10:11
2 go back to review, but I wouldn't necessarily write 14:10:18
3 it out. 14:10:21

4 Q Okay. In prison are all of the offenders 14:10:22
5 known to each other by their legal name? 14:10:31

6 A No, not all of them. Some of them can try 14:10:36
7 to keep that information as secret as possible. 14:10:39
8 Some of them, some offenders actually tell different 14:10:43
9 names than what they actually have. We find 14:10:46
10 conflicts all the time. Someone is saying that 14:10:49
11 their name is Dillon Jackson Johnson, but in the 14:10:53
12 system it's Dillon Johnson Jackson, so we're having 14:10:57
13 trouble finding -- 14:11:05

14 (Audio disruption; court stenographer 14:11:05
15 clarification.) 14:11:05

16 A So a person may give us a name, but it may 14:11:07
17 not be their actual name; it may be an alias that 14:11:10
18 they're going by. And when we find that out, we 14:11:14
19 just document it in SCRIBE and list it as an alias 14:11:19
20 in SCRIBE and update that information. 14:11:22

21 Q Do some inmates use nicknames or street 14:11:24
22 names? 14:11:28

23 A Yes, ma'am. 14:11:28

24 Q And when you're investigating a PREA 14:11:28
25 allegation, what steps do you take to identify the 14:11:31

1 legal name of the person who is known only by a 14:11:35
2 nickname or a street name? 14:11:38

3 A There are a number of techniques. I've 14:11:40
4 even went as far as no one could identify -- none of 14:11:44
5 my informants could tell me who a person was. I 14:11:49
6 think his name was Scrappy, or something like that. 14:11:53
7 They used to call him "Scrappy." So I got a 14:11:56
8 warden's package, which is a package full of 14:11:57
9 goodies, and I walk into the dorm and I say, you 14:11:59
10 know, hey, Scrappy, I got a package for you, a 14:12:03
11 warden package, he saw the warden package and 14:12:05
12 magically he is Scrappy. So, you know, I had a 14:12:08
13 conversation with him then. But that wasn't even 14:12:12
14 involving a PREA case I don't think. But just 14:12:15
15 techniques like that are used to try to identify 14:12:19
16 people. 14:12:21

17 You know, I had informants, I had 14:12:21
18 informants that the warden didn't know about. I had 14:12:22
19 informants that the deputy warden of security didn't 14:12:24
20 know about. And it's important to keep those 14:12:28
21 informants because they may not talk to the warden 14:12:30
22 or the deputy warden of security, but they may talk 14:12:35
23 to me, and that's just as important to an 14:12:38
24 institution as the warden knowing who that is now. 14:12:42

25 You know, there are very few informants 14:12:43

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1 that I had that the warden didn't know about. But I 14:12:45
2 do have one in particular that was a great source of 14:12:47
3 information inside the evidence-based dormitory, so, 14:12:51
4 you know, a lot of times I would press him for 14:12:54
5 information, try to come forth with as much 14:12:57
6 information as he knew I could find or anything to 14:13:01
7 help me. Or if he just couldn't provide any 14:13:05
8 information because he, you know, he would tell me, 14:13:10
9 you know -- I would talk -- you know, one incident 14:13:12
10 with another PREA allegation on the other side of 14:13:16
11 the building where Diamond was in, I asked him about 14:13:20
12 it and he just flat out said nobody was in that 14:13:23
13 building at that time. [REDACTED] 14:13:25
14 [REDACTED] 14:13:28
15 [REDACTED], and I was able to 14:13:32
16 prove through that that the incident didn't occur, 14:13:35
17 it couldn't possibly have occurred. 14:13:38
18 So we try and use different techniques. 14:13:40
19 Q So that would be a good example of how to 14:13:42
20 disprove, right, that a PREA allegation was 14:13:46
21 unfounded? 14:13:51
22 A Correct. 14:13:52
23 Q Got it. All right. Deputy warden of care 14:13:53
24 and treatment, were you in that role over the entire 14:13:59
25 prison? 14:14:03

1 Q What can you tell me about that? 14:21:25

2 A Yes, ma'am. So the directives as far as 14:21:27
3 hair length doesn't actually come from Coastal. I 14:21:32
4 think it's GDC policy. I can't remember exactly 14:21:36
5 what it says about hair length. I know there's a 14:21:40
6 beard length and hair length. But I don't recall if 14:21:43
7 there's any specific guidelines for transgenders at 14:21:45
8 that institution. 14:21:48

9 My biggest connection with that policy is 14:21:52
10 mainly beards. You know, we had guys, a lot of them 14:21:57
11 went through a beard craze where they wanted to grow 14:22:01
12 these huge, long beards, and it wasn't just 14:22:06
13 acceptable for us. But as far as hair, it wasn't a 14:22:08
14 really big issue. To be perfectly honest with you, 14:22:11
15 I really didn't enforce it. I know some of our 14:22:15
16 transgenders did have hair, but I particularly 14:22:19
17 myself, that wasn't a security matter. That wasn't 14:22:26
18 in my direct line -- well, actually it was. But it 14:22:30
19 wasn't an issue that I was readily, you know, 14:22:33
20 typically involved in. I didn't process haircuts. 14:22:37
21 I didn't, you know, try to move offenders to get 14:22:40
22 haircuts or anything like that. So I typically 14:22:42
23 wasn't involved in it. So if I saw them with hair, 14:22:46
24 I didn't say anything to them. 14:22:50

25 Q If you saw a transgender woman who was 14:22:51

1 incarcerated at Coastal whose hair length was 14:22:55
2 longer, a little more feminine, would you find that 14:23:01
3 to be a security concern? 14:23:05

4 A I would. But in an institution where 14:23:06
5 you've got 2,000 adult offenders, a haircut is not 14:23:08
6 always at the top of your list. We had a lot more 14:23:14
7 pressing issues. I had a lot more pressing issues. 14:23:17
8 So that I would have left that up to the sergeants, 14:23:20
9 the officers in those buildings to ensure that 14:23:23
10 they're following grooming policies. That's not -- 14:23:28
11 that's not something that would have been at the top 14:23:30
12 of my list. 14:23:32

13 Q So if I'm understanding correctly, Coastal 14:23:33
14 did not have a separate and distinct grooming policy 14:23:37
15 for how the offenders' hair length was to be -- was 14:23:40
16 supposed to be regulated. Is that right? 14:23:45

17 A No, not to my knowledge. Now, there may 14:23:47
18 have been -- there may be a policy out there. But 14:23:50
19 like I said, I should have known it, but if they 14:23:52
20 were out of compliance, they wouldn't have heard 14:23:57
21 anything from me anyway. So it would have been in 14:24:00
22 their best interest for me not to know that policy, 14:24:04
23 so. 14:24:07

24 But unless it was something egregious, 14:24:07
25 like they had -- you know, we had an incident where 14:24:10

1 we found -- I believe we found a pack of weave 14:24:13
2 inside of the institution, so, you know, if they had 14:24:17
3 weave going on, braids, something like that, I would 14:24:19
4 have said something then. 14:24:23

5 But, generally, if it was a minor 14:24:26
6 infraction, it's just that. You have to leave -- 14:24:29
7 you know, certain infractions are dealt with by the 14:24:32
8 officers and the lower level security staff, that's 14:24:35
9 what we entrust them to make decisions regarding 14:24:39
10 that. 14:24:43

11 But, you know, major issues or issues that 14:24:43
12 are really pressing in that institution, like a 14:24:47
13 murder or, you know, an offender not receiving their 14:24:50
14 blood pressure medication, and things of that 14:24:56
15 nature, those are more pressing to me than an issue 14:24:57
16 with hair. 14:25:01

17 Q And I understand there are more pressing 14:25:03
18 issues. I'm trying to understand if there -- if 14:25:06
19 there are regulations that, you know, regulate hair 14:25:13
20 length in prison. 14:25:18

21 A I'm fairly certain there's a policy 14:25:21
22 involving haircuts. And this is based on in the 14:25:23
23 barber shop they have photos of how your hair should 14:25:28
24 be cut and the lengths, so I'm sure there's a policy 14:25:32
25 around that. But I'm just not -- I just can't 14:25:35

1 remember that policy, ma'am, but I'm almost certain 14:25:38
2 there is a policy for hair length. 14:25:43

3 Q Okay. So we'll find that policy. If 14:25:45
4 there was a policy, who would be able to enforce 14:25:47
5 that? 14:25:51

6 A Any member of security can enforce it or 14:25:52
7 even a member of care and treatment non-security, 14:25:55
8 security. Even though everyone is not POST 14:25:59
9 certified, security is everyone's responsibility at 14:26:02
10 that institution. So anybody that works at that 14:26:07
11 facility could enforce it one way or another. 14:26:10

12 You know, for example, a person that 14:26:14
13 supervises the kitchen, she may not be able to make 14:26:18
14 an offender go get a haircut, but she can say you 14:26:23
15 can't work in my kitchen unless you're in polishing. 14:26:28
16 So it can be enforced in different ways. 14:26:31

17 And, you know, aggression or forcing 14:26:35
18 someone to do something is not always the way to go. 14:26:39
19 I found that, you know, if a person doesn't, you 14:26:43
20 know, want to comply, then you can take things away, 14:26:47
21 you can remove them from details until they decided 14:26:51
22 to follow policy, or you can place them on store 14:26:54
23 restriction. 14:26:58

24 Or, you know, I had a -- I had an office 14:26:59
25 with probably 400 warden packages, so my biggest 14:27:03

1 thing was if you -- if you didn't comply, you 14:27:07
2 wouldn't get a warden package. You know, that was 14:27:11
3 my biggest, you know, motivator for these guys to do 14:27:13
4 what they're supposed to do. And those packages are 14:27:17
5 just for people in evidence-based. They weren't for 14:27:19
6 people throughout the institution. 14:27:23

7 But, you know, and evidence-based, that 14:27:24
8 program is designed for participants -- offenders to 14:27:26
9 in a sense govern themselves, to hold themselves 14:27:34
10 accountable for what they are supposed to be doing 14:27:38
11 and what they aren't supposed to be doing. So, you 14:27:40
12 know, we didn't -- we didn't go make them sit down 14:27:42
13 in the chair to get a haircut. We didn't have to. 14:27:44
14 They knew if they wanted to stay in that program and 14:27:48
15 receive all the benefits, they had to be 14:27:52
16 well-groomed, keep your hygiene up, and just follow 14:27:55
17 GDC policy. 14:27:59

18 Q And the policy with respect to how they 14:28:00
19 were supposed to keep their hair and beard and et 14:28:03
20 cetera, that's written somewhere? 14:28:08

21 A Well, not just that. Just policy as far 14:28:08
22 as behavior, you know -- 14:28:13

23 Q We'll talk about that in a second. I'm 14:28:16
24 just trying to -- I'm just trying to manage this and 14:28:18
25 make sure we get you out of here on time, if you 14:28:20

1 don't mind. I really just wanted to find out what 14:28:23
2 you know about the grooming policy and where I could 14:28:26
3 find that information, and I think you've given me a 14:28:29
4 lot of good, you know, and your best answers for 14:28:32
5 that. 14:28:35

6 So I'm going to move this to understanding 14:28:35
7 your -- let you describe N Building for me so I can 14:28:40
8 get a visual of its physical layout. I've talked to 14:28:45
9 a couple other witnesses, and so I don't need you to 14:28:49
10 start from the beginning, but I am going to ask you 14:28:52
11 some questions to fill in. 14:28:54

12 A Okay. 14:28:57

13 Q My understanding is that N Building has 14:28:57
14 two different sides, NA and NB. Is that correct? 14:29:01

15 A Yes, ma'am, that is correct. 14:29:06

16 Q And I am going to talk about A and B as 14:29:08
17 dorms. Would that be accurate? 14:29:11

18 A Yes, open dormitories -- well, not open 14:29:14
19 dormitories. They're -- it's an open layout with 14:29:17
20 individual cells, individual two-man cells. 14:29:21

21 Q And each side of N Building is a separate 14:29:25
22 dorm. Is that right? 14:29:28

23 A Yes, ma'am, you have NA and NB. 14:29:29

24 Q Okay. And then the building itself is 14:29:31
25 called NB. Can we just call that -- can I just call 14:29:34

1 that as building? 14:29:36

2 A The building itself is just referred to as 14:29:37

3 N Building, our evidence-based dormitory. 14:29:41

4 Q Okay. And my understanding as well is 14:29:45

5 that there is some kind of an entryway that is 14:29:48

6 referred to as sally port. Is that right? 14:29:51

7 A Yes, ma'am. Yes, ma'am. 14:29:54

8 Q And that there are three doors in sally 14:29:55

9 port; one to NA, one to NB, and one into the control 14:29:58

10 room. Is that accurate? 14:30:03

11 A Yes, ma'am, it is. 14:30:06

12 Q Okay. Are there any other entrances into 14:30:07

13 NA or NB except for through sally port? 14:30:10

14 A Yes, but I believe those doors are 14:30:17

15 secured. They have two -- well, they're secure 14:30:20

16 unless the officer opens them. There are two 14:30:23

17 additional doors, when you walk into NB on the front 14:30:25

18 -- as soon as you walk into the buildings you have 14:30:31

19 the right side and the left side. If you walk into 14:30:33

20 NB, I believe if you walk all the way down to the 14:30:36

21 end of that building, on the right, far right corner 14:30:39

22 there's an exit door. And when you make a left in 14:30:42

23 the NA, if you go all the way down and in the far 14:30:46

24 left-hand corner there's an exit door. 14:30:49

25 Q And are those -- where do those exit to? 14:30:52

1 A They exit to -- one of them exits to -- on 14:30:55
2 NA it exits to the offender recreational yard. And 14:30:58
3 NA exits to just the walkway right in front of -- 14:31:06
4 I'm sorry -- NB, it exits into the walkway right in 14:31:09
5 front of N Building. 14:31:13
6 Q Okay. And is there an entry between NA 14:31:15
7 and NB other than going through sally port? 14:31:20
8 A Not to my knowledge. I think there may be 14:31:24
9 a mop closet there or something like that. But I 14:31:33
10 couldn't -- then again, there may not be anything 14:31:37
11 there. I just can't remember that entrance that 14:31:40
12 well. I never really had to go into a mop closet as 14:31:42
13 soon as we came in. But I don't think there are any 14:31:47
14 other entrances besides those three doors coming 14:31:50
15 into N Building from the front door. 14:31:53
16 Q Okay. And those doors in sally port, are 14:31:58
17 they secured? 14:32:04
18 A They are supposed to be secured, correct. 14:32:05
19 But there are also two -- two additional gates that 14:32:08
20 if that door is not secured, there are two 14:32:13
21 additional gates that prevent anybody from coming 14:32:16
22 into that area that are always secured, yes, ma'am. 14:32:19
23 Q All right. So explain that to me. So 14:32:23
24 we're in sally port, and for now I just want to talk 14:32:25
25 about NA. There's a door from sally port into NA 14:32:28

1 that is secured. And by "secured" I mean locked; 14:32:33
2 right? Okay. Is it a key lock? Do you need a key 14:32:39
3 to open it? 14:32:44
4 A Yes, you can use it, it's a key lock and 14:32:45
5 it opens through a remote switch in the control 14:32:48
6 room. 14:32:52
7 Q Okay. So when somebody comes through that 14:32:53
8 door, where are the gates that you just referenced? 14:32:56
9 A Well, the gates are actually before you 14:33:00
10 get into N Building. So the front of N Building is 14:33:03
11 surrounded by -- it's fenced in, it's surrounded by 14:33:07
12 barbed wire, so you need a key to enter into that 14:33:12
13 area to get to the front door of N Building. 14:33:15
14 Q Okay. And if you get into that gate, what 14:33:18
15 other buildings can you get into besides N Building? 14:33:22
16 A No other building. 14:33:26
17 Q Okay. So there's a separate gate that's 14:33:27
18 only around N Building? 14:33:30
19 A Right. Now, you can open -- there are two 14:33:32
20 entrances to that gate. There's a -- there's a -- 14:33:36
21 it's not L building. There's a building across 14:33:40
22 from -- across from N Building. I can't remember 14:33:45
23 what building that was. Now, you can access that 14:33:48
24 building if you have the key to -- to go through 14:33:51
25 that gate. But I've come down the walk and seen 14:33:54

1 people throwing things over that gate. You know, 14:33:58
2 it's you can only build a gate so high. A lot of 14:34:02
3 times they throw food across to each other and 14:34:06
4 things of that nature. But that gate is secured as 14:34:10
5 well. And outside of that, there is no other way to 14:34:12
6 get into N Building. 14:34:14

7 Q Okay. The doors in sally port, are they 14:34:17
8 locked 24/7? 14:34:20

9 A They should be sealed, closed and locked 14:34:22
10 24/7, yes, ma'am. Unless there's an incident where 14:34:25
11 an OC spray was used or something like that and you 14:34:30
12 need to ventilate that building or something of that 14:34:33
13 nature, that door should be secured, yes, ma'am. 14:34:36

14 Q Was it your experience that that door, 14:34:39
15 either one, either NA or NB, were ever left ajar for 14:34:42
16 periods of time? 14:34:48

17 A Yes. Well, I don't know how long, because 14:34:49
18 normally if I'm -- if I leave my post, which is up 14:34:52
19 in the admin area, I radio ahead to let the officer 14:34:57
20 know that I'm coming, so they'll meet me at the gate 14:35:06
21 and unlock the gate, and I'll have someone have 14:35:09
22 visual eyes on me as I progress to that unit and 14:35:13
23 I'll have to call SART to escort me. So I'll make a 14:35:15
24 call to let them know that I'm on the way, so that 14:35:17
25 officer will normally be at that door waiting for my 14:35:21

1 arrival, and they'll be at the door with the door 14:35:25
2 open. 14:35:28

3 Q Okay. But other than that, the examples 14:35:28
4 that you've given me, the door should be closed and 14:35:29
5 locked? 14:35:32

6 A Yes. Yes, ma'am. 14:35:33

7 Q Did you know every resident in N Building 14:35:35
8 when you were the deputy warden of care and 14:35:40
9 treatment at Coastal? 14:35:43

10 A I did not know every resident. The 14:35:45
11 evidence-based coordinator was responsible for 14:35:49
12 filling those beds. Did I make rounds in that 14:35:52
13 building daily? I did, so I was familiar with new 14:35:56
14 faces that appeared in that building. But I can't 14:36:00
15 say that I just, you know, knew who every person 14:36:04
16 was, but I was familiar and I was able to spot new 14:36:07
17 faces when they came into the building. 14:36:10

18 Q Was there ever a time in your experience 14:36:12
19 where the door to NA would be not locked and 14:36:16
20 offenders would be able to go in and out without -- 14:36:23
21 without a CO escorting them one way or the other? 14:36:29

22 A I can't think of any time off the top of 14:36:36
23 my head. But you have to understand that because of 14:36:42
24 my position, when I got on -- when I basically 14:36:44
25 stepped out on the walk, everything changed. If you 14:36:50

1 were out of compliance, just because of my position 14:36:53
2 and my ability to make -- make you -- make you have 14:36:55
3 a bad day, you know, when I walked down the walk, 14:36:58
4 people stopped and they waited for me to pass by. 14:37:03
5 If I walked into a building, everybody came to an 14:37:06
6 attention -- came to attention. So if they were 14:37:10
7 doing anything that was out of compliance, I very 14:37:13
8 rarely saw it. 14:37:17

9 Most of the time I would just go through 14:37:17
10 and inspect and look for things out of compliance. 14:37:21
11 But unless it was like a new offender or something 14:37:23
12 like that who just did not know they were doing 14:37:26
13 something wrong, I very rarely walked into a 14:37:29
14 situation where somebody was overtly doing something 14:37:33
15 that they shouldn't be doing. 14:37:35

16 Now, does that say that it hadn't happened 14:37:35
17 or doesn't happen? I'm sure it does. But I would 14:37:39
18 address it if I saw it and you probably would have 14:37:41
19 had a really bad day. 14:37:44

20 Q Okay. So if a door were left ajar and 14:37:47
21 offenders were able to come and go out through that 14:37:51
22 door as they wished, that would be out of 14:37:55
23 regulation. Is that right? 14:37:58

24 A Yes. Yes, ma'am. 14:38:00

25 Q Okay. Are there supposed to be people who 14:38:02

1 are not residents of the dorms in N Building, are 14:38:07

2 they allowed to visit or come into those dorms? 14:38:15

3 A No, ma'am, they should not. No one should 14:38:19

4 be visiting the dormitory. However, we do have 14:38:22

5 maintenance staff that are supported by our offender 14:38:25

6 population. We have people who are assistants with 14:38:31

7 feeding, laundry services as well. So there are 14:38:34

8 various reasons why other inmates would be in those 14:38:37

9 buildings, but they should be supervised as well. 14:38:40

10 Q Okay. Do any of those positions that 14:38:42

11 offenders hold that you just mentioned, maintenance 14:38:45

12 or laundry, do those occur overnight? 14:38:49

13 A They -- as far as them -- as far as them 14:38:59

14 providing services? 14:39:06

15 Q Correct. 14:39:07

16 A Okay. So not -- not typically. Laundry I 14:39:09

17 think normally started early in the morning, around 14:39:14

18 4 or 5 a.m. Feed off starts around 4:30, 5 a.m., 14:39:16

19 when we're in a COVID situation or we have to 14:39:24

20 deliver food to the dorms. Maintenance, maintenance 14:39:26

21 could come in at any time depending on what's going 14:39:29

22 on. If the air conditioner goes out they wouldn't 14:39:32

23 come in. But if there's a situation where there is 14:39:36

24 flooding or a pipe burst, you know, we have to call 14:39:39

25 in the maintenance, on-call maintenance person, he 14:39:39

1 may grab another maintenance person out of the 14:39:41
2 dormitory to assist him with resolving that issue. 14:39:43
3 But typically after certain times no one should be 14:39:47
4 moving. 14:39:51
5 Q Can you help me understand -- I'm sorry. 14:39:53
6 A On extremely hot days you may have an ice 14:39:55
7 detail. I do recall setting up a 24-hour ice detail 14:40:02
8 to make sure that all of the buildings in the 14:40:06
9 institution had ice 24 hours. But other than that, 14:40:09
10 there should not typically be movement. 14:40:17
11 Q Do the cell doors that you mentioned -- so 14:40:19
12 it's an open dormitory except that there are cells 14:40:21
13 where the residents sleep or live; right? Is that 14:40:25
14 accurate? 14:40:28
15 A Yes, ma'am. Yes. 14:40:29
16 Q Yeah. And so the cell doors, are they 14:40:30
17 locked or unlocked? 14:40:32
18 A They are locked. They should be locked. 14:40:34
19 Once you secure a door, you have inmates that 14:40:40
20 understand locks, that are able to jimmy those locks 14:40:47
21 to open them after they're closed. But for the most 14:40:51
22 part, once the officer closed that door, it's lights 14:40:57
23 off, it should remain locked. 14:41:01
24 Q So when are they locked and when are they 14:41:03
25 unlocked? 14:41:06

1 A I don't know the exact times. I think on 14:41:07
2 the weekends the guys are allowed to stay up longer 14:41:10
3 than during the regular weekday, but I think it was 14:41:14
4 lights out at about 11. And I'm just assuming; I 14:41:16
5 wasn't responsible for that. 14:41:20

6 And the only time I dealt with lights out 14:41:21
7 was maybe if a dorm -- if an officer called me while 14:41:26
8 I was on duty that week and said that a building 14:41:31
9 doesn't want to lock down and, you know, I might 14:41:35
10 have, you know, came in and make sure that they lock 14:41:38
11 down. And 99 percent of the time -- I think I had 14:41:43
12 one incident in two years where I had to come in 14:41:45
13 because the people wouldn't lock down and they 14:41:48
14 actually locked down before I got there, so... 14:41:51

15 But does that answer your question? 14:41:55

16 Q Where would I find the information with 14:41:57
17 respect to N Building to determine what time the 14:42:00
18 cell doors were supposed to be locked in the 14:42:05
19 evenings? 14:42:09

20 A It should be in the -- as far as when it 14:42:10
21 occurs, it should be in the logbook that the officer 14:42:14
22 has in the control room. 14:42:17

23 Q Okay. That suggests that it's not a set 14:42:19
24 time; it's whatever time the officer on duty tells 14:42:22
25 the residents it's lights out? 14:42:28

1 A No, ma'am, not particularly. Like I said, 14:42:32
2 it could be lights out. It could be, you know, I've 14:42:38
3 had instances where like, for example, during the 14:42:41
4 summertime it's a hundred degrees, 110 degrees in 14:42:44
5 Savannah during the day, and it's still 98, 99 14:42:47
6 degrees at night in the dormitory, and the officer 14:42:50
7 may be waiting, waiting for the ice detail to arrive 14:42:54
8 so they can get their last cup of ice to get them 14:42:58
9 through the night, and it may not be lockdown until 14:43:03
10 after that. So you look at the logbook to see what 14:43:06
11 happened during that time to get a description of 14:43:10
12 what occurred, if anything occurred, to see what was 14:43:13
13 going on during the time lights out is supposed to 14:43:16
14 be. 14:43:16

15 Now, my understanding is that there is a 14:43:20
16 policy that talks about lights out, what time the 14:43:22
17 dorm shuts down. But that's just my understanding. 14:43:25
18 I haven't read that policy. 14:43:28

19 Q Is it a security violation if -- if the 14:43:32
20 residents in a dorm are able to open their own cells 14:43:37
21 and other people's cells throughout the night? 14:43:44

22 A That's a violation on behalf of the 14:43:48
23 offender, not a security violation. If we put 14:43:51
24 measures in place to keep, you know, keep them 14:43:55
25 inside, what should have -- what could potentially 14:43:58

1 happen, depending on what they do when they get out, 14:44:02
2 they could be charged with attempted escape. So 14:44:06
3 it's not a violation on the part of security. It's 14:44:08
4 more a violation on the part of the inmate. 14:44:11

5 Q Okay. So an offender walking into another 14:44:15
6 offender's cell while they're sleeping, that would 14:44:19
7 not be a security concern? 14:44:23

8 A It would definitely be a security concern. 14:44:25
9 But a bigger part of that concern would be how did 14:44:28
10 they get out of their cell if it was secured. So, 14:44:31
11 yeah, that's how that would work. We would 14:44:34
12 definitely look into it to see what happened and how 14:44:37
13 they -- you know, that would be a concern to us. 14:44:40
14 But how they got out of that cell would be a concern 14:44:41
15 as well. 14:44:44

16 Q And if you got information that offenders 14:44:46
17 were getting out of their cells at night and 14:44:49
18 entering other offenders' cells, would that be a 14:44:52
19 security concern that you want to look into? 14:44:55

20 A Yes. My understanding if -- personally I 14:44:57
21 do recall an incident where I was made aware that 14:44:59
22 people were popping out of their cells at night, I 14:45:02
23 personally got in touch with maintenance, we went 14:45:05
24 down to N Building to see if we can address the 14:45:09
25 issue. We found that locks were being tampered with 14:45:14

1 by -- by offenders, and we looked into resolving 14:45:18
2 that issue at that point. 14:45:22

3 Q Did you review the video, if there was 14:45:25
4 video, to see whether or not, in fact, people were 14:45:28
5 walking out of their cells at night? 14:45:32

6 A Correct. If we were made aware of an 14:45:35
7 incident, a specific incident, we would have looked 14:45:37
8 into it to see if we could find that. A lot of 14:45:40
9 times we would, you know, we would -- I would sit 14:45:47
10 there and review video for the better part of a day. 14:45:51

11 You got to understand that with the video 14:45:54
12 it's not like I'm talking to you now. It's 14:45:58
13 sometimes very choppy. You may -- it may -- a 14:46:03
14 person may be in one area and then the next frame 14:46:08
15 he's five feet away from where he was standing. So 14:46:13
16 it's, you know, video is good, but it's not always 14:46:17
17 definitive on what occurred. 14:46:22

18 But we would review video. And you can't 14:46:24
19 speed through video, you can't speed through that 14:46:27
20 type of video. So I would literally sit, when I did 14:46:29
21 have access, I would literally sit, you know, 14:46:33
22 dedicate a day to try to pinpoint when this actually 14:46:36
23 occurred. And if the video -- if I was told that an 14:46:40
24 incident occurred at 10 o'clock, it would take two 14:46:43
25 hours to review an hour worth of footage to try to 14:46:46

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1 figure out when it happened, because just because 14:46:50
2 they said it was 10 o'clock, it might have been 14:46:52
3 12:15 or it might have been 9:15, but at 10 o'clock 14:46:55
4 we didn't see it, so you would have to review that 14:46:58
5 time, and that would just take all day to process. 14:47:00

6 Q Have you seen any video from NA over the 14:47:04
7 last two years? 14:47:07

8 A Yes, ma'am. 14:47:11

9 [REDACTED] 14:47:12

10 [REDACTED] 14:47:18

11 [REDACTED] 14:47:22

12 [REDACTED] 14:47:26

13 [REDACTED] 14:47:26

14 [REDACTED] 14:47:29

15 [REDACTED] 14:47:32

16 [REDACTED] 14:47:36

17 [REDACTED] 14:47:39

18 [REDACTED] 14:47:42

19 [REDACTED] 14:47:45

20 [REDACTED] 14:47:48

21 [REDACTED] 14:47:51

22 [REDACTED] 14:47:55

23 [REDACTED] 14:47:58

24 [REDACTED] 14:48:02

25 [REDACTED] 14:48:04

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1 [REDACTED] 14:48:09

2 A Honestly, I can't remember which side is 14:48:13

3 which. When you walk into the dormitory, 14:48:16

4 Ms. Diamond, facing the control booth, Ms. Diamond 14:48:19

5 was on the right side, so I think that's NB. 14:48:22

6 Q I think that's NB as well. And for the -- 14:48:26

7 you know, so that we're understanding each other, 14:48:30

8 let's talk about Ms. Diamond's dorm as NB. 14:48:32

9 A Okay. 14:48:36

10 Q And even if we get that wrong, we will 14:48:37

11 know we're talking about the dorm that Ms. Diamond 14:48:40

12 is -- is in. 14:48:43

13 [REDACTED] 14:48:45

14 [REDACTED] 14:48:47

15 [REDACTED] 14:48:52

16 [REDACTED] 14:49:00

17 [REDACTED] 14:49:03

18 [REDACTED] 14:49:07

19 [REDACTED] 14:49:10

20 Q Okay. And NB has showers in the back of 14:49:13

21 the open dorm. Is that correct? 14:49:20

22 A When you walk in there would be -- well, 14:49:22

23 they would be considered the front, I guess. When 14:49:29

24 you walk into the dorm, when you walk into that 14:49:31

25 dormitory, the showers are directly to the left. 14:49:34

1 Q Okay. There's some information -- and I 14:49:42
2 can't remember where I saw this. It's in the record 14:49:45
3 somewhere -- that most of the transgender women in 14:49:48
4 Coastal are allowed to shower in medical building. 14:49:51
5 Does that sound familiar to you? Are you aware of 14:49:55
6 that? 14:49:57

7 A No, ma'am. We had -- prior to me leaving, 14:49:58
8 we had a person that was I think the proper term is 14:50:11
9 hermaphrodite, that she had both male and female 14:50:20
10 genitalia. 14:50:22

11 Q So it intersects? 14:50:24

12 A Intersects, that's what I'm saying. So 14:50:26
13 she was allowed to shower in medical, but I'm not 14:50:32
14 sure if -- I think she -- there was some issues with 14:50:36
15 feminine products or something they use, I think 14:50:40
16 that's why she was allowed. But it wasn't 14:50:42
17 anything -- 14:50:46

18 Q But you're not -- you're not familiar with 14:50:46
19 all -- other transgender women as a rule being 14:50:48
20 allowed to shower in medical? 14:50:53

21 A Correct. 14:50:55

22 Q Okay. Let's see. Ashley's cell, are you 14:50:56
23 familiar with where that's positioned in what you're 14:51:03
24 calling the front of the dorm? 14:51:06

25 A Yes, ma'am. 14:51:07

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1	Q	Is that also where men line up sort of in	14:51:08
2		front of her door when lunch is served? Or do you	14:51:13
3		know? Have you ever been there when it happens?	14:51:16
4	A	Yes.	14:51:18
5	Q	Okay.	14:51:18
6	A	Yes, I've been there for feed off. When	14:51:19
7		they walk into that dormitory, normally as soon as	14:51:20
8		they walk in, they set up right in that area of the	14:51:24
9		corner and guys come up to get their tray and go	14:51:27
10		back to their cell.	14:51:30
11	Q	Okay. [REDACTED] -- the phones	14:51:32
12		are sort of in front of her cell. Is that also	14:51:33
13		true?	14:51:37
14	A	Correct.	14:51:37
15	Q	Right. And the computers, are their	14:51:38
16		access to computers are also in the front of the	14:51:40
17		dorm?	14:51:43
18	A	They're not positioned directly in front	14:51:44
19		of her cell, but they're close enough to say that	14:51:47
20		they're fairly close to her cell.	14:51:50
21	Q	Okay. Do men ever line up for pill call	14:51:53
22		inside the dorm?	14:51:57
23	A	You know what, I've never observed pill	14:52:03
24		call in that building. I've observed pill call	14:52:06
25		throughout the institution. Normally, the nurse,	14:52:10

1 the nurse does come to the door. But I've never 14:52:12
2 observed pill call in N Building. 14:52:16
3 Q Okay. The cell itself that Ashley is in, 14:52:18
4 it's a sliding door; correct? 14:52:30
5 A Yes, ma'am. 14:52:32
6 Q And then does it have a window in it? 14:52:32
7 A Yes, ma'am. 14:52:36
8 Q And where is the toilet located in 14:52:37
9 relation to the cell door? 14:52:40
10 A It's probably within two feet of the door. 14:52:43
11 Q And when you look in the window, can you 14:52:50
12 see if someone is sitting on the toilet? 14:52:53
13 A Yes. 14:52:55
14 Q And are there -- are there sexual 14:52:57
15 offenders housed in NB? 14:53:00
16 A Yes, I'm sure there were. We didn't 14:53:04
17 discriminate -- all of it -- the charges didn't 14:53:08
18 really determine whether or not you went into N 14:53:11
19 Building. It's your institutional behavior. 14:53:16
20 During the stratification process it was 14:53:17
21 determined that it would be best if Ashley did not 14:53:20
22 have a cellmate, so we didn't put anybody in the 14:53:23
23 cell with her. And we wouldn't put an aggressor 14:53:29
24 with a victim or too -- a person that's, you know, 14:53:32
25 6'3' in a cell with a person that's 5'11" -- I'm 14:53:36

1 gang renunciation program. So we were going to have 14:55:13
2 people with STI and STG affiliations in our 14:55:16
3 dormitory, because if they were planning to renounce 14:55:21
4 their affiliation with a gang, that was then through 14:55:25
5 evidence-based. 14:55:30

6 Q Okay. And so that's clear to me. Just to 14:55:31
7 -- just to kind of wrap up, to your knowledge, there 14:55:33
8 were PREA aggressors in N Building; correct? 14:55:38

9 A Yes, ma'am. 14:55:42

10 Q And there were sexual -- people who had 14:55:43
11 been convicted of sexual offenses in N Building? 14:55:47

12 A Correct. So in regards to that, you -- 14:55:51
13 sexual aggression doesn't necessarily mean that it 14:55:58
14 was against another woman or another male -- well, 14:56:02
15 definitely against a male or a woman. But some of 14:56:06
16 it was, you know -- the charges I think were, you 14:56:09
17 know, child molestation in some cases, which would 14:56:16
18 result in a sexual assault. Statutory rape which 14:56:21
19 would result in sexual assault. Kidnapping, in some 14:56:25
20 cases that would result in a sexual assault charge. 14:56:29

21 So it wasn't all, you know, just because 14:56:32
22 they were in there doesn't necessarily mean that 14:56:34
23 they had an actual sexual assault against a person. 14:56:37
24 Some of them it could have been kidnapping that 14:56:40
25 resulted in a sexual assault charge. So I can't say 14:56:44

1 for certain that they were in there for sexually 14:56:47
2 assaulting a person or based on what they did while 14:56:51
3 committing a crime. 14:56:56

4 Q Okay. And I think your -- if I understood 14:56:57
5 correctly, there were people who were designated STG 14:56:59
6 in the N Building while you were there? 14:57:03

7 A Yes, ma'am. Yes, ma'am. 14:57:05

8 Q Do you recall an allegation that occurred 14:57:07
9 in July, July 3rd of 2020, in which Ashley Diamond 14:57:11
10 alleged that she had been the victim of a sexual 14:57:20
11 assault? 14:57:23

12 A Not particularly. I'm not saying that it 14:57:24
13 didn't happen. But Diamond, I mean, at one point I 14:57:29
14 think I was getting a PREA allegation about Diamond 14:57:35
15 every week. So I can't point out particularly 14:57:38
16 exactly which one that was. But if you can tell me 14:57:41
17 what it said, I could probably -- it will probably 14:57:44
18 refresh my memory. 14:57:48

19 MS. LITTRELL: Okay. Let me ask Mr. Green 14:57:49
20 if he could pull up for us what's marked DEF05682 14:57:51
21 and we can take a look at that. And, Ms. Monique, 14:57:59
22 if you can mark this as Exhibit number I believe 2? 14:58:07

23 THE COURT STENOGRAPHER: Yes. 14:58:15

24 THE TECHNICIAN: Counsel, can you say that 14:58:28
25 number again? 14:58:30

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1 MS. LITTRELL: 05682. 14:58:31

2 THE TECHNICIAN: Okay. Stand by. 14:58:37

3 MS. LITTRELL: There may be two zeroes in 14:59:11

4 front of it. 14:59:16

5 THE TECHNICIAN: I found the document. 14:59:19

6 I'm having a strange issue; it's giving me a blank 14:59:21

7 page when I open it up for some reason. Give me one 14:59:28

8 second. 14:59:33

9 MS. LITTRELL: I hate to do this, but 14:59:48

10 let's just take a five-minute break to resolve this 14:59:51

11 so we're not burning time on the record, and stretch 14:59:55

12 a little and come back at 3:05. 14:59:57

13 THE VIDEOGRAPHER: Okay. It is 2:59 p.m. 15:00:01

14 We go off the record. 15:00:04

15 (Recess 3:00 p.m. - 3:08 p.m.) 15:00:05

16 THE VIDEOGRAPHER: It is the beginning of 15:08:37

17 media number 4 of the testimony of Carl Betterson. 15:08:41

18 It is 3:08 p.m. We're back on the record. 15:08:44

19 MS. LITTRELL: I apologize for the 15:08:50

20 technical difficulties, Mr. Betterson. I think we 15:08:52

21 have worked them out. And, again, I would like to 15:08:55

22 ask for the technician to pull up what's been 15:08:58

23 premarked DEF05682, I ask the court reporter to mark 15:09:01

24 it as Exhibit 2, and I want to ask you a few 15:09:08

25 questions about this document. 15:09:14

1 (Betterson Exhibit 2 marked for 15:09:14
2 identification.) 15:09:18
3 MR. CHALMERS: Counsel, can that document 15:09:18
4 be shared as well? 15:09:20
5 MS. LITTRELL: Absolutely. All documents 15:09:22
6 when I ask for them to be pulled up can be shared, 15:09:24
7 should be shared. Is there a delay, Roger, with 15:09:28
8 respect to the process? If there is, let me know. 15:09:33
9 MR. CHALMERS: Okay. I'll let you know. 15:09:38
10 I just got it. Thank you. 15:09:40
11 BY MS. LITTRELL: 15:09:43
12 Q All right. Mr. Betterson, have you seen 15:09:44
13 this -- this letter before, this document before? 15:09:45
14 A I don't recall actually seeing this 15:09:49
15 document. I have received some document from 15:10:13
16 Southern Poverty, but I don't recall actually seeing 15:10:19
17 this particular one. 15:10:22
18 Q And when you say you've seen some 15:10:23
19 documents from Southern Poverty Law Center, do you 15:10:25
20 believe those were letters sent to GDC? 15:10:29
21 A To -- I don't know where exactly they were 15:10:35
22 sent, but I'm sure they may have been sent directly 15:10:38
23 to the warden and I think they came through the 15:10:42
24 warden's office. I'm not sure exactly where they 15:10:44
25 came from, but I do know they came to us at Coastal 15:10:48

1 State Prison, yes, ma'am. 15:10:53

2 Q Okay. I just want to make sure that these 15:10:54

3 are letters, not the court records that were filed 15:10:57

4 in this case. We're talking the documents you've 15:11:00

5 seen from Southern Poverty Law Center are letters? 15:11:02

6 A Yes. 15:11:06

7 Q So you may have seen this, but you can't 15:11:06

8 recall at this moment whether you did or not. Is 15:11:09

9 that right? 15:11:12

10 A Right, I don't remember this particular 15:11:12

11 title or heading, and the way it's set up it doesn't 15:11:15

12 ring a bell, no, ma'am. 15:11:20

13 Q Okay. Do reports of PREA allegations that 15:11:22

14 go to the PREA unit, do those get forwarded to the 15:11:27

15 facilities for investigation? 15:11:32

16 A Yes. Yes, ma'am. 15:11:35

17 Q Okay. And you see here this second 15:11:37

18 addressee is Office of Professional Standards/PREA 15:11:40

19 Unit, do you see that? 15:11:44

20 A Yes, ma'am. 15:11:46

21 Q Okay. And it's also appears to be sent to 15:11:47

22 PREA.report@gdc.ga.gov. Are you familiar with that 15:11:50

23 address? 15:11:58

24 A No, ma'am, I'm not. That may go directly 15:11:58

25 to Grace Atchison, or it may be a way of reporting. 15:12:01

1 But I'm not familiar with that address. 15:12:05

2 Q Okay. And you see the heading that this 15:12:07

3 is a notice of constitutional and PREA violation on 15:12:11

4 behalf of Ashley Diamond; right? 15:12:14

5 A Yes, ma'am. 15:12:19

6 Q Okay. Now, in this document, and we're on 15:12:24

7 page 2, do you see halfway down the page there's a 15:12:27

8 subsection that starts "Ms. Diamond was sexually 15:12:31

9 assaulted on July 3rd, 2020 and continues to fear 15:12:35

10 for her safety"? 15:12:38

11 A Yes. 15:12:40

12 Q Okay. Can you please read that first -- 15:12:41

13 first paragraph and let me know when you're 15:12:47

14 finished. 15:12:50

15 A Okay. 15:13:31

16 Q Have you -- does that refresh your 15:13:31

17 recollection that you have seen this letter before 15:13:35

18 today? 15:13:37

19 A I think -- I think I remember the incident 15:13:37

20 being reported. But I don't necessarily remember 15:13:39

21 this letter, no, ma'am. 15:13:41

22 Q Okay. But based on this letter, had you 15:13:43

23 received a copy of it, is there sufficient 15:13:46

24 information in here for you to open a PREA 15:13:50

25 investigation? 15:13:56

1 understanding is that she arrived in June. 15:15:30

2 A If I'm not mistaken, that the dormitory 15:15:37

3 that she initially started in was not NB, I think it 15:15:40

4 was NA, so... 15:15:45

5 Q Would you be able to know which cell she 15:15:49

6 was in if you were at the institution at the time? 15:15:53

7 A Would I know what cell she was in? 15:15:59

8 Q Yes, sir. 15:16:03

9 A Yes, I did have access to that information 15:16:03

10 to know what cell she was in, yes. 15:16:05

11 Q Okay. So if you had received this 15:16:07

12 third-party PREA notice, it would have told you the 15:16:10

13 date that the alleged incident took place; right? 15:16:14

14 And the location of the incident; right? 15:16:18

15 A Correct. Depending on -- depending on 15:16:22

16 when we actually received this information. There's 15:16:29

17 no guarantee that video evidence would have been 15:16:32

18 available for me to look at depending on when it was 15:16:35

19 we received this information. 15:16:38

20 Q Well, we'll talk about that in a minute. 15:16:39

21 I'm just making sure that I'm not reading anything 15:16:42

22 into this letter that you don't agree with. 15:16:45

23 A Right. So it says July 3rd, 2020. It 15:16:49

24 doesn't give us an exact time, but it does give us a 15:16:55

25 date as a starting point. Doesn't give us any 15:16:58

1 information or description about the attacker, any 15:17:02
2 identifying marks or anything that could help us 15:17:05
3 readily identify who it is. But, basically, the 15:17:08
4 date is a start for us. 15:17:11

5 Q What about the information that 15:17:13
6 Ms. Diamond was standing with a group of people, 15:17:19
7 turned to go back into her room and her attacker 15:17:21
8 followed her into the room, is that helpful 15:17:25
9 information if there were video? 15:17:27

10 A If there were video, yes. 15:17:30

11 Q And is that helpful because it could help 15:17:32
12 you identify who followed her into the room? 15:17:35

13 A Correct. 15:17:39

14 Q And then at the end it says two other 15:17:40
15 people were able to intervene and stop the attack. 15:17:43
16 Does that suggest to you that there may be some, if 15:17:47
17 there were video, some evidence on the recording 15:17:50
18 that would show two people maybe going in afterwards 15:17:54
19 or chasing someone out? 15:17:58

20 A Sure, we should have that information if 15:18:00
21 it was available to us. 15:18:03

22 Q Okay. And then if you look at the second 15:18:05
23 paragraph from the bottom and read that and then let 15:18:09
24 me know when you're finished. 15:18:13

25 A Okay. 15:18:46

1 Q This may not be a PREA violation, but 15:18:46
2 would you agree that had this occurred, that that is 15:18:49
3 a potential safety concern? 15:18:52
4 A That someone went into another cell? 15:18:57
5 Q Yes, sir. 15:19:01
6 A It could potentially be a safety issue, 15:19:03
7 yes. 15:19:09
8 Q And did Warden Benton ever provide you 15:19:10
9 with a copy of this letter? 15:19:13
10 A Not that I can recall. I don't -- I 15:19:16
11 received letters. I don't -- sometimes it's in my 15:19:20
12 mailbox, sometimes they could be have been put in 15:19:23
13 directly by the person in the mailroom. But I don't 15:19:29
14 actually recall this particular. And the more I 15:19:33
15 read it, the more I don't think I received this 15:19:36
16 letter because I would have known -- remembered two 15:19:38
17 incidents being reported in one report. But I just 15:19:41
18 don't recall this. 15:19:44
19 Q Okay. 15:19:46
20 MS. LITTRELL: You can take this down. 15:19:47
21 And if you would, pull up what is premarked 15:19:51
22 DEF_1062, and I'll ask the court reporter to please 15:19:58
23 mark this as Exhibit 3. 15:20:01
24 (Betterson Exhibit 3 marked for 15:20:04
25 identification.) 15:20:31

1 Q Can you see the document on the screen? 15:20:31

2 MS. LITTRELL: And, counsel, unless you 15:20:33

3 say something, I will presume that you have access 15:20:34

4 to it. 15:20:37

5 A Can you enlarge it a little bit? 15:20:41

6 Q Sure. Can you see this document? 15:20:43

7 A Yes. 15:20:51

8 Q And have you seen this document before? 15:20:51

9 A I can't recall off the top of my head, but 15:20:56

10 I'm sure I have. 15:21:01

11 Q And what is this document? 15:21:02

12 A This is the initial PREA notification 15:21:04

13 document that's sent out to inform everyone that 15:21:07

14 there has been a PREA complaint. 15:21:11

15 Q Okay. And in this document -- can you 15:21:14

16 make it a little bit smaller for me just so you can 15:21:22

17 see the whole thing -- is there anything on here 15:21:26

18 that would indicate to you when this -- this initial 15:21:29

19 notification was completed? 15:21:37

20 A On it it looks like -- is that a 10 or a 15:21:41

21 3? 7/10/2022 -- 2020. I'm sorry. 15:21:48

22 Q Okay. That appears to be when SART was 15:21:51

23 notified; correct? 15:21:54

24 A Yes. 15:21:56

25 Q Okay. I'm going to scroll all the way to 15:21:59

1 the bottom of this just to make sure we're not 15:22:03
2 missing anything. There we go. Anything that you 15:22:05
3 can see that would let us know when this information 15:22:08
4 was in-put, put in, put into the computer? Because 15:22:12
5 I can't find it. 15:22:23

6 A No, there's nothing that tells me when the 15:22:25
7 case was actually input into the computer, just 15:22:27
8 notification. 15:22:31

9 Q Is there anything in GDC technology that 15:22:32
10 you're aware of that would document when something 15:22:36
11 was put into the system? 15:22:41

12 A An incident report. 15:22:47

13 Q Yes, sir. 15:22:49

14 A An incident report should have been 15:22:51
15 created. 15:22:53

16 Q Okay. If you'll take a moment to read the 15:22:55
17 Summary of Incident and let me know when you are 15:23:03
18 finished. Let me make that bigger so you don't have 15:23:06
19 to squint. Sorry. 15:23:11

20 A Okay. 15:24:13

21 Q Does this refresh your recollection about 15:24:14
22 the PREA report made by Ms. Diamond that she was 15:24:16
23 sexually assaulted on July 3rd? 15:24:19

24 A Correct. 15:24:22

25 Q And this shows that Ashley reported a 15:24:23

1 sexual assault directly to her mental health 15:24:27
2 counselor on July 8th. Do you see that -- 15:24:30
3 A I'm not sure. Yes. But I'm not sure 15:24:33
4 Tamara was his actual counselor. But that was -- 15:24:37
5 she was a member of the SART team. So if she did 15:24:41
6 report it to her counselor, her counselor would 15:24:44
7 have -- 15:24:44
8 (Audio disruption; court stenographer 15:24:44
9 clarification.) 15:24:44
10 A Her actual assigned mental health 15:24:54
11 counselor would have more than likely forwarded her 15:24:56
12 complaint to Tamara to complete. 15:24:58
13 Q Do you see halfway down the sentence that 15:25:01
14 starts with "On 7/31/2020"? 15:25:04
15 A Um-hmm. Yes, ma'am. 15:25:09
16 Q And in the rest of that summary appears to 15:25:11
17 be quotes from Ms. Diamond. Do you see that? 15:25:20
18 A Yes. 15:25:25
19 Q And on 7/31 Ms. Diamond identifies the 15:25:25
20 date that the sexual assault took place; correct? 15:25:31
21 A Yes, ma'am. 15:25:35
22 Q It describes an attempted rape; correct? 15:25:36
23 A Correct. 15:25:42
24 Q And you can see that it took place in her 15:25:43
25 room; correct? 15:25:47

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1 A Um-hmm. 15:27:08

2 Q So according to this summary, on 7/31 the 15:27:09

3 rest of the SART team had significant information 15:27:14

4 that would allow them to conduct an investigation. 15:27:19

5 Is that an accurate statement? 15:27:22

6 MR. CHALMERS: Objection. 15:27:24

7 A We don't know -- I'm not sure who was -- 15:27:26

8 who was notified initially. She could have notified 15:27:29

9 other members of the SART team. That wouldn't have 15:27:34

10 any bearing on the investigation portion of it. 15:27:37

11 Q It's my understanding that the SART team 15:27:44

12 is responsible to -- includes an investigator; 15:27:46

13 right? 15:27:50

14 A Correct. 15:27:51

15 Q And that the investigator would take this 15:27:52

16 information, and based on this information, conduct 15:27:55

17 an investigation; correct? 15:27:58

18 A Correct. 15:28:00

19 Q At this point, presuming that the records, 15:28:02

20 the GDC records show [REDACTED] 15:28:13

21 [REDACTED] 15:28:18

22 [REDACTED] there would be a camera that would 15:28:24

23 have captured the incident, whether it happened or 15:28:29

24 not, on July 3rd; isn't that right? 15:28:35

25 A Possibly. [REDACTED] 15:28:39

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1	[REDACTED]	15:28:43
2	[REDACTED]	15:28:48
3	[REDACTED]	15:28:52
4	[REDACTED]	15:28:58
5	[REDACTED]	15:29:03
6	[REDACTED]	15:29:07
7	[REDACTED]	15:29:10
8	[REDACTED]	15:29:11
9	[REDACTED]	15:29:14
10	[REDACTED]	15:29:18
11	[REDACTED]	15:29:24
12	A So you're -- you may be -- if a person is	15:29:28
13	of a large stature and they're an adult, you may be	15:29:31
14	able to draw conclusions to figure out who it is.	15:29:36
15	But if you have multiple people of a similar build	15:29:38
16	or of a similar race, you probably wouldn't be able	15:29:43
17	to identify them. If they had a beard or something	15:29:48
18	like that, you could pick that up. But on many	15:29:50
19	occasions I looked at the camera and Diamond had --	15:29:54
20	Q Can we just talk about this, so we don't	15:30:02
21	confuse the record, talk about this instance? We	15:30:05
22	can make sure that you get everything you want on	15:30:09
23	the record, but just so we don't confuse things.	15:30:12
24	A Sure.	15:30:15
25	Q Did you -- is your testimony with respect	15:30:15

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1 to not being able to pick up individuals on that 15:30:18
2 camera, does that mean that you would not bother 15:30:21
3 checking the camera because of that deficiency? No. 15:30:24
4 Okay. 15:30:29
5 A No, not at all. 15:30:30
6 Q Okay. And so whether or not you checked 15:30:31
7 it, would you agree that a camera [REDACTED] 15:30:33
8 [REDACTED] would show whether or not she was followed [REDACTED] 15:30:39
9 [REDACTED] by someone on July 3rd? 15:30:43
10 A I agree. 15:30:47
11 Q And that camera could also show [REDACTED] 15:30:50
12 [REDACTED]? 15:30:54
13 A Correct. 15:30:58
14 Q And then the person who had followed her 15:30:59
15 in coming out of the cell and leaving the door? 15:31:02
16 A Correct. 15:31:05
17 Q Okay. Do you recall -- strike that. 15:31:06
18 Are housing adjustments documented? 15:31:17
19 A They're documented inside a SCRIBE, 15:31:22
20 movement history, yes, ma'am. 15:31:25
21 Q So would it have been possible for a SART 15:31:27
22 investigator to pull up information to determine 15:31:30
23 whether anyone was moved from N Building to H 15:31:34
24 Building on July 31st? 15:31:39
25 A It would be possible to see if there was 15:31:44

1 any movement on that day, correct. 15:31:47

2 Q Okay. Did you discuss the July 3rd 15:31:53

3 allegation that we're discussing between you and I 15:31:56

4 right now, did you discuss the July 3rd PREA 15:31:58

5 allegation with Warden Benton, do you recall? 15:32:02

6 A I believe I did, correct. 15:32:05

7 Q Okay. Do you recall when you discussed 15:32:07

8 this incident with Warden Benton? 15:32:11

9 A I do not. 15:32:15

10 Q Okay. Do you recall if the PREA 15:32:17

11 procedures that we talked about, the attachments to 15:32:21

12 PREA GDC policy, Exhibit 1, do you recall if those 15:32:24

13 PREA procedures were followed with respect to this 15:32:31

14 incident? 15:32:35

15 A I'm not a hundred percent sure about 15:32:36

16 whether policies were followed, but I'm fairly 15:32:40

17 certain they were. 15:32:43

18 Q Should they have been? 15:32:43

19 A They should have been, correct. 15:32:45

20 Q Okay. Do you, as you sit here today, 15:32:47

21 recall whether or not you filled out a SART 15:32:53

22 checklist? 15:32:56

23 A I'm sorry? 15:32:57

24 Q Do you recall whether or not you filled 15:32:59

25 out a SART checklist with respect to the July 3rd 15:33:01

1 incident? 15:33:05

2 A I do not. 15:33:06

3 Q Okay. Do you recall whether you requested 15:33:08

4 video of this incident? 15:33:11

5 A I do not recall that, whether I did or did 15:33:15

6 not. 15:33:19

7 Q Okay. So if you don't recall requesting 15:33:19

8 it, it sounds like you don't recall reviewing video 15:33:21

9 footage of this incident? 15:33:25

10 A For this particular incident, I just -- I 15:33:28

11 honestly can't say. You have to understand, ma'am, 15:33:31

12 I reviewed hours and hours and hours and hours of 15:33:34

13 video. Every time Ashley Diamond made a complaint 15:33:37

14 in her dormitory, I reviewed video, So probably a 15:33:43

15 couple of hundred hours of video at the least. So I 15:33:46

16 just can't tell you specifically it was this case, 15:33:51

17 but I just remember looking at hours and hours of 15:33:52

18 video. 15:33:55

19 Q And where is it documented the amount of 15:33:57

20 time you spent looking at videos and for what 15:33:59

21 reason? 15:34:03

22 A I did not document that. 15:34:04

23 Q Okay. On the SART checklist that we 15:34:07

24 looked at earlier, there is a box, as I recall, for 15:34:16

25 the question of whether video was requested. Isn't 15:34:23

1 that right? 15:34:29

2 A It's a box that asked if video was 15:34:29

3 reviewed, not requested. 15:34:34

4 MS. LITTRELL: Let's pull that -- let's 15:34:35

5 pull that back up so I don't get anything wrong. 15:34:38

6 Can we pull up Exhibit 1, please? 15:34:41

7 Q So I pulled up on the screen what is 15:35:22

8 Georgia Department of Corrections Sexual Allegation 15:35:25

9 Response Checklist, and it's also Attachment 4 to 15:35:28

10 the GDC PREA policy. Do you see that? 15:35:31

11 A Correct. 15:35:36

12 Q And it's DEF_1399 at the bottom. And 15:35:38

13 where it talks about video, which is I believe the 15:35:43

14 fifth box down, do you see that it says "Recover, 15:35:46

15 download, and document any video monitoring 15:35:51

16 recording"? 15:35:56

17 A Correct. 15:35:58

18 Q It doesn't ask whether the video was 15:35:59

19 reviewed; right? 15:36:02

20 A Right, not on this particular form. But 15:36:04

21 it's on the -- on the actual PREA -- on the PREA 15:36:07

22 forms that we do in SCRIBE at that point where was 15:36:15

23 it reviewed, that's the document I thought you were 15:36:19

24 referring to. I'm sorry. 15:36:21

25 Q So there is a -- is that the PREA 15:36:23

1 Investigative Summary? Let's look through the 15:36:26
2 document so we get that right. 15:36:29

3 But if this form were filled out, and we 15:36:31
4 already talked today it should have been and kept 15:36:33
5 for 10 years, then there would be a box here that 15:36:35
6 would be checked as to whether the recording was 15:36:39
7 recovered. 15:36:51

8 A Correct. 15:36:51

9 Q Right? And there's a place, if you mark 15:36:52
10 "no" for comments, that would allow you to identify 15:36:54
11 the reason why it wasn't recovered. For example, if 15:36:58
12 the video -- if the camera was malfunctioning or 15:37:01
13 there was no camera, you could mark that in the 15:37:07
14 comments; right? 15:37:10

15 A Correct. 15:37:11

16 Q I'm going to, if you don't mind, scroll 15:37:11
17 here somewhat by line, but I want to make sure that 15:37:15
18 I'm looking at all the attachments so you can show 15:37:19
19 me which document allows you to document where there 15:37:22
20 is no video. 15:37:31

21 Here's the disposition form. I don't 15:37:33
22 think there's a place in here, is there? 15:37:34

23 A No. 15:37:36

24 Q Okay. That is, I'm sorry, Attachment 3. 15:37:38
25 Attachment 2 is the PREA Aggressor Classification. 15:37:41

1 Attachment 1 is the PREA Education Acknowledgment 15:37:45
2 Statement, so that's not it. 15:37:51

3 Let's look at Attachment 5, which is the 15:37:55
4 Procedure for SANE Evaluation Collection, and I 15:37:57
5 think we agreed that was for the medical SART person 15:38:02
6 to follow. 15:38:06

7 Here's the PREA Investigative Summary. Is 15:38:17
8 that where you would indicate whether or not the 15:38:20
9 video was reviewed and what it showed? 15:38:21

10 A No. I'm not sure you even have that form. 15:38:24
11 When you're going through SCRIBE and you process the 15:38:29
12 case through, you have progressive steps to go 15:38:33
13 through before you close the case out, it asks you 15:38:36
14 several questions, but I haven't seen that document 15:38:40
15 here in any of your documentation that you provided. 15:38:43
16 It asks, you know, in regards to the age of the 15:38:48
17 aggressor and try to get more details about who the 15:38:51
18 aggressor is and things of that nature. And it asks 15:38:55
19 you about -- if I do recall it, the form asking you 15:38:58
20 was any video evidence reviewed, something to that 15:39:05
21 effect, and a host of other questions on that form. 15:39:10
22 But I haven't seen that form in here. 15:39:13

23 Q Okay. You haven't seen that form as one 15:39:16
24 of the attachments to the GDC PREA policy that we've 15:39:18
25 seen? 15:39:21

1 A Correct. 15:39:22

2 Q Okay. The summary of the investigation 15:39:23
3 would allow you to document your efforts there; 15:39:28
4 correct? 15:39:33

5 A Not necessarily. I wouldn't necessarily 15:39:34
6 duplicate information due to the character 15:39:37
7 restraints. 15:39:39

8 Q Okay. So you say not necessarily. But is 15:39:40
9 it possible that a PREA investigator would put in 15:39:44
10 this box reviewed video, does not support 15:39:49
11 allegations? 15:39:55

12 A It's possible, yes. 15:39:57

13 Q Okay. That seems relevant to determining 15:40:01
14 whether or not a PREA allegation is, for example, 15:40:04
15 unfounded, which we talked about means there's proof 15:40:08
16 that it didn't happen. 15:40:14

17 MR. CHALMERS: Objection. 15:40:15

18 Q Is that right? 15:40:20

19 A Yes. 15:40:21

20 Q Okay. So the next attachment to the PREA 15:40:22
21 GDC -- I'm sorry -- the GDC PREA policy is the PREA 15:40:27
22 Local Procedure Directive and Coordinated Response 15:40:31
23 Plan. So that's not a form for you to fill out 15:40:36
24 after each PREA allegation. 15:40:39

25 A Correct. 15:40:43

1 Q The Retaliation Monitoring Checklist, that 15:40:44
2 seems to be separate as well; right? 15:40:47

3 A Correct. 15:40:49

4 Q The Sexual Abuse Incident Review 15:40:51
5 Checklist, as I understand it, is kind of a 15:40:57
6 postmortem on what happened? 15:41:00

7 A Correct. 15:41:04

8 Q Okay. So here's the PREA Initial 15:41:06
9 Notification Form, and we looked at that with 15:41:10
10 respect to the July 3rd incident, that was the last 15:41:14
11 exhibit that Ms. Cantera had filled out, and this 15:41:17
12 does not seem to have a place for whether or not the 15:41:22
13 video was reviewed; right? 15:41:25

14 A Correct. 15:41:29

15 Q And that's the end of the documents that 15:41:30
16 are attached and a part of the GDC PREA policy. 15:41:38

17 So I would love to figure out where -- how 15:41:43
18 to ensure that we have all the documents that will 15:41:49
19 allow us to know what happened. 15:41:51

20 A So did you guys receive a copy of the PREA 15:41:53
21 package? 15:41:56

22 Q For each incident? 15:41:58

23 A Correct. 15:42:01

24 Q We requested all of the records from all 15:42:02
25 of the PREA allegations, so we should have received 15:42:06

1 everything. 15:42:11

2 A Okay. If I'm not mistaken, that 15:42:14

3 information is in those packets. 15:42:16

4 Q Okay. And your testimony is that there is 15:42:18

5 a form in which you record whether or not video, 15:42:23

6 camera footage was reviewed? 15:42:33

7 A There's a questionnaire about video 15:42:37

8 evidence. It's been a year, almost two years since 15:42:40

9 I was actually -- well, not two years. Over a year 15:42:44

10 since I've actually seen that question. But I do 15:42:46

11 recall that there's a question the reviewing of a 15:42:49

12 video or something to the effect of have all video 15:42:52

13 evidence been reviewed, and I think there you put 15:42:55

14 yes, no or NA, and you tell us why in a small box 15:42:59

15 next to it, and put something like no video evidence 15:43:04

16 was available, something to that effect, and it 15:43:09

17 should show in that box. 15:43:13

18 Q Okay. And you don't think that it is the 15:43:14

19 SART checklist that we have been looking at? 15:43:16

20 A No. It's in SCRIBE. But it's not -- it's 15:43:20

21 not that checklist. 15:43:23

22 Q It's not this checklist. Okay. 15:43:24

23 MS. LITTRELL: If you could, please, pull 15:43:28

24 up what's marked DEF_1060. 15:43:29

25 Q And while he's doing that, Mr. Betterson, 15:43:55

1 do you recall Warden Benton telling you anything 15:43:58
2 about this July 3rd incident with respect to the 15:44:02
3 video? 15:44:06
4 A I don't recall that. 15:44:11
5 Q And that would include whether he asked 15:44:15
6 you if you had reviewed the video; right? 15:44:17
7 A Correct. 15:44:21
8 (Betterson Exhibit 4 marked for 15:44:22
9 identification.) 15:44:25
10 Q Have you -- can you see this document? 15:44:25
11 A Barely. If you can make it a little bit 15:44:28
12 larger. Yes. 15:44:31
13 Q Okay. Certainly. This is what's been 15:44:32
14 marked Exhibit 4, Betterson Exhibit 4. What is this 15:44:37
15 document, Mr. Betterson? 15:44:42
16 A It's the PREA notification form. 15:44:44
17 Q Okay. And this is the PREA notification 15:44:49
18 form for the allegation, the PREA allegation on July 15:44:52
19 3rd, 2020; right? 15:44:57
20 A Um-hmm. 15:44:59
21 Q Made by Ms. Ashley Diamond. And the 15:45:00
22 allegation type that's checked is inmate on inmate 15:45:05
23 abuse, and the box that's marked says "Unfounded"; 15:45:09
24 correct? 15:45:17
25 A Correct. 15:45:18

1 Q Okay. And there's a box that's marked 15:45:20
2 here that is checked that says "Action Taken," 15:45:24
3 "Offender Diamond never identified the alleged 15:45:29
4 aggressor or any witnesses. Per offender Diamond, 15:45:32
5 the offender was moved out of the dorm. Diamond was 15:45:35
6 asked at a later date to identify the offender again 15:45:38
7 and she refused." 15:45:41

8 Is that all of the evidence that you 15:45:44
9 considered in concluding that this PREA allegation 15:45:48
10 was unfounded? 15:45:51

11 A No, this doesn't represent anything but 15:45:54
12 information regarding why we closed out that -- a 15:45:59
13 snapshot of why we closed out that investigation. 15:46:04
14 This does not say that. 15:46:07

15 What this is basically saying is that, you 15:46:08
16 know, with the information that she gave us, we 15:46:10
17 could have actually identified a person that was 15:46:14
18 moved to the H Building, asked her to identify if 15:46:16
19 this was the alleged person and she refused. So 15:46:20
20 this doesn't necessarily say that this is all we 15:46:23
21 did. This is just, you know, just a snapshot of why 15:46:28
22 we closed it out. 15:46:30

23 Q So I'm not asking you what all you did. 15:46:32
24 I'm asking if this document captures all of the 15:46:36
25 reasons that this PREA allegation was ruled 15:46:41

1 unfounded. 15:46:46

2 A No, it does not. 15:46:49

3 Q Okay. And what were the additional 15:46:50

4 reasons that this PREA allegation was ruled 15:46:53

5 unfounded? 15:46:58

6 A I'm not sure. I would have to look at the 15:47:00

7 report in its entirety, the entire packet, to make 15:47:02

8 that determination. 15:47:06

9 Q Okay. But it would be recorded somewhere 15:47:08

10 in the PREA records why the PREA allegation was 15:47:11

11 ruled unfounded. Is that right? 15:47:19

12 A Yes, ma'am. 15:47:22

13 Q Okay. 15:47:23

14 A You have to understand that even -- even 15:47:24

15 if I made a determination that it was unfounded, 15:47:26

16 that the final say-so goes up and the case is 15:47:30

17 reviewed, and in the case of Ashley Diamond it's 15:47:34

18 heavily reviewed by Grace Atchison or her team. 15:47:38

19 So even though I may have completed it or 15:47:42

20 maybe closed out on the facility level, you can -- 15:47:45

21 also I would say with a hundred percent certainty 15:47:49

22 that it was sent up and reviewed by Grace Atchison 15:47:54

23 to look at it even further. 15:47:58

24 Q Is that your signature at the bottom? 15:48:00

25 A It is, yes, ma'am. 15:48:01

1 Q And it looks like the word "Refused" is 15:48:04
2 entered and a date of December 7, 2020. Do you 15:48:09
3 recall whether that was the date on which you 15:48:13
4 attempted to provide Ms. Diamond with the 15:48:16
5 information that this case had been closed? 15:48:20

6 A No, that wasn't the only date. If I'm not 15:48:24
7 mistaken, we attempted several times to get her to 15:48:26
8 sign, and I think that was around the date when -- 15:48:30
9 the time when we actually spoke to the warden, and 15:48:33
10 the warden said -- advised us to bring her up again 15:48:36
11 and see if she'll sign and just close it out and 15:48:42
12 date the -- when it actually occurred. 15:48:45

13 Q Do you have a specific recollection of 15:48:50
14 meeting with Ms. Diamond about the July 3rd PREA 15:48:52
15 allegation and telling her that it had been closed 15:48:56
16 and it had been proven that it did not occur? 15:48:59

17 A If I did this particular incident, no, 15:49:03
18 ma'am, I can't say for certain that it was that 15:49:10
19 particular incident. Diamond pretty much had free 15:49:13
20 rein to my office. You know, if she wanted 15:49:17
21 something to eat she would come up there and get a 15:49:19
22 warden package. So she was in my office often. We 15:49:22
23 talked about PREA cases often. 15:49:25

24 Diamond at one point created a transgender 15:49:27
25 community group, she was the head of that group, so 15:49:32

1 she was up there all the time. So I can't say one 15:49:35
2 incident or another that, you know, we talked about 15:49:39
3 this particular case. There were a lot of instances 15:49:41
4 where I talked to Diamond. 15:49:45

5 Q Well, you had -- you mentioned that PREA 15:49:47
6 is confidential. So you wouldn't have talked to her 15:49:49
7 in the presence of anyone else about the 15:49:53
8 disposition; right? 15:49:55

9 A Correct. Correct. 15:49:57

10 Q I think if I'm understanding correctly, 15:49:59
11 your testimony is that you attempted to get her to 15:50:02
12 sign a disposition form, letting her know that this 15:50:07
13 case had been closed and she had been found to 15:50:12
14 have -- that it had not happened, evidence proved it 15:50:16
15 had not happened. Do you remember having that 15:50:20
16 conversation with her? 15:50:23

17 A Yes, I do, and I distinctly remember the 15:50:25
18 conversation in December because that's when we 15:50:28
19 brought her up and we had multiple forms for her to 15:50:31
20 sign, if I'm not mistaken, and she still refused to 15:50:37
21 sign any of them, so -- 15:50:40

22 Q That's one conversation. Do you remember 15:50:43
23 the ones that preceded that one about this incident? 15:50:45

24 A They're vague. I remember -- I think I 15:50:49
25 remember at one point I asked her to sign and she 15:50:54

1 said she wasn't signing anything without her 15:50:58
2 lawyers, something like that. But like I said, it 15:51:01
3 was, you know, it was just vague memories. 15:51:04
4 Q Do you recall her asking if you had 15:51:08
5 reviewed the video? 15:51:10
6 A I do not recall that, no, ma'am. 15:51:12
7 Q Okay. So this is dated August 4th -- 15:51:15
8 A Correct. Go ahead. 15:51:15
9 MS. LITTRELL: I'm going to ask that this 15:51:31
10 document be taken down and -- sorry. I'm trying to 15:51:33
11 scroll to see which -- it was 1060. And ask that a 15:51:38
12 document that's marked 00 -- I'm sorry -- 030305 be 15:51:40
13 pulled up. 15:51:47
14 (Betterson Exhibit 5 marked for 15:52:16
15 identification.) 15:52:20
16 Q Do you see this document? 15:52:20
17 A Yes. 15:52:22
18 Q Do you recognize this document? 15:52:23
19 A Somewhat. I do remember receiving an 15:52:27
20 email, yes. 15:52:29
21 Q It appears to be an email from Grace 15:52:31
22 Atchison to you, copying Brooks Benton, about Ashley 15:52:33
23 Diamond. And in the email it talks about the July 15:52:40
24 3rd, 2020 assault. 15:52:46
25 A Um-hmm. 15:52:49

1 MR. CHALMERS: Objection. 15:52:54

2 MS. LITTRELL: What's your objection? 15:52:57

3 MR. CHALMERS: Is that a question pending? 15:53:01

4 I couldn't tell. I thought you stopped. But my 15:53:03

5 objection is to the part of the question that's so 15:53:06

6 far pending. I can restate it when you're finished, 15:53:08

7 if you would like. 15:53:14

8 MS. LITTRELL: Sure. 15:53:17

9 Q Do you see at the top of the second 15:53:17

10 paragraph "Alleged Date of Incident: July 3rd, 15:53:19

11 2020"? 15:53:22

12 A Yes. 15:53:23

13 Q And then the following paragraph provides 15:53:23

14 the substantive allegation. Is that -- is that an 15:53:28

15 accurate recollection or characterization? 15:53:32

16 A Can you make it a little bit larger? 15:53:39

17 Q Sure. 15:53:42

18 A Yes. 15:53:59

19 Q Okay. Below that it says -- and this was 15:54:00

20 sent on November 17, 2020; right? 15:54:05

21 A Um-hmm. 15:54:10

22 Q Okay. Then it says, the letter further 15:54:11

23 states she notified her PREA coordinator and that 15:54:16

24 SPLC has misunderstood this with the PREA compliance 15:54:20

25 manager. 15:54:23

1 Do you know what Ms. Atchison was 15:54:24
2 referring to with respect to misunderstanding here? 15:54:26
3 A I'm sorry. What was your question again? 15:54:31
4 Q Do you know what misunderstanding 15:54:46
5 Ms. Atchison is referring to here? 15:54:49
6 A SPLC I guess is the misunderstanding. I 15:54:52
7 think she's referring to Ms. Cantera at the time was 15:54:58
8 the PREA compliance manager, because I hadn't 15:55:06
9 received the training, the necessary training yet to 15:55:09
10 become the PREA compliance manager, which she had. 15:55:13
11 So I think she may have reported it, maybe a 15:55:17
12 misunderstanding saying she reported it to 15:55:22
13 Ms. Cantera and her mental health counselor. 15:55:26
14 Q Who was the PREA compliance manager in 15:55:28
15 July 2020 at Coastal? 15:55:32
16 A I want to say it was Ms. Cantera. 15:55:41
17 Q Okay. Is she a GDC employee? 15:55:45
18 A She's a -- she was a GDC employee, 15:55:48
19 correct. 15:55:51
20 Q Okay. And when did you become the PREA 15:55:52
21 compliance manager? 15:55:56
22 A I don't remember the exact date, but I do 15:55:58
23 know that I was involved in a lot of training, and 15:56:01
24 when that training came -- when I actually completed 15:56:04
25 that training, I then became the PREA compliance 15:56:06

1 manager. 15:56:10

2 Q You don't recall the date of that? 15:56:10

3 A No, ma'am, I don't. 15:56:12

4 Q Would that be reflected in the local 15:56:14

5 procedure directive that lists all the names of all 15:56:17

6 of the SART team members? 15:56:20

7 A It should be listed probably more than 15:56:23

8 likely in a memo format. 15:56:29

9 Q Okay. So your understanding is that 15:56:31

10 Ms. Cantera was a GDC employee. Is that right? 15:56:37

11 A Correct. 15:56:41

12 Q And if she worked for an organization, a 15:56:42

13 contracted organization called MHM, what would that 15:56:47

14 signify? 15:56:52

15 A So she's a contractor, she still is 15:56:52

16 technically employed, her employer is contracted to 15:56:56

17 work through -- work for GDC. 15:57:01

18 Q Okay. Would that enable her to be the 15:57:04

19 PREA compliance manager if she did not work for GDC? 15:57:08

20 A Yes. 15:57:12

21 Q Okay. Thank you. 15:57:13

22 MS. LITTRELL: You can take this down. 15:57:15

23 And I'm going to ask you to pull up what is 05332 as 15:57:16

24 the next exhibit. 15:57:24

25 (Betterson Exhibit 6 marked for 15:57:57

1 identification.) 15:58:00

2 Q Can you see this document, Mr. Betterson? 15:58:00

3 A Yes. 15:58:03

4 Q Okay. Let me make it a little bit bigger 15:58:04

5 for you. 15:58:08

6 Have you seen this document before? 15:58:09

7 A Yes, I'm sure I have. It was sent to me. 15:58:11

8 I just don't recall it. But yes. 15:58:16

9 Q Okay. It appears to be an email from 15:58:19

10 Tamara Cantera to Carl Betterson, Yolanda Preyer. 15:58:22

11 Who was that? 15:58:27

12 A She was the -- a unit manager during that 15:58:28

13 time. 15:58:35

14 Q Okay. And it says "amended Diamond 15:58:35

15 report" as the subject; right? 15:58:39

16 A Correct. 15:58:41

17 Q Okay. And the contents start with "Good 15:58:42

18 morning. I spoke with Offender Diamond on 15:58:47

19 7/8/2020." 15:58:53

20 Do you see that? 15:58:53

21 A Um-hmm. 15:58:53

22 Q And it goes on to give some more 15:58:54

23 information. But if you'll drop down, skim through 15:58:57

24 until you get to the sentence that starts with 15:59:04

25 "During our discussion," do you see that? 15:59:11

Transcript of Carl Betterson
Conducted on July 15, 2022

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1 A The letter that we received from Southern 16:00:48
2 Poverty Law Center, I believe. 16:00:53

3 Q Okay. Could that be the letter that was 16:00:55
4 sent -- it couldn't be the letter that I just showed 16:01:01
5 you; that was dated July 20th. So we'll have to 16:01:04
6 figure out what letter that was. 16:01:08

7 Did you see the document or were you told 16:01:10
8 about the document? 16:01:13

9 A On that particular letter I think I did 16:01:13
10 see it, I received that letter. Or it's very 16:01:16
11 possible I do remember talking to Diamond in my 16:01:21
12 office and her stating on many occasions that she 16:01:24
13 couldn't talk about anything without her lawyer 16:01:27
14 being present. So I'm fairly certain I received a 16:01:30
15 letter, but it could have been verbally from 16:01:35
16 Ms. Diamond. 16:01:38

17 Q This email talks about a document that you 16:01:42
18 had received saying no PREA evaluations could be 16:01:45
19 completed for Diamond without a lawyer being 16:01:49
20 present. As you sit here, do you remember a 16:01:51
21 document saying do not speak with Ms. Diamond 16:01:53
22 without her lawyers present? 16:01:56

23 A I do believe I received a document stating 16:01:58
24 that they wanted to be present during -- I don't 16:02:00
25 remember the exact wording, but the gist of it was 16:02:03

1 they wanted -- that they didn't want any questioning 16:02:08
2 done, or something to that effect, without counsel 16:02:10
3 being present. 16:02:15
4 Q Do you recall what you did in response to 16:02:17
5 receiving that letter? 16:02:20
6 MR. CHALMERS: Objection; form. 16:02:23
7 You can answer. 16:02:24
8 Q Go ahead. 16:02:27
9 A I don't recall, no, ma'am. 16:02:28
10 Q The last sentence says, "Betterson stated 16:02:30
11 that he would contact legal and the evaluation is 16:02:39
12 now pending." 16:02:42
13 Do you remember telling Ms. Cantera that 16:02:43
14 you were going to contact legal? 16:02:46
15 A That, if I received that documentation, 16:02:49
16 any documentation saying that we had to stop the 16:02:56
17 questioning or counsel is requesting to be present, 16:03:00
18 that would have been the process to forward it to 16:03:04
19 legal for then -- our legal team for them to assist 16:03:08
20 us at that point. 16:03:12
21 Q Do you remember contacting legal for 16:03:14
22 assistance? 16:03:16
23 A I do, and I think I also contacted the 16:03:17
24 warden about it and Grace about it as well, 16:03:21
25 Ms. Atchison. But I just can't remember the fine 16:03:25

1 details about it. 16:03:30

2 Q So Ms. Cantera wrote this, and I read this 16:03:34

3 as possibly suggesting that you were going to 16:03:43

4 contact legal about finding out whether or not 16:03:47

5 Ms. Diamond could have a lawyer present. Is that 16:03:53

6 what you meant? 16:03:58

7 A No, I can pretty much tell you that wasn't 16:03:58

8 the case. If anything came up where legal needs to 16:04:01

9 get involved, we didn't make any assumptions or 16:04:05

10 anything. We sent it to legal and we waited. So 16:04:07

11 once -- once I receive a letter from a lawyer or 16:04:11

12 something like that, I immediately stop the process 16:04:14

13 and send it to legal and wait for a response at that 16:04:17

14 time. Or I contact the warden and let them handle 16:04:21

15 it. 16:04:24

16 Q Okay. Did you get a letter directly from 16:04:25

17 Ms. Diamond's lawyers? 16:04:30

18 A I don't think I received a letter 16:04:36

19 directly. Like I said, I think that letter came in 16:04:38

20 from the warden to me, it was just placed in my box. 16:04:42

21 But I didn't officially -- I didn't actually open a 16:04:45

22 letter that was addressed to me, no, ma'am. 16:04:49

23 Q Do you recall asking -- when you contacted 16:04:54

24 legal, do you recall asking them whether or not 16:04:58

25 Ms. Diamond could have a lawyer on the phone when 16:05:01

1 she was being interviewed? 16:05:03

2 A I don't recall that. To the best of my 16:05:05

3 knowledge, I think -- with that incident I think we 16:05:11

4 contacted -- I contacted the warden about it. I 16:05:13

5 remember -- I remember talking to the warden 16:05:16

6 specifically about that and speaking with Grace 16:05:19

7 Atchison about it as well. But I'm not quite sure. 16:05:23

8 Just a moment. 16:05:28

9 Okay. So I do remember -- 16:05:42

10 Q I have to ask you, I'm sorry, for the 16:05:45

11 record, someone just came into the room, you put us 16:05:48

12 on mute, and you said a few words. Who was that? 16:05:50

13 A That was my girlfriend and her daughter. 16:05:53

14 Q Okay. And did you talk about this case? 16:05:56

15 A Talk about the case to? 16:05:59

16 Q To whoever just walked in the room. 16:06:01

17 A No. I was advising them that I needed to 16:06:04

18 be quiet. 16:06:08

19 Q You don't have to tell us what you said. 16:06:08

20 I just needed to confirm what I thought to be true. 16:06:10

21 Go ahead. 16:06:14

22 I think you -- I think you had given me a 16:06:15

23 comprehensive answer. But to be sure, my question 16:06:19

24 was do you recall speaking with anybody about 16:06:23

25 Ms. Diamond's request to have her counsel available 16:06:30

1 when she was interviewed for PREA investigation? 16:06:35

2 A Correct. Yes. Correct, I do recall 16:06:39

3 talking to Warden Benton and Grace Atchison about 16:06:42

4 it. 16:06:45

5 Q And what did they say about that request? 16:06:45

6 A I can't recall that conversation. I just 16:06:48

7 know we talked about it. 16:06:50

8 Q Okay. Do you recall talking with 16:06:52

9 Ms. Diamond about whether or not GDC would make 16:06:55

10 accommodations so that her lawyers could be on a 16:07:01

11 call while she was being interviewed about a PREA 16:07:05

12 allegation? 16:07:09

13 A My understanding about that situation was 16:07:11

14 that Diamond did request legal counsel, but we were 16:07:22

15 not able to sit in with counsel unless it's approved 16:07:27

16 by GDC. 16:07:33

17 Q So -- and I may have spaced out for a 16:07:38

18 second -- but do you remember telling Ms. Diamond 16:07:43

19 that she could or could not have counsel present? 16:07:46

20 A No. I remember her telling me that she 16:07:49

21 wanted counsel present, but I don't remember the 16:07:52

22 conversation in its totality. But I do remember 16:07:55

23 having a conversation about that, her saying that 16:08:02

24 she couldn't say anything, wouldn't talk without a 16:08:05

25 lawyer being present. And to me, you have to 16:08:09

1 understand that to me as an officer, if they're 16:08:11
2 requesting an attorney being present, that stops 16:08:17
3 pretty much everything. 16:08:21
4 Q Isn't that the case only if that person is 16:08:23
5 accused of a crime? 16:08:29
6 A I'm not sure. But until -- if they're 16:08:34
7 requesting legal, it was my understanding that we 16:08:37
8 need to talk to our legal department and get 16:08:39
9 direction from our legal department. 16:08:43
10 Q Okay. But that doesn't preclude you from 16:08:45
11 reviewing video; right? 16:08:51
12 A Yes, ma'am, it does not. 16:08:54
13 Q All right. And it doesn't preclude you 16:08:56
14 from looking at the bed movement information to see 16:08:58
15 if somebody had been moved from N to H on a 16:09:04
16 particular day; right? 16:09:07
17 A No, it doesn't. 16:09:08
18 Q Okay. And it doesn't preclude you from 16:09:10
19 speaking with other offenders in N Building to see 16:09:14
20 if they had seen anything on July 3rd, for example, 16:09:20
21 with respect to someone being chased out of the 16:09:25
22 dorm? 16:09:28
23 A Correct. 16:09:28
24 Q Okay. And this email was sent to you on 16:09:29
25 July 10th; correct? 16:09:32

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1 Q Okay. Did you have authorization to 16:10:57
2 request the video at that time? 16:10:59
3 A Not -- I could request it, but it wasn't 16:11:01
4 guaranteed that I would get that information. 16:11:06
5 Q And who would you request it from? 16:11:08
6 A The warden. 16:11:11
7 Q And is that something that would be 16:11:13
8 documented? 16:11:15
9 A Not necessarily. It would just be a 16:11:16
10 request made. 16:11:19
11 Q Once you had full authority to review 16:11:21
12 video evidence, was there documentation that you 16:11:26
13 would need to fill out with respect to requesting 16:11:29
14 video? 16:11:33
15 A No, ma'am. 16:11:35
16 Q What would the process be to review that 16:11:37
17 video? 16:11:40
18 A For me to view the video, it would have to 16:11:42
19 be approved by the warden. Once we sent the request 16:11:46
20 up, they would look at the video during the time or 16:11:51
21 they would record the video during that specific 16:11:54
22 time or that we needed information, or they would 16:11:57
23 actually have -- I would give a description of what 16:12:01
24 I was looking for and they would review that -- 16:12:04
25 review the video to see if anything happened 16:12:08

1 matching what I was looking for. 16:12:12

2 Q You say "they." Who are "they" in this 16:12:13
3 scenario? 16:12:17

4 A The deputy warden of security normally 16:12:17
5 would review, the deputy warden of security and his 16:12:20
6 secretary would normally be the only two that had 16:12:23
7 access to that video, besides the warden, to review. 16:12:26

8 Q Deputy warden of security, and who was 16:12:32
9 that in July of 2020? 16:12:34

10 A It would have been Michael Anderson. 16:12:37

11 Q Okay. But also Warden Benton had access 16:12:41
12 to view the camera footage; right? 16:12:50

13 A Correct. 16:12:54

14 Q When you did gain full access, could you 16:12:55
15 just review the camera or did you still have to ask 16:12:57
16 someone to pull the camera footage and send it to 16:13:01
17 you or make it available? 16:13:07

18 A Once I talked to the warden and requested 16:13:07
19 that I would officially be given full access to the 16:13:12
20 video, then we called in a -- he called in a request 16:13:16
21 to get approval, it was approved, and then a 16:13:20
22 technician came down and installed all of the 16:13:24
23 monitoring software on my computer in my office. 16:13:28

24 Q And once you had all of that software on 16:13:33
25 your computer, could you pull videos yourself to 16:13:35

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1 look at? 16:13:39

2 A I could look at them, but I didn't have 16:13:40

3 access to download anything. I could review. 16:13:43

4 Q Okay. So we've discussed that if there is 16:13:47

5 video of an event on a date certain and in a place 16:13:57

6 certain, if that video was -- if that camera was not 16:14:04

7 malfunctioning and the video was recorded, the video 16:14:11

8 would capture that either the allegations happened 16:14:18

9 or they didn't happen; right? 16:14:22

10 A If, in fact, we could narrow down the time 16:14:26

11 frame. And you have to understand -- I'm sorry. I 16:14:31

12 just wish you could understand how these video 16:14:36

13 systems work. [REDACTED]. So you 16:14:38

14 may have an incident where a camera is capturing 16:14:43

15 the -- capturing the motion and a person may be -- 16:14:48

16 in one frame may be in one position and in the next 16:14:53

17 frame he may be on the other side of the dormitory. 16:14:57

18 So it's not definitive. It's just gives you a good 16:15:00

19 reference if something happened. 16:15:06

20 [REDACTED] 16:15:07

21 [REDACTED] 16:15:10

22 [REDACTED] But it's some of it seems to depend on the 16:15:12

23 internet connection, if that's functioning properly, 16:15:17

24 or if the video equipment is functioning properly. 16:15:20

25 But in a perfect world, you would be able to capture 16:15:23

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1	that information. [REDACTED]	16:15:26
2	[REDACTED]	16:15:29
3	[REDACTED]	16:15:32
4	[REDACTED]	16:15:37
5	[REDACTED]	16:15:41
6	[REDACTED]	16:15:48
7	[REDACTED]	16:15:49
8	[REDACTED]	16:15:55
9	[REDACTED]	16:16:00
10	[REDACTED]	16:16:06
11	[REDACTED]	16:16:10
12	[REDACTED]	16:16:14
13	[REDACTED]	16:16:21
14	[REDACTED]	16:16:25
15	[REDACTED]	16:16:27
16	[REDACTED]	16:16:29
17	[REDACTED]	16:16:34
18	[REDACTED]	16:16:36
19	[REDACTED]	16:16:43
20	[REDACTED]	16:16:46
21	[REDACTED]	16:16:50
22	[REDACTED]	16:16:55
23	[REDACTED]	16:16:59
24	[REDACTED]	16:17:02
25	Q Okay. But you don't have any personal	16:17:02

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1 knowledge about whether there were any problems with 16:17:04
2 the cameras [REDACTED] 16:17:06
3 [REDACTED] on July 3rd; right? 16:17:10
4 A Correct. Now, I later towards my time in 16:17:12
5 Coastal, I, like I said, I had full access to those 16:17:16
6 cameras, and there were some days I would just 16:17:21
7 randomly pull up the camera to look to see what was 16:17:24
8 going on [REDACTED]. [REDACTED] 16:17:29
9 [REDACTED] 16:17:31
10 [REDACTED] 16:17:34
11 [REDACTED] 16:17:38
12 [REDACTED] 16:17:43
13 [REDACTED] 16:17:47
14 Q Okay. If there was a glitch in the camera 16:17:51
15 that precluded you from being able to see whether or 16:17:58
16 not something that was alleged had occurred, that 16:18:01
17 should be documented somewhere in the PREA 16:18:03
18 investigative records? 16:18:06
19 A Sure. Correct. 16:18:07
20 MS. LITTRELL: Okay. You can take this 16:18:09
21 down. Let's look at DEF_1070. 16:18:10
22 MR. CHALMERS: Counsel, we have been going 16:18:17
23 for a couple of hours without a break for folks who 16:18:17
24 have taken a few for technical issues. But can we 16:18:21
25 take about a 5- or 10-minute break? It doesn't have 16:18:21

1 to be right now, but when you get to your next 16:18:24
2 natural breaking point. 16:18:27
3 MS. LITTRELL: We can. Let me look and 16:18:29
4 see if there's a good breaking point for that. 16:18:30
5 Let's look at this last document and then take a 16:18:37
6 small break. 16:18:40
7 If you can pull up 1070. 16:18:41
8 (Betterton Exhibit 7 marked for 16:18:52
9 identification.) 16:18:52
10 BY MS. LITTRELL: 16:18:55
11 Q Okay. Mr. Betterton, can you see this 16:18:55
12 document that's been marked Betterton 7? 16:18:57
13 A Could you make it larger? Yes. 16:18:59
14 Q Okay. And what is this document? 16:19:04
15 A Supplemental Incident Report. 16:19:06
16 Q Okay. The facility is Coastal State 16:19:12
17 Prison; correct? 16:19:17
18 A Yes, ma'am. 16:19:18
19 Q And then the military time -- let's just 16:19:19
20 start with the date, it's 07/03/2020. Does that 16:19:22
21 indicate the date on which the information was 16:19:26
22 entered, or does it indicate something else? 16:19:28
23 A It could actually be the actual incident, 16:19:31
24 the date that we noted -- that we known the incident 16:19:39
25 to have taken place. I'm not sure. Well, yes, that 16:19:44

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1 could have been actual date that we've known the 16:19:49
2 incident to take place. The date that the actual 16:19:51
3 report was entered I think is down at the bottom 16:19:54
4 where it says 11/24/2020. 16:19:57
5 Q Okay. That makes sense. And this was 16:20:02
6 entered on 11/24/2020; right? 16:20:04
7 A Correct. 16:20:08
8 Q Okay. See if it says who it was entered 16:20:09
9 by. Scroll down to the next page. It doesn't say, 16:20:15
10 at least I can't see that it says who entered it. 16:20:18
11 Is that -- is that accurate? 16:20:23
12 A Correct. 16:20:26
13 Q Okay. But we see it's entered on 11/24, 16:20:28
14 and at the top you can see that it was printed by 16:20:33
15 Carl Betterson on November 24, so the same date? 16:20:37
16 A Correct. 16:20:40
17 Q Did you enter this information into the 16:20:40
18 system? 16:20:43
19 A It's possible that I did enter that if I 16:20:43
20 noticed that an incident report was not created by 16:20:46
21 security. The deputy warden of care and treatment 16:20:50
22 position is technically a security position even 16:20:54
23 though we don't supervise security. Incident 16:20:56
24 reports are supposed to be entered by security. So 16:20:59
25 if we found out that an incident report was not 16:21:02

1 done, we would -- we would complete an incident 16:21:05
2 report. 16:21:07
3 Q And even though this is three months after 16:21:08
4 the -- after the incident itself; right? 16:21:10
5 A Correct. Yes, ma'am. 16:21:13
6 Q And do you remember that we looked at an 16:21:14
7 email from Ms. Atchison to you about the July 3rd 16:21:17
8 incident in which she said that there was no 16:21:21
9 information in PREA and asked you to ensure that an 16:21:23
10 investigation took place? Do you remember that 16:21:27
11 email? 16:21:30
12 A Yes. Yes. 16:21:31
13 Q Do you remember it was dated November 16:21:33
14 24th, 2020? 16:21:36
15 A I don't remember what the date it was. 16:21:39
16 Q We can look at that again. But, in any 16:21:42
17 event, this was entered on November of 2020. And 16:21:45
18 here is where it says the incident was not 16:21:50
19 videotaped; correct? 16:21:52
20 A Okay. 16:21:53
21 Q It doesn't say incident was not reviewed; 16:21:54
22 right? 16:21:58
23 A Right. 16:21:58
24 Q But somewhere in the PREA records there 16:21:59
25 should be some records of whether or not the 16:22:02

1 incident was or was not recorded and whether or not 16:22:07

2 it supported or did not support the allegations? 16:22:10

3 A Correct. 16:22:14

4 Q Okay. And at the bottom of this, the 16:22:15

5 offender involved that's identified is Ms. Diamond, 16:22:19

6 and under the STG moniker -- I know it's not a very 16:22:23

7 good copy -- but it appears to say that Ms. Diamond 16:22:28

8 is identified as a security threat individual. Is 16:22:33

9 that right? 16:22:41

10 A I don't know security -- I don't know what 16:22:41

11 this is. 16:22:48

12 Q Okay. Well, cut off on this page -- and 16:22:49

13 I'll follow up with Mr. Chalmers to see if we can 16:22:54

14 get a copy of this document that is a little more 16:22:58

15 legible and not cut off -- but it appears that maybe 16:23:02

16 that's the box where it says reviewed video. I 16:23:06

17 mean, all we can see is r-e-v-i-e and then we can't 16:23:08

18 see what's next, and then underneath that v-i-d. Do 16:23:12

19 you think that this might be where you're saying 16:23:16

20 whether or not the video -- where you record whether 16:23:19

21 or not the video was reviewed? 16:23:22

22 A Not necessarily. If the question asks -- 16:23:24

23 it doesn't ask the question -- it may have asked if 16:23:31

24 there was video evidence to review. It just asks 16:23:35

25 did I review, you know, did I view video evidence. 16:23:38

1 And if I said no, that's based on the fact that 16:23:41
2 there's no evidence to view. 16:23:43
3 Q Okay. Not that you reviewed it and it 16:23:46
4 didn't show anything? 16:23:50
5 A Correct. So that's pretty much my 16:23:50
6 understanding of -- if I remember that incident with 16:23:55
7 this correctly, it's a generic question about video 16:23:58
8 evidence, and it will produce that response without 16:24:01
9 any details surrounding it. 16:24:05
10 MS. LITTRELL: Okay. You can take this 16:24:11
11 down and we can take a break. Let's do 10 minutes, 16:24:11
12 if that works for folks. It's 4:30 now. So if 10 16:24:15
13 minutes -- I mean, I'm also open to 15 if folks 16:24:20
14 would like a little bit longer break on this round 16:24:23
15 and then maybe we can push through. 15 minutes 16:24:26
16 good? 16:24:31
17 MR. HENEFELD: Yeah. Can I ask if you 16:24:31
18 have an estimate about how much longer you've got? 16:24:33
19 MS. LITTRELL: My estimate would be two 16:24:36
20 more hours. 16:24:38
21 MR. CHALMERS: Okay. How much time have 16:24:40
22 we -- 16:24:42
23 THE VIDEOGRAPHER: It is 4:24 p.m. We go 16:24:43
24 off the record. 16:24:46
25 (Recess 4:24 p.m. - 4:38 p.m.) 16:24:49

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1 THE VIDEOGRAPHER: It is the beginning of 16:38:24
2 media number 5 of the testimony of Carl Betterson. 16:38:25
3 It is 4:38 p.m. We are back on the record. 16:38:29
4 BY MS. LITTRELL: 16:38:32
5 Q Okay. Mr. Betterson, we were talking 16:38:33
6 about the July 3rd incident. We went through some 16:38:35
7 PREA records. 16:38:40
8 Last question on that incident. To your 16:38:41
9 knowledge, was there any action taken to ensure that 16:38:44
10 unauthorized people were not entering the dorm after 16:38:47
11 this allegation? 16:38:51
12 A That wouldn't have come from me. That 16:38:55
13 would have come from the deputy warden of security 16:38:58
14 and the warden to direct the security staff to be 16:39:02
15 mindful. And I do believe there was a memo put out 16:39:05
16 about that -- 16:39:12
17 Q Okay. 16:39:12
18 A -- unauthorized presence in the dorm, but 16:39:12
19 I can't be a hundred percent sure. 16:39:14
20 Q And who would have sent that memo? 16:39:17
21 A That would have come from either the 16:39:19
22 deputy warden of security or the deputy warden. 16:39:22
23 Q And is your memory that it came in 16:39:23
24 response to the July 3rd incident? 16:39:27
25 A No, ma'am, I can't. 16:39:30

1 Q Okay. Do you recall an allegation that 16:39:37
2 Ms. Diamond made that she had been the victim of 16:39:40
3 four separate sexual assaults over a three-day 16:39:43
4 period in September? 16:39:50
5 A I do remember multiple assaults being 16:39:51
6 filed and we have now investigated this. 16:39:57
7 Q Okay. Do you recall when you learned 16:39:59
8 about those assaults? 16:40:00
9 A No, ma'am. 16:40:02
10 Q Do you remember how you learned about 16:40:03
11 those assaults? 16:40:04
12 A No, ma'am. 16:40:05
13 MS. LITTRELL: Okay. I'm going to ask the 16:40:07
14 tech to pull up the DEF number 030446. 16:40:10
15 (Betterton Exhibit 8 marked for 16:40:19
16 identification.) 16:40:51
17 Q Do you see a document on your screen, 16:40:51
18 Mr. Betterton, that's been marked Betterton Exhibit 16:40:53
19 8? 16:40:55
20 A Yes. 16:40:56
21 Q Okay. It's dated September 29th, and the 16:40:58
22 subject is Fourth Notice of Constitutional and PREA 16:41:03
23 Violations on Behalf of Ashley Diamond. Do you see 16:41:07
24 that? 16:41:11
25 A Yes. 16:41:11

1 Q Now, and the second addressee is the PREA 16:41:13
2 Unit, and it's the same email address as you saw on 16:41:20
3 the other letter that you sent; right? It's your 16:41:23
4 understanding that this would have gone to 16:41:29
5 Ms. Atchison? 16:41:31
6 A Yes. 16:41:32
7 Q Okay. And do you see -- I'm scrolling 16:41:33
8 down to the second page -- where the heading is "Ms. 16:41:41
9 Diamond was sexually assaulted four times in one 16:41:44
10 weekend and continues to fear for her safety." 16:41:49
11 Was this letter forwarded to you? 16:41:52
12 A I'm not sure. But it more than likely 16:41:54
13 would have been. 16:41:57
14 Q Okay. 16:41:58
15 A But I'm not sure. 16:41:58
16 Q Okay. And under the subsection A, 16:42:00
17 "Ms. Diamond was sexually assaulted on September 16:42:08
18 18th, September 19th, and September 20th," the first 16:42:12
19 paragraph, can you read that and let me know when 16:42:16
20 you're finished and I'll ask you a few questions. 16:42:18
21 A Can you make it larger for me? 16:42:23
22 Q I can. Thank you for telling me. 16:42:25
23 A Which paragraph are you referring to? 16:42:34
24 Q The first paragraph under subsection A, it 16:42:35
25 starts "In the evening." 16:42:39

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1	19th, Ms. Diamond was in her room when another	16:44:38
2	incarcerated person entered, physically grabbed her	16:44:43
3	head, and forced her to give him oral sex on the	16:44:45
4	bed." And do you see there that this identifies the	16:44:49
5	date on which a sexual assault took place?	16:44:52
6	A Yes.	16:44:56
7	Q And do you agree that it gives an	16:44:57
8	approximate time of when the assault took place in	16:45:01
9	the morning?	16:45:08
10	A Yes.	16:45:09
11	Q And it gives the location, Ms. Diamond's	16:45:09
12	room?	16:45:12
13	A Correct.	16:45:13
14	Q And so that if the cameras were working on	16:45:14
15	that day and someone viewed the cameras, they would	16:45:17
16	be able to see whether sometime in the morning of	16:45:21
17	Saturday, September 19th, another incarcerated	16:45:24
18	person [REDACTED]; right?	16:45:28
19	A Correct.	16:45:31
20	Q And then the next paragraph is a Sunday,	16:45:31
21	September 20th, and it gives some more information	16:45:37
22	which says he proceeded to rape Ms. Diamond. Do you	16:45:43
23	see that?	16:45:50
24	A Yes.	16:45:50
25	Q Okay. And do you see that that attack,	16:46:04

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1 that rape occurred in Ms. Diamond's room? 16:46:07
2 A Correct. 16:46:11
3 Q Okay. And then later that day a different 16:46:12
4 person called Ms. Diamond into a room where she was 16:46:16
5 sexually assaulted? 16:46:20
6 A Yes. 16:46:22
7 Q And so as to the first allegation, you 16:46:24
8 would agree that someone who reviewed the video, if 16:46:28
9 it were working on September 20th, would be able to 16:46:30
10 [REDACTED] 16:46:35
11 see whether another incarcerated person entered her 16:46:40
12 room on that day? 16:46:43
13 A Correct. 16:46:44
14 Q Okay. And it's possible that the camera 16:46:45
15 may have also picked up Ms. Diamond going into 16:46:47
16 someone else's room on that day? 16:46:51
17 A It should have picked that up, correct. 16:46:54
18 Q Okay. Do you recall whether or not you 16:46:59
19 requested or reviewed any video camera footage [REDACTED] 16:47:03
20 [REDACTED] on any of these days where these four 16:47:08
21 alleged assaults took place? 16:47:13
22 A I don't recall any specific incident 16:47:17
23 whether I requested or not, but -- no, I just don't 16:47:26
24 remember. 16:47:30
25 Q Okay. You agree that these allegations, 16:47:32

1 if true, would represent a security concern in N 16:47:44

2 Building; right? 16:47:51

3 A Correct. 16:47:52

4 Q Do you remember if you did not check those 16:47:53

5 cameras, why you did not check those cameras? 16:47:59

6 A I wouldn't have checked those cameras. I 16:48:03

7 would have requested the warden -- the warden review 16:48:06

8 the cameras or have, you know, the times of the 16:48:12

9 incident reviewed. 16:48:17

10 Q Okay. Do you recall whether you requested 16:48:20

11 Mr. Benton to -- to view the video cameras or any 16:48:26

12 conversation with him about video cameras? 16:48:33

13 A I've had conversations with him about 16:48:36

14 video cameras before I was actually given access, I 16:48:38

15 did request access to the video cameras a couple of 16:48:44

16 times before that. My requests were denied. But 16:48:52

17 eventually I was given access for that. But just 16:48:55

18 specifically -- I remember conversations about 16:48:58

19 security reviewing the video footage. But just -- 16:49:03

20 just specific conversations, no, I don't remember. 16:49:09

21 Q Do you agree that if someone looked at the 16:49:13

22 video footage with the specifics that are provided 16:49:16

23 in here, which were provided, as you saw on the 16:49:21

24 first page, specifically on behalf of Ms. Diamond, 16:49:25

25 right, so someone authorized to speak on her behalf, 16:49:28

1 laid out when things happened and some details, if 16:49:32
2 you had this information, that you would want to 16:49:37
3 review the video to see whether or not -- whether or 16:49:40
4 not this happened? 16:49:46

5 A I would want someone to review the video 16:49:49
6 if I'm not given that authority to do it, yes, 16:49:51
7 ma'am. 16:49:56

8 Q Fair enough. If this letter went to 16:49:56
9 Ms. Atchison -- or I believe Chester Hofer is 16:50:07
10 another name that has come up. Can you tell me who 16:50:11
11 Chester Hofer is? 16:50:14

12 A I don't know. 16:50:16

13 Q Okay. But if this letter with these 16:50:20
14 details -- 16:50:23

15 A Chester -- 16:50:26

16 Q -- was provided -- I'm sorry? 16:50:27

17 A I think Chester Hofer is a part of Grace 16:50:28
18 Atchison's PREA team. 16:50:32

19 Q I think that's right as well. 16:50:33

20 So my question is if -- if Ms. Atchison or 16:50:35
21 anyone as part of the PREA team had these details, 16:50:40
22 and you were the SART investigator assigned to 16:50:43
23 investigate this -- these serious allegations, would 16:50:47
24 you want to have this information to help you in 16:50:52
25 your investigation? 16:50:55

1 documented inside those PREA forms that I -- that I 16:52:12
2 asked you about earlier -- 16:52:15
3 Q Okay. 16:52:17
4 A -- where there is a section about video 16:52:18
5 evidence. 16:52:20
6 Q Okay. And as part of your 16:52:22
7 responsibilities as the PREA compliance manager to 16:52:27
8 ensure the investigation was thoroughly complete, 16:52:30
9 would you agree that you would want to know whether 16:52:34
10 or not video was reviewed? 16:52:40
11 A Yes. 16:52:44
12 Q Okay. And if -- if Warden Benton had 16:52:45
13 received this letter with the details that you can 16:52:52
14 see provided in here, and tasked you with 16:52:56
15 investigating this PREA, would you have wanted this 16:53:00
16 information to assist you with your investigation? 16:53:04
17 A The results of it, yes, ma'am. 16:53:10
18 Q Okay. Would you want this information 16:53:14
19 telling you what times things happened and what 16:53:16
20 locations they happened in, would that have been 16:53:19
21 helpful to you in your investigation? 16:53:22
22 A Yes, ma'am. 16:53:26
23 Q Okay. 16:53:27
24 MS. LITTRELL: Let's see. Will you pull 16:53:54
25 up Defendants' 0910, please -- actually, skip that. 16:53:55

1 For a time let's skip to 0948. 16:54:22

2 (Betterson Exhibit 9 marked for 16:54:30

3 identification.) 16:55:08

4 Q I'll make this bigger so you can see it. 16:55:08

5 Do you see this document on the screen now, 16:55:11

6 Mr. Betterson? 16:55:14

7 A Yes. 16:55:15

8 Q And what is this document? 16:55:16

9 A The sexual assault response checklist. 16:55:18

10 Q Okay. And does it indicate the date of 16:55:26

11 the incidents? I see the date/time received 16:55:39

12 9/30/20. 16:55:43

13 A Yeah, that's -- that's not necessarily the 16:55:43

14 date of the incident. That's the date, my 16:55:46

15 understanding, that we received the allegation -- 16:55:50

16 (Audio disruption; court stenographer 16:55:50

17 clarification.) 16:55:50

18 A That's the date that we may have actually 16:55:59

19 received the allegation, but not the actual -- 16:56:01

20 possibly not the actual incident date. 16:56:08

21 Q Okay. And that coincides with the date of 16:56:10

22 the letter we just -- we just looked at, Exhibit 8. 16:56:13

23 Is that right? And if you don't recall, will you 16:56:17

24 take my word for it just for purposes of time? 16:56:20

25 A Okay. 16:56:24

1 Q Okay. Exhibit 9 here that we are looking 16:56:24
2 at, this is the Sexual Allegation Response 16:56:28
3 Checklist, and at the bottom your name appears down 16:56:33
4 there. Do you see that? 16:56:38
5 A Yes, Betterson, yes. 16:56:42
6 Q Okay. And it appears to identify you as 16:56:49
7 the SART investigator for this allegation. 16:56:52
8 A Okay. 16:56:59
9 Q Okay. And then Ms. Cantera is identified 16:56:59
10 as the PREA compliance manager; right? 16:57:03
11 A Correct. 16:57:06
12 Q Okay. So this indicates that you were 16:57:07
13 assigned to be the investigator on this case; right? 16:57:11
14 A Correct. 16:57:15
15 Q Do you recall whether you filled out this 16:57:16
16 form or not? 16:57:19
17 A I don't recall whether I filled that form 16:57:20
18 out or not. As the compliance manager, I normally 16:57:25
19 filled out that form once I go through the packet 16:57:29
20 and review everything. But I don't recall actually 16:57:32
21 filling out that form for this case, no. 16:57:36
22 Q Okay. And if this response checklist was 16:57:40
23 filled out in response to the letter sent on behalf 16:57:42
24 of Ms. Diamond, which was on the same day, do you 16:57:49
25 see under the question "Recover" -- under the box 16:57:56

1 "Recover, download, and document any video 16:58:01
2 monitoring recording," do you see that the box is 16:58:04
3 marked "No"? Do you see that? 16:58:07
4 A Correct. 16:58:09
5 Q Okay. 16:58:12
6 MR. CHALMERS: Counsel, I'm going to 16:58:12
7 object to the form of the question. Your other 16:58:14
8 exhibit is not dated the same day, but for the 16:58:16
9 record. 16:58:20
10 MS. LITTRELL: Okay. For the record, 16:58:20
11 we'll pull it back up and get the right date. Thank 16:58:21
12 you for alerting. 16:58:25
13 Q So this is 9/30, and it says that the box 16:58:26
14 is checked "No" with regards to any video monitoring 16:58:30
15 recording. Do you have any memory of why the box is 16:58:35
16 checked "No" here on 9/30? 16:58:38
17 A No. I would be speculating. 16:58:42
18 Q Okay. You don't need to speculate. If 16:58:45
19 you don't recall, then thank you for that. 16:58:48
20 "N/A" I think means not applicable. If 16:58:52
21 the -- if the recording had been -- if the video 16:58:57
22 equipment had been broken, would you expect that in 16:59:02
23 the comment box that would be reflected there? 16:59:06
24 A If it had been broken, yes. Do we know, 16:59:14
25 have any information on what -- during this time 16:59:17

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1	where she was housed? Where she was housed, what	16:59:22
2	building? Because --	16:59:27
3	Q To the best of my understanding, she has	16:59:28
4	been in cell 136 since she got out of quarantine	16:59:30
5	after her arrival at Coastal. Do you have any	16:59:35
6	information that would contradict that information?	16:59:42
7	A I don't think that was her original	16:59:45
8	housing. I do think that she was housed in N	16:59:47
9	Building, but it may have been temporarily on the	16:59:50
10	other side of B Building, call it A side, I guess.	16:59:55
11	But then again, I could be mistaken. [REDACTED]	17:00:01
12	[REDACTED]	17:00:07
13	[REDACTED].	17:00:11
14	[REDACTED]	17:00:12
15	[REDACTED]	17:00:18
16	[REDACTED]	17:00:21
17	[REDACTED]	17:00:24
18	[REDACTED]	17:00:29
19	[REDACTED]	17:00:32
20	[REDACTED]	17:00:35
21	[REDACTED]	17:00:39
22	[REDACTED]	17:00:43
23	[REDACTED]	17:00:47
24	[REDACTED]	17:00:52
25	[REDACTED]	17:01:00

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1	A	No, ma'am, I don't recall.	17:01:04
2	MS. LITTRELL:	Okay. You can take this	17:01:06
3	document down for now. And will you pull up the		17:01:08
4	number 0960.		17:01:15
5	(Betterson Exhibit 10 marked for		17:01:46
6	identification.)		17:01:46
7	MS. LITTRELL:	Thank you.	17:01:48
8	Q	I'm going to make this bigger. Okay. Can	17:01:49
9	you see a document that's been marked Betterson		17:01:52
10	Exhibit 10 on your screen, Mr. Betterson?		17:01:55
11	A	Correct.	17:01:58
12	Q	And what is this?	17:02:00
13	A	It looks like a written statement from	17:02:01
14	Ashley Diamond.		17:02:05
15	Q	Okay. And do you see that in this witness	17:02:06
16	statement she says she wants to pursue her PREA		17:02:10
17	investigation? Is that what it says, the first		17:02:14
18	sentence?		17:02:25
19	A	Yes.	17:02:26
20	Q	Okay. And she says she can't get a	17:02:30
21	response to the request for counsel to be present.		17:02:32
22	Do you see that?		17:02:36
23	A	Correct.	17:02:37
24	Q	Does that comport with your memory of your	17:02:38
25	attempt to interview Ms. Diamond?		17:02:42

1 that institution, yes. 17:03:54

2 Q Do you recall her asking for counsel to be 17:03:57

3 present? I think you testified to that earlier. 17:04:00

4 A I recall her saying that she wouldn't talk 17:04:05

5 without counsel being present, so yes. 17:04:08

6 Q And do you recall telling her that she 17:04:11

7 would not be able to have counsel present? 17:04:13

8 A No, I never told her that. 17:04:17

9 Q Okay. Do you recall telling her that if 17:04:19

10 she doesn't speak to you without counsel present, 17:04:22

11 that her PREA allegation would be closed? 17:04:25

12 A No, I didn't. I never had that type of 17:04:30

13 conversation with Ashley. 17:04:36

14 MS. LITTRELL: Okay. You can take this 17:04:40

15 down and pull up -- 17:04:43

16 Q Do you recall any investigative steps that 17:04:50

17 you took to investigate the September -- the four 17:04:52

18 separate sexual assault allegations September 18th, 17:04:55

19 19th and 20th? 17:04:59

20 A The only thing I really remember is 17:05:06

21 requesting Diamond come up and talk to me. But I 17:05:08

22 don't really truly remember that conversation. But 17:05:14

23 I do remember her not wanting to talk to me without 17:05:16

24 counsel being present. 17:05:20

25 Q Okay. Do you recall marking this 17:05:22

1 allegation as unfounded? 17:05:28

2 A No, I don't recall it. But my 17:05:34

3 documentation would show whether it was marked as 17:05:36

4 unfounded or not, or Ms. Cantera's documentation 17:05:39

5 would show if it was unfounded or not. 17:05:44

6 MS. LITTRELL: Okay. Will you pull up 17:05:47

7 what is marked DEF_030306. 17:05:49

8 (Betterson Exhibit 11 marked for 17:05:56

9 identification.) 17:06:15

10 Q All right. Can you see the document on 17:06:15

11 your screen, Mr. Betterson? 17:06:17

12 A Yes. 17:06:21

13 Q Okay. I'm going to make it bigger. Do 17:06:21

14 you recognize this document? Have you ever seen 17:06:25

15 this document before? 17:06:27

16 A I don't necessarily recall this email. 17:06:29

17 Q Okay. It appears to be an email from 17:07:05

18 Tamara Cantera to Chester Hofer. Do you see that? 17:07:08

19 A Okay. 17:07:12

20 Q Okay. And that its subject is "Re: PREA 17:07:13

21 SCRIBE question." And you took the time to read it 17:07:18

22 and I appreciate that. It's marked Betterson 17:07:20

23 Exhibit 11. 17:07:23

24 And do you see that in the 17:07:24

25 second-to-the-last -- second-to-last sentence it 17:07:28

1 says, "Thankfully, he has decided to stop that and 17:07:33
2 we ended up ruling them all unfounded because she 17:07:36
3 refuses to give details"? 17:07:39
4 So does this email suggest to you that 17:07:42
5 Warden Benton directed Ms. Cantera to mark all the 17:07:45
6 PREA allegations as unfounded based only on the fact 17:07:51
7 that she refuses to give details? 17:07:56
8 MR. CHALMERS: Objection. 17:07:59
9 A No, it doesn't suggest that. 17:08:00
10 Q What does -- what does this suggest to 17:08:05
11 you? 17:08:08
12 A That -- I would have to know the entire -- 17:08:08
13 what their entire conversation. She just says, 17:08:12
14 "Thankfully, he has decided to stop that and we 17:08:15
15 ended up ruling them all unfounded because she 17:08:19
16 refuses to give details." She could have very well 17:08:22
17 have been talking to me in regards to ruling them 17:08:33
18 all unfounded. It doesn't necessarily mean that 17:08:37
19 came from the warden. 17:08:41
20 Q Okay. Did you -- do you recall telling 17:08:43
21 Ms. Cantera to rule all of the PREA allegations 17:08:47
22 unfounded if Ms. Diamond -- 17:08:51
23 A No. 17:08:53
24 Q -- would not provide details? 17:08:53
25 A No. No, I do not. But, again, that's -- 17:08:56

1 that's very vague. I can't -- I won't speculate on 17:09:00
2 what she was thinking or anything like that with 17:09:04
3 respect to if she -- he decided to stop the -- yeah, 17:09:06
4 I don't -- 17:09:12

5 Q Do you see anything in here that says we 17:09:13
6 ruled the allegations unfounded because the video 17:09:15
7 was reviewed and determined that the event did not 17:09:19
8 occur? 17:09:23

9 A No, ma'am, I don't. 17:09:25

10 Q Okay. Thank you. 17:09:26

11 MS. LITTRELL: You can take this down. 17:09:28

12 Q Do you know -- well, you've already 17:09:32
13 answered that you're not in charge of moving 17:09:35
14 anybody. 17:09:38

15 But to your knowledge, was there any steps 17:09:38
16 taken after the September allegations were -- that 17:09:41
17 Ms. Diamond made were ruled unfounded? 17:09:47

18 A Not -- I can't remember off the top of my 17:09:53
19 head. But any time we had issues of a PREA 17:09:55
20 allegation, we always did something to try to 17:10:02
21 resolve the issue or fix the issue, and there were 17:10:05
22 times where I personally moved people out of the 17:10:07
23 dormitory. On occasions I have been able to see, 17:10:09
24 you know, an individual go to Diamond's room or come 17:10:15
25 out of Diamond's room and I moved them out of the 17:10:19

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1 dormitory even though she didn't have the allegation 17:10:22
2 of abuse towards that person, if I was able to 17:10:25
3 identify who that was, one of our processes is no 17:10:28
4 one is supposed to be in no one else's room. 17:10:33

5 Q Did you remove -- sorry. 17:10:38
6 Did you remove any offender that you saw 17:10:40
7 walk into any other offender's room? 17:10:42

8 A Yes. Yes, ma'am. 17:10:46

9 Q Every time you saw an offender walk into 17:10:46
10 another offender's room, that person was removed 17:10:50
11 from the program? 17:10:52

12 A For the most part, yes. But we rarely 17:10:53
13 even -- even with -- you have to kind of understand 17:10:56
14 sometimes on those cameras you can see and make out 17:11:01
15 who the person is. There have been times where I've 17:11:04
16 seen Diamond talking to people, laughing and joking 17:11:09
17 with people [REDACTED], but I couldn't 17:11:12
18 figure out who it was, so I didn't move them. 17:11:16

19 There were times where I've seen people in 17:11:20
20 other people's room, you know, on camera after 17:11:22
21 hours, you know, up or, you know, something like 17:11:24
22 that, and/or late in the evening, not after hours, 17:11:27
23 but later in the evening, you know, going from one 17:11:30
24 cell to another, and both of the individuals 17:11:34
25 themselves are built exactly alike, so I couldn't 17:11:37

1 tell who was that, the actual person that came out 17:11:40

2 of the cell -- 17:11:43

3 Q Did you ever remove anybody from 17:11:44

4 Ms. Diamond's cell based only on the fact that they 17:11:46

5 were friendly with Ms. Diamond? 17:11:53

6 A No. No. 17:11:55

7 Q So you've talked about some -- that you 17:11:57

8 did things after Ms. Diamond made her allegations. 17:12:02

9 What specifically did you do after the July 3rd 17:12:05

10 incident? 17:12:08

11 A You know, I went in and talked to the 17:12:11

12 dormitory about following judicial policies, staying 17:12:14

13 out of other people's rooms, and, you know, contact 17:12:18

14 with maintenance at some point to have them go down 17:12:29

15 and check the locks and make sure that they're not 17:12:32

16 being tampered with. Talked to officers in the 17:12:34

17 building, told them to be, you know, more vigilant. 17:12:37

18 Definitely told them to document every -- everything 17:12:41

19 that they see and, you know, don't cut it -- 17:12:45

20 Q Is your memory specific to after the July 17:12:49

21 3rd, or are you just talking throughout the time? 17:12:51

22 A I'm just speaking throughout my time at 17:12:54

23 Coastal. 17:12:57

24 Q Okay. Do you recall allegations that 17:12:58

25 Ashley Diamond or others made on her behalf that men 17:13:01

1 were coming into her cell at night while she slept 17:13:06

2 and molesting her in some way? 17:13:09

3 A I remember hearing something to that 17:13:12

4 effect, yes. 17:13:15

5 Q Okay. Do you have any specific 17:13:17

6 recollection about those allegations? 17:13:18

7 A No, ma'am. 17:13:21

8 Q Do you have any recollection of what you 17:13:22

9 did in response to those allegations? 17:13:24

10 A No. I remember I think there was an 17:13:28

11 incident with a guy named Thigpen, or something like 17:13:32

12 that, and I remember him distinctly because he said 17:13:38

13 that nothing happened. Ashley told him to say those 17:13:47

14 things. But, you know, like I explained to him, I 17:13:51

15 think he told me he agreed to it, or something like 17:13:55

16 that, or he made the statement that he did do it, 17:13:57

17 and he was removed from the program or something 17:13:59

18 like that. I don't -- he could have said something 17:14:03

19 totally different. But I think the gist of it was 17:14:06

20 that I think I -- something happened in that 17:14:12

21 investigation that made me believe it was better to 17:14:14

22 move Thigpen out of that dormitory. 17:14:19

23 Q Okay. Let's pull up a couple of documents 17:14:24

24 and see if it refreshes your recollection. 17:14:26

25 MS. LITTRELL: Will you pull up Defendant 17:14:28

1 0874? 17:14:30

2 (Betterson Exhibit 12 marked for 17:14:33

3 identification.) 17:15:01

4 Q Okay. Do you see a document on your 17:15:01

5 screen that I'm going to enlarge for you? 17:15:04

6 A Yes. 17:15:07

7 Q Okay. And what is this document? 17:15:07

8 A Looks like another supplemental incident 17:15:10

9 report. 17:15:14

10 Q Okay. We're looking at what's been marked 17:15:15

11 Betterson Exhibit 12. The time is 10/10/2020. Was 17:15:18

12 it your practice when you were filling out 17:15:25

13 supplemental reports or incident reports to put in 17:15:29

14 that box under military time the time that the 17:15:33

15 alleged incident took place? 17:15:38

16 A Yes. Yes, ma'am. 17:15:42

17 Q Okay. And then you have the entered date 17:15:44

18 which was October 15, 2020, and then there's a 17:15:49

19 narrative at the bottom which is a summary of the 17:15:52

20 incident. It says that, skipping to the second 17:15:54

21 sentence, "Offender Diamond had initially reported 17:16:01

22 the incident to her MHC Ms. Pepin but had declined 17:16:04

23 to discuss it at that time. Offender Diamond 17:16:08

24 reported that on the morning of 10/11/2020 she was 17:16:11

25 informed by another offender, Earl Thigpen, that on 17:16:14

1 the night of 10/10 an unnamed aggressor was observed 17:16:18
2 by Offender Thigpen inside Offender Diamond's room 17:16:19
3 while she was sleeping on her stomach. While in the 17:16:25
4 Offender Diamond's room, the alleged aggressor was 17:16:25
5 seen touching the buttocks of Offender Diamond. 17:16:29
6 Offender Thigpen then verbally chastised the alleged 17:16:32
7 aggressor, causing the alleged aggressor to leave 17:16:36
8 the Offender Diamond's room. Offender Diamond 17:16:36
9 stated that she did not wake due to mental health 17:16:42
10 medication." 17:16:43

11 Does that refresh your recollection of the 17:16:44
12 first allegation of someone sneaking into her room 17:16:45
13 at night? 17:16:49

14 MR. CHALMERS: Objection; form. 17:16:50

15 A Correct. 17:16:51

16 Q And on the second page, DEF_875, do you 17:16:53
17 see that the offenders involved are identified, Earl 17:17:05
18 Thigpen as a witness and Christopher Graham is 17:17:09
19 identified as involved. I guess it doesn't -- I 17:17:14
20 apologize, I misspoke. It doesn't say whether they 17:17:17
21 are witnesses or otherwise. It just says that these 17:17:20
22 are the people involved. 17:17:23

23 Did you investigate this allegation of -- 17:17:27
24 well, first of all, does the allegation rise to the 17:17:31
25 level of a potential PREA violation if it were true? 17:17:35

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1 paperwork or send a request for that video to 17:19:00
2 anyone? 17:19:04
3 A No, ma'am. She had access. 17:19:06
4 Q Okay. 17:19:10
5 MS. LITTRELL: Let's see. And, I'm sorry, 17:19:24
6 Ms. Vouthouris, can you tell me the DEF number of 17:19:26
7 the last exhibit so I don't ask for the wrong one? 17:19:31
8 THE COURT STENOGRAPHER: Sure. One
9 minute, please. Defendant 0874.
10 MS. LITTRELL: 0874?
11 THE COURT STENOGRAPHER: 0874.
12 MS. LITTRELL: Thank you.
13 BY MS. LITTRELL: 17:20:01
14 [REDACTED] 17:20:01
15 [REDACTED] 17:20:07
16 [REDACTED] 17:20:09
17 [REDACTED] 17:20:11
18 [REDACTED] 17:20:19
19 Q Do you recall -- were you a part of the -- 17:20:20
20 any investigation into whether or not Ms. Diamond 17:20:23
21 was involved in a consensual sexual encounter in 17:20:25
22 October? 17:20:31
23 A You can't consent while you're in prison. 17:20:32
24 So is there any particular incident that you're 17:20:42
25 referring to or... 17:20:46

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1 Q I'm asking you if you recall any 17:20:48
2 allegation that Ms. Diamond was the aggressor in a 17:20:50
3 PREA allegation? 17:20:56
4 A I think she was named the aggressor in an 17:20:58
5 incident where an officer caught her on top of 17:21:03
6 another male in her cell. 17:21:08
7 Q And so my question for you is do you 17:21:10
8 recall reviewing any video of that alleged incident? 17:21:13
9 A I'm not a hundred percent sure. If I'm 17:21:19
10 not mistaken, I think I do -- did review some video 17:21:33
11 on that. 17:21:37
12 Q Okay. And if I -- if I told you that that 17:21:39
13 incident occurred in October of 2020, would you have 17:21:42
14 any reason to doubt that that was true? 17:21:45
15 A No, ma'am. 17:21:49
16 Q And does that suggest to you if there is 17:21:53
17 video that was reviewed in October, that there was a 17:21:55
18 camera [REDACTED]? 17:22:01
19 A Possibly, yes. 17:22:06
20 Q Okay. [REDACTED] 17:22:10
21 [REDACTED] 17:22:14
22 [REDACTED] 17:22:18
23 [REDACTED] 17:22:22
24 Q Okay. And the exhibit we just looked at, 17:22:23
25 the supplemental report, it said that the incident 17:22:28

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1 was not videotaped. Do you remember seeing that? 17:22:30

2 A Correct. 17:22:33

3 Q Do you recall why you wrote that the 17:22:34

4 incident was not videotaped? 17:22:37

5 A Not specifically. 17:22:44

6 Q Okay. 17:22:52

7 MS. LITTRELL: If you'll pull up 0878. 17:22:54

8 (Betterson Exhibit 13 marked for 17:22:54

9 identification.) 17:22:54

10 A With that particular question, if we were 17:23:15

11 talking about the incident only, [REDACTED] 17:23:17

12 [REDACTED] 17:23:23

13 [REDACTED] that may have been one 17:23:25

14 of the reasons why I said the actual incident wasn't 17:23:30

15 videotaped. 17:23:33

16 Q Okay. 17:23:35

17 [REDACTED] 17:23:35

18 [REDACTED] 17:23:38

19 [REDACTED] 17:23:41

20 Q But when you're investigating a sexual 17:23:44

21 assault allegation, you're looking for evidence that 17:23:48

22 tends to prove or disprove the allegation. Isn't 17:23:52

23 that right? 17:23:57

24 A Correct. 17:23:57

25 Q And if someone is sneaking into another 17:23:58

1 offender's cell in the middle of the night, that 17:24:03
2 would be information that could tend to prove that 17:24:07
3 the assault, in fact, occurred; right? 17:24:11

4 A Not necessarily that the assault occurred. 17:24:13
5 It just proves that someone went into that cell. 17:24:16
6 You know, if you go into someone's house, it doesn't 17:24:20
7 mean that you stole something from them while you 17:24:22
8 were there. You know, we -- you have people within 17:24:24
9 that facility that switch rooms because they don't 17:24:31
10 like to be in a room with their cellmate because 17:24:31
11 they snore and that. It doesn't mean they are going 17:24:31
12 to someone else's cell to do anything to them. 17:24:31

13 But if a person is claiming that they're 17:24:38
14 being in bed and sexually assaulted because somebody 17:24:46
15 snuck into their room, of course that would be a red 17:24:51
16 flag if we see someone going in and out of that 17:24:52
17 room. 17:24:56

18 Q Okay. And if the video showed that 17:24:56
19 someone did not go into that room, that would tend 17:24:58
20 to disprove that a sexual allegation occurred; 17:25:01
21 correct? 17:25:06

22 A It's possible, yes. 17:25:06

23 Q Would you agree that, in your experience, 17:25:08
24 that some number of sexual assaults occur behind 17:25:15
25 closed doors? 17:25:23

1 A Yes. Yes, or in the shower. It is my 17:25:23
2 experience that most of the sexual assaults occur in 17:25:28
3 an area that's known to not have any surveillance, 17:25:34
4 does not have any way of -- that's not visible to 17:25:41
5 officers or they occurred in a shower after hours 17:25:45
6 late at night. 17:25:52

7 Q And in those circumstances where one 17:25:53
8 person says something happened and the other person 17:25:55
9 said that it didn't happen, so you've got an 17:25:58
10 allegation and a denial, is there -- is there any 17:26:01
11 way for you to prove that the sexual assault 17:26:06
12 happened if there's no physical evidence? 17:26:11

13 A No. If there's no physical evidence, 17:26:14
14 video evidence, we have a person that's saying it 17:26:17
15 did happen, if there was actual penetration or 17:26:20
16 something of that nature, SANE nurse was called, she 17:26:23
17 was not able to definitively -- definitively say 17:26:26
18 that something did happen. We don't have any 17:26:32
19 witnesses or anything to go on. We can't say yes or 17:26:35
20 no that it did happen or did not happen. 17:26:40

21 Q So would you rule that unfounded? 17:26:44

22 A Possibly unsubstantiated. 17:26:47

23 Q So in any PREA allegation in which the 17:26:50
24 incident occurs in an area where there's -- there's 17:26:58
25 no surveillance and no witnesses, do you look for 17:27:05

1 other evidence that would tend to prove or disprove 17:27:10
2 whether the sexual assault took place? 17:27:15

3 A We look for evidence. 17:27:18

4 Q Okay. 17:27:25

5 A If we can't find any evidence to prove 17:27:25
6 that the incident occurred, we can't find any 17:27:29
7 information -- any evidence to prove that it didn't 17:27:32
8 occur, then it would be an unsubstantiated. But if 17:27:35
9 we found evidence that it was not possible that 17:27:39
10 there's no way it happened, then we would more than 17:27:41
11 likely mark it as unfounded. 17:27:44

12 Q Okay. If it's not plausible that it 17:27:47
13 happened, that's when you mark it unfounded; right? 17:27:51

14 A Not in every case. But that's one of the 17:27:54
15 conclusions that we can make depending on each case. 17:28:00
16 Each case is different, so... 17:28:03

17 Q Let's talk about this case, that you've 17:28:05
18 entered an incident report on October 15th and the 17:28:09
19 information came from Earl Thigpen, right, to 17:28:16
20 Ms. Diamond, and then she reported that Mr. Thigpen 17:28:21
21 had said that Christopher Graham entered her cell 17:28:24
22 she thinks it was on 10/10 and that he touched her 17:28:28
23 inappropriately while she slept. 17:28:31

24 And so this witness statement, or this 17:28:33
25 document that I have on the screen now, which is 17:28:36

1 Exhibit 13, have you seen this document before? 17:28:39

2 MR. CHALMERS: Okay. Objection to the 17:28:42

3 form; misstated one of the documents. But go ahead, 17:28:43

4 answer. 17:28:48

5 Q Have you seen this document before? Let 17:28:50

6 me scroll to -- I think it was produced to us a 17:28:54

7 little backwards, so let me scroll to the bottom and 17:28:56

8 make sure we have all the pages. The second page. 17:28:59

9 A Witness statement by Earl Thigpen. 17:29:07

10 Q Okay. And it's dated 10/15; correct? 17:29:11

11 A Correct. 17:29:14

12 Q Okay. I'll scroll back up to the first 17:29:15

13 page, and this is Mr. Thigpen's witness statement, 17:29:21

14 which is what you just helped me identify. It says 17:29:26

15 that "At 11:15 p.m. about a week and one-half ago." 17:29:29

16 Do you see that? 17:29:35

17 A Um-hmm. 17:29:35

18 Q "I went to check on" -- it appears to say 17:29:36

19 "Dimeon," but I believe that is a misspelling of 17:29:44

20 "Diamond." Would you agree with that? 17:29:47

21 A Yes. 17:29:48

22 MR. CHALMERS: Objection. 17:29:49

23 Q "When I open the door of his room, I saw 17:29:50

24 someone robbing on her butt." Do you see that? 17:29:53

25 A Correct. 17:29:59

1 Q "He to me to come get some too. I told 17:30:01
2 him to get the hell out of Diamond's room or I was 17:30:06
3 going to tell someone. He told me he was just 17:30:14
4 talking to Diamond," misspelled. "He did walk out 17:30:18
5 of Diamond's room and went to his room. He never 17:30:23
6 went back in Diamond's room no more." 17:30:27
7 MR. CHALMERS: Objection. 17:30:29
8 Q If -- if the misspelling is in fact 17:30:31
9 "Diamond," is that a fairly accurate understanding 17:30:37
10 the way I read that of Mr. Thigpen's statement? 17:30:42
11 A Yes. 17:30:47
12 Q Okay. Do you recall reading this witness 17:30:48
13 statement in your efforts to investigate this PREA 17:30:52
14 allegation? 17:30:56
15 A I do recall Thigpen comes to my office and 17:30:57
16 writing a witness statement. I don't know exactly 17:31:04
17 what was written. I can't remember exactly what was 17:31:06
18 written. But I do know he came into my office and 17:31:08
19 wrote a witness statement. 17:31:11
20 Q Okay. And if he wrote a witness statement 17:31:13
21 then, and you were the SART investigator or the SART 17:31:16
22 compliance manager at the time, it would be your 17:31:19
23 responsibility to take this witness statement and 17:31:26
24 use it as an investigative tool; correct? 17:31:29
25 A Correct. 17:31:32

1 Q And you see it says about a week and a 17:31:33
2 half ago this event occurred; right? And I'll just 17:31:35
3 scroll down here to remind you the date that he 17:31:42
4 wrote the statement, which was 10/15. 17:31:44
5 A Okay. 17:31:47
6 Q And can we agree that a week and a half 17:31:48
7 ago is approximately ten days? 17:31:50
8 A Yes. 17:31:52
9 Q Okay. And so that would put the date of 17:31:53
10 the alleged PREA incident in which Christopher 17:31:58
11 Graham allegedly went into Ms. Diamond's room and 17:32:01
12 Earl Thigpen caught him in there on October 5th. Is 17:32:04
13 that right? 17:32:10
14 MR. CHALMERS: Objection. 17:32:10
15 A Correct. 17:32:12
16 MS. LITTRELL: You can take this down, and 17:32:13
17 then pull up 006411. 17:32:17
18 (Betterson Exhibit 14 marked for 17:33:01
19 identification.) 17:33:11
20 Q Do you see a document on your screen, 17:33:11
21 Mr. Betterson? 17:33:14
22 A Yes. 17:33:15
23 Q It's been marked Betterson Exhibit 14. 17:33:15
24 What is this document? 17:33:20
25 A It's a basically a synopsis of everything 17:33:22

1 of the investigation and findings. 17:33:28

2 Q And is it from you to Warden Benton? 17:33:31

3 A Yes. 17:33:34

4 Q Okay. And do you see that you documented 17:33:35

5 that on 10/15 you conducted or an interview was 17:33:41

6 conducted with Offender Thigpen and then in that 17:33:49

7 interview it relays essentially the same information 17:33:54

8 that the witness statements relayed. Is that 17:33:59

9 accurate? 17:34:02

10 A Yes. 17:34:03

11 Q Including stated that he, being Graham, 17:34:04

12 was fondling the buttock of Offender Diamond; 17:34:08

13 correct? 17:34:13

14 A Correct. 17:34:13

15 Q And then you also interviewed Mr. Graham, 17:34:15

16 who denied, said he had no knowledge? 17:34:18

17 A Correct. 17:34:21

18 Q Okay. And then the last paragraph says, 17:34:22

19 "After a thorough investigation was done and found 17:34:27

20 that offender Christopher Graham was moved out of 17:34:30

21 the building" -- "out of the building N-B prior to 17:34:33

22 when the allegation occurred. On 10/16 at 0800 the 17:34:36

23 offender's claim of PREA is unfounded." Is that 17:34:41

24 right? 17:34:45

25 A Correct. 17:34:45

1 Q Okay. And the reason that you've 17:34:46
2 disproved, which is what "unfounded" means, that the 17:34:49
3 allegation didn't occur, was the offender was not in 17:34:53
4 the building when the incident occurred; correct? 17:34:57
5 A Right. Correct. 17:34:59
6 Q And the incident -- we've just done the 17:35:00
7 math -- occurred, according to Mr. Thigpen, the 17:35:03
8 eyewitness, on 10/5, right, a week and a half prior 17:35:06
9 to 10/15 when he gave his witness statement? 17:35:10
10 MR. CHALMERS: Objection. 17:35:14
11 A But he's estimating, so he could be off a 17:35:15
12 day, he could be off two days, so that's just an 17:35:19
13 estimation, so... 17:35:22
14 Q Okay. But it seems here that you are 17:35:23
15 basing the unfounded allegation on the fact that 17:35:26
16 Christopher Graham was moved on a date certain. 17:35:29
17 A And what date was that? 17:35:33
18 MS. LITTRELL: Let's pull up Defendant 17:35:36
19 0882. 17:35:40
20 (Betterson Exhibit 15 marked for 17:35:50
21 identification.) 17:36:22
22 Q Do you see a document on your screen, 17:36:22
23 Mr. Betterson? 17:36:24
24 A Yes. 17:36:25
25 Q Okay. And what is this document that's 17:36:26

1 while she slept. I don't want to testify what 17:38:06
2 Ms. Diamond told you, because you would have talked 17:38:10
3 to her at the time. But the eyewitness filled out 17:38:12
4 an incident -- a witness statement on 10/15 and he 17:38:17
5 said that a week and a half ago he saw Chris Graham 17:38:20
6 in the room. So that date would have been 10/5. If 17:38:24
7 it's an estimate, maybe it was 10/6. 17:38:29
8 MR. CHALMERS: Objection. 17:38:31
9 Q Maybe 10/7; right? 17:38:32
10 MR. CHALMERS: Objection. Counsel is 17:38:34
11 testifying. 17:38:37
12 Q Sure. Mr. Betterson, is it accurate that 17:38:38
13 a week and a half before 10/15 is approximately 17:38:42
14 October 5th? 17:38:46
15 A No, I'm not going to say that, because I'm 17:38:48
16 thinking about this investigation and the dates that 17:38:52
17 we used this information that were provided 17:38:54
18 suggested that that individual was not in the 17:38:59
19 building when that report was made to us. So I'm 17:39:01
20 not going to say that Thigpen's statement or account 17:39:05
21 of when the incident occurred was accurate. But I 17:39:14
22 do know that we did -- I personally did a thorough 17:39:16
23 investigation on this, and I don't have all the 17:39:19
24 document in front of me to say what happened, but it 17:39:22
25 was concluded that that individual was not in that 17:39:25

1 building when that occurred. 17:39:28

2 Q Well, how do you know what date it 17:39:31

3 occurred, Mr. Betterson? 17:39:33

4 A I'm basically going to say it's based on 17:39:34

5 Ashley Diamond report when it was reported to us. 17:39:39

6 Q And her report gave -- told you two 17:39:43

7 things; one, that she was asleep when it happened; 17:39:49

8 correct? 17:39:52

9 A Correct. 17:39:53

10 Q And, secondly, that there was an 17:39:53

11 eyewitness, whose name was Earl Thigpen; correct? 17:39:56

12 A Right, who couldn't give us an accurate 17:39:59

13 date on when it occurred. 17:40:02

14 Q He did give you an estimated time of when 17:40:03

15 it occurred? 17:40:06

16 A Yes. Correct. 17:40:06

17 Q And that estimated time was October 5th? 17:40:07

18 A That's correct. 17:40:10

19 MR. CHALMERS: Objection. 17:40:10

20 Q Okay. And so if the offender was in the 17:40:11

21 building on October 5th, how does that disprove that 17:40:17

22 the assault did not occur? 17:40:23

23 A Because that could be disproved a number 17:40:26

24 of ways. When we were talking to Ashley Diamond, a 17:40:29

25 lot of information that she gave us was limited on 17:40:31

1 non-existence, saying the information that we get 17:40:36
2 from Thigpen is not a hundred percent accurate as 17:40:40
3 well. Now, if we can pull up all the documentation 17:40:42
4 from this case, then we can go through it together. 17:40:45
5 But I do know that we went through this case 17:40:47
6 thoroughly to try to resolve it, and the number we 17:40:50
7 came up with was that when the alleged incident 17:40:53
8 occurred, he was not in the building. 17:40:56
9 Q Okay. And is it your testimony that all 17:41:00
10 of the efforts you took would be documented in the 17:41:01
11 GDC PREA records? 17:41:04
12 A Yes. Not every single one of them that I 17:41:06
13 know of. But, I mean, as part of my PREA 17:41:10
14 investigation, I was going to be as thorough as 17:41:14
15 possible of what I knew to do doing an 17:41:17
16 investigation. 17:41:20
17 Q Okay. And that all of your efforts would 17:41:22
18 be documented; correct? 17:41:24
19 A Not necessarily. If I asked to see a 17:41:26
20 video of the incident, I wouldn't have asked -- I 17:41:30
21 wouldn't have sent an email to the secretary; I 17:41:37
22 would have talked to her. So I'm not going to say 17:41:39
23 everything was documented. But for the most part, 17:41:42
24 you would be able to find out my efforts during that 17:41:45
25 investigation. 17:41:47

1 Q And according to the document we read, 17:41:48
2 that said a thorough investigation had been 17:41:52
3 conducted, and because Mr. Graham had been moved, 17:41:56
4 the allegation was ruled unfounded. If there were 17:42:01
5 additional reasons why you concluded that the 17:42:06
6 assault did not occur, where would that be 17:42:11
7 documented? 17:42:14

8 A Probably in -- inside of the PREA 17:42:16
9 documentation in SCRIBE. 17:42:23

10 Q Okay. 17:42:25

11 A If there -- 17:42:27

12 Q Okay. Do you recall a time where 17:42:30
13 Mr. Thigpen changed his story or made a new witness 17:42:36
14 statement providing a different date? 17:42:41

15 A Yes, I do. I think Ashley Diamond filed a 17:42:45
16 PREA allegation of Mr. Thigpen, he made the 17:42:52
17 statement then that he had lied, I believe, or 17:42:57
18 something like that, that none of that stuff 17:43:00
19 actually happened. But can't really use that 17:43:02
20 because he's under the gun now and he might say 17:43:05
21 anything, so... 17:43:09

22 Q We'll look at that documentation in a 17:43:11
23 minute, the allegations against him. 17:43:13

24 But closing out the October 5th PREA 17:43:15
25 allegation against Mr. Graham, do you recall looking 17:43:18

1 at a video of Ms. Diamond's cell door on October 17:43:25
2 5th? 17:43:33
3 A Like I said before, I viewed several hours 17:43:33
4 of video. I can't say specifically when, what time 17:43:36
5 and when. 17:43:40
6 Q But you would have documented if you did 17:43:42
7 review that video and it showed that something did 17:43:44
8 not happen. Isn't that right? 17:43:48
9 A In the course of -- inside of that PREA 17:43:50
10 form inside of SCRIBE, I would have documented what 17:43:55
11 it, you know, that information is. 17:43:58
12 Q Okay. Let's move to the next time there 17:44:00
13 was an allegation that someone had been creeping 17:44:03
14 into Ms. Diamond's room at night while she slept. 17:44:06
15 MS. LITTRELL: Can you please pull up 17:44:10
16 Defendant 0811? 17:44:13
17 (Betterson Exhibit 16 marked for 17:44:17
18 identification.) 17:45:03
19 Q Do you see what's on the screen that has 17:45:03
20 been marked Betterson Exhibit 16? 17:45:06
21 A Correct. 17:45:07
22 Q And what is this? 17:45:08
23 A You know what, when you see at the top -- 17:45:09
24 you're asking me about incident not videotaped, and 17:45:17
25 it says taped by, that's actually if an incident 17:45:21

1 occurs where force is used and then it will prompt a 17:45:26
2 video recording was used during an incident where it 17:45:31
3 was recorded by a team member during that incident. 17:45:35
4 So if there is not a physical assault or use of 17:45:39
5 force or anything like that, that's where it's going 17:45:42
6 to come up where it says incident not videotaped, 17:45:44
7 that's in regards to a use of force, not in regards 17:45:48
8 to just normal camera usage, video camera usage as 17:45:52
9 an institution. 17:45:57
10 Q Okay. So let me understand this. So when 17:45:59
11 in a supplemental report or an incident report and 17:46:01
12 the question is incident videotaped by -- 17:46:04
13 A Correct. 17:46:07
14 Q -- if it's a PREA incident, I guess if 17:46:08
15 it's -- yeah, if it's any incident, does this 17:46:12
16 indicate whether their video would have captured the 17:46:16
17 incident that's being alleged? 17:46:23
18 A No, ma'am. 17:46:25
19 Q Okay. Then what does this -- explain 17:46:26
20 again what this references. 17:46:29
21 A Well, I'll give you an example. If I have 17:46:31
22 a use of force, if we're going into a situation 17:46:33
23 where we're using force, officers are equipped with 17:46:37
24 a camera, we're expected to turn those cameras on 17:46:40
25 before we use force, or hand video recording if 17:46:43

1 we're escorting someone to the segregation unit so 17:46:48
2 that can be captured during the process of them 17:46:51
3 being transported, and then you document who it's 17:46:54
4 being recorded by. 17:46:58

5 Q Okay. 17:46:58

6 A So that's not about standard video camera 17:46:59
7 that's mounted in the building. That's more so 17:47:03
8 dealing with an incident where a handheld camera or 17:47:05
9 an officer's body camera is turned on to document. 17:47:08

10 Q I understand that. Thank you for that 17:47:12
11 clarification. 17:47:13

12 That seems to suggest to me that the SART 17:47:15
13 response checklist we looked at earlier is the 17:47:19
14 appropriate place to document whether the incident, 17:47:25
15 being the PREA allegation, was -- whether there was 17:47:28
16 video that might have captured the incident. 17:47:35

17 A Not necessarily. That's one area. And, 17:47:40
18 again, if you go into SCRIBE and go through the 17:47:42
19 completion of the PREA, the PREA packet in its 17:47:45
20 entirety in SCRIBE, there is a form in the hyperlink 17:47:50
21 that you select that documents that information, 17:47:55
22 ma'am. 17:47:58

23 MS. LITTRELL: Okay. Mr. Chalmers, I'm 17:48:04
24 hoping that you recall, and I'll follow up by email, 17:48:05
25 but we certainly have asked for all PREA 17:48:08

1 documentation both as to Ms. Diamond's allegations 17:48:11
2 and as to PREA processes, policies and procedures. 17:48:14
3 And so if there are documents that exist in SCRIBE 17:48:19
4 that Mr. Betterson is testifying about, we haven't 17:48:24
5 seen them. Can you please again respond by email? 17:48:28
6 MR. CHALMERS: There are no documents 17:48:33
7 other than what we've produced, Beth. But if you 17:48:35
8 after the deposition would like to make a specific 17:48:38
9 request based on testimony today, please do that so 17:48:42
10 that I can see your contention and follow up with 17:48:44
11 it. We have produced all PREA documentation. 17:48:46
12 Q So, Mr. Betterson, where would I -- where 17:48:50
13 would I find the documentation -- 17:48:53
14 (Simultaneous speaking.) 17:48:57
15 Q Sorry. Let me ask the question. 17:48:58
16 Where would I find the documentation that 17:49:01
17 reflects whether or not video was requested of a 17:49:07
18 PREA incident? 17:49:13
19 A It's going to be inside of the PREA 17:49:15
20 packet, that entire PREA packet, that they had me 17:49:18
21 send up every PREA packet we had on Ashley Diamond, 17:49:22
22 we sent those up, and inside of that packet it 17:49:26
23 prints out every form that we have in SCRIBE, it 17:49:29
24 compiles and it prints it out for review by the 17:49:33
25 warden, whoever else wants to review it, including 17:49:36

1 the PREA -- the PREA auditor as well. So it's in 17:49:39
2 those packets. You might have looked over it, but 17:49:43
3 it's in those packets. 17:49:46

4 Q Okay. So I understand your testimony, 17:49:49
5 somewhere in the PREA file for each of these 17:49:52
6 allegations there's going to be documentation that 17:49:55
7 reflects whether or not the video was -- whether or 17:49:58
8 not the incident had video that was requested; 17:50:01
9 correct? 17:50:05

10 A It's going to have the question about 17:50:06
11 video being reviewed or downloaded or something like 17:50:09
12 that separate from what you're seeing on the 17:50:13
13 checklist. I don't recall the exact termination, 17:50:17
14 but there is a box that requires you to enter in a 17:50:22
15 comment in that box on that in that form. 17:50:26

16 Q Could it be the bottom of this report, 17:50:30
17 supplemental report where we can see the entire 17:50:32
18 document that's on the screen now where the question 17:50:36
19 appears to be "Reviewed Video"? 17:50:38

20 A No, ma'am. You can scroll down, but it's 17:50:41
21 not in this document. 17:50:44

22 Q So here where it says "Reviewed Video," 17:50:46
23 "No," that does not indicate -- what does that -- 17:50:49
24 I'm sorry. What does that indicate? 17:50:51

25 A That indicates video from an incident that 17:50:54

1 may have occurred that was recorded by an officer on 17:51:00
2 a handheld camera. 17:51:05

3 Q So this -- your testimony is this box here 17:51:07
4 that's filled in is the same -- refers to the same 17:51:10
5 information that's up at the top, "Incident 17:51:14
6 Videotaped By"? 17:51:17

7 A Correct. So let me just -- let me tell 17:51:18
8 you how it works, my understanding of how an 17:51:20
9 incident report works and how it should work. 17:51:23

10 When we receive a report of an allegation, 17:51:26
11 an incident report should be done and completed, and 17:51:30
12 after that, you know, you go back in and you review 17:51:33
13 documentation and everything else associated with 17:51:37
14 the allegation, in this case a PREA, that's when you 17:51:41
15 start your investigation. This is not an 17:51:45
16 investigative form. This is just reporting that an 17:51:47
17 incident occurred. 17:51:49

18 Q Okay. Did you fill out those forms as to 17:51:51
19 all of Ms. Diamond's allegations? 17:51:53

20 A Which forms? This form or -- 17:51:57

21 Q The forms that you're referencing now. 17:51:59

22 A Yes, all of them are in the PREA package. 17:52:02

23 Q Okay. You see in this -- I'm sorry. You 17:52:08
24 see on Exhibit 16 that this -- this summary under 17:52:10
25 "Entered date: 11/04" indicates that during a dorm 17:52:17

1 meeting Offender Earl Thigpen -- I'm sorry -- 17:52:23
2 "Diamond reported that during a dorm meeting 17:52:23
3 Offender Earl Thigpen exposed himself and 17:52:25
4 inappropriately touched him. Offender Diamond was 17:52:29
5 not able to provide an incident date, only that 17:52:31
6 Offender Earl Thigpen admitted to the act." Does 17:52:34
7 that accurately describe your understanding of the 17:52:39
8 PREA allegation? 17:52:41
9 A Correct. 17:52:42
10 Q Okay. And would that be a PREA violation 17:52:43
11 if, in fact, that had occurred? 17:52:46
12 A Yes. 17:52:49
13 Q And would that be a violation of the rules 17:52:49
14 of either the program or the institution for someone 17:52:52
15 to walk into another offender's cell in the night? 17:52:56
16 A Yes. 17:53:03
17 Q And another probably violation if in that 17:53:04
18 cell they touched them inappropriately without their 17:53:10
19 permission; right? 17:53:14
20 A Correct. 17:53:15
21 Q Okay. 17:53:16
22 MS. LITTRELL: Let's see. Pull up for us 17:53:19
23 Defendants' 818. 17:53:22
24 (Betterson Exhibit 17 marked for 17:53:22
25 identification.) 17:53:27

Transcript of Carl Betterson
Conducted on July 15, 2022

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1 MR. CHALMERS: Counsel, it's 6 p.m. on a 17:53:27
2 Friday night and we've kept this witness here since 17:53:37
3 10 a.m. this morning. How much time do you 17:53:40
4 anticipate you have remaining on your inquiry? 17:53:43
5 MS. LITTRELL: Because this witness was 17:53:45
6 the investigator and the PREA compliance manager for 17:53:46
7 all of the PREA incidents, I'm going to need to use 17:53:51
8 the full seven hours. So I'm watching my time and I 17:53:54
9 won't go over it. 17:53:59
10 MR. CHALMERS: Okay. This is -- this is 17:54:03
11 outrageous. This is absurd. But continue. I'm 17:54:05
12 going to have some questions as well, so I apologize 17:54:09
13 in advance, Mr. Betterson. I'll have some follow-up 17:54:12
14 once Ms. Littrell is finished. 17:54:15
15 MR. HENEFELD: Can you just keep in mind 17:54:19
16 I'm supposed to go to a visitation funeral tonight. 17:54:21
17 So if you can just, you know, understand that, 17:54:25
18 please. 17:54:29
19 MS. LITTRELL: Does anyone want to recall 17:54:30
20 this witness and make an agreement that we can 17:54:32
21 reserve our time and find another date to complete 17:54:36
22 the deposition? 17:54:41
23 MR. HENEFELD: I'm going to leave that up 17:54:44
24 to Roger and Mr. Betterson. 17:54:46
25 THE WITNESS: I'll do whatever you would 17:54:50

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1 like to do. 17:54:51

2 MS. CROWDER: How much time do you 17:54:52

3 actually have remaining, Ms. Littrell? 17:54:59

4 MS. LITTRELL: My understanding is that 17:55:02

5 there's approximately an hour remaining, that's 17:55:04

6 while we're talking about this and waiting for the 17:55:06

7 exhibit to get pulled up. 17:55:09

8 MR. CHALMERS: This is absolutely absurd, 17:55:10

9 counsel. You know, I -- 17:55:13

10 MS. LITTRELL: I'm sorry. We're going to 17:55:13

11 go off the record for this conversation -- 17:55:15

12 MR. CHALMERS: No, we're not going off the 17:55:16

13 record. This is on the record, absolutely. This is 17:55:18

14 insane. 17:55:21

15 Paul, yes, we can absolutely break if you 17:55:22

16 need to get to a funeral, and we can come back, and 17:55:24

17 schedule this and come back, if it's okay with 17:55:27

18 Mr. Betterson and Ms. Crowder. 17:55:30

19 MR. HENEFELD: I really apologize. This 17:55:32

20 was, you know, not scheduled when we were scheduling 17:55:34

21 these depositions -- 17:55:35

22 MR. CHALMERS: You don't have to 17:55:35

23 apologize. No, a lawyer should not apologize for 17:55:37

24 needing to get to a funeral. That is fine. We can 17:55:41

25 do that. But I want to make sure with 17:55:43

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1 Mr. Betterson, because it will mean that he will 17:55:45

2 have to come back again, that we can do that. 17:55:48

3 THE WITNESS: Yes, sir, that's fine. 17:55:52

4 MS. LITTRELL: Okay. Let's go off the 17:55:54

5 record now so we reserve as much time as we possibly 17:55:55

6 can. 17:55:59

7 THE VIDEOGRAPHER: Okay. It is 5:55 p.m. 17:55:59

8 We go off the record. 17:56:02

9 (Time noted: 5:56 p.m.) 17:56:09

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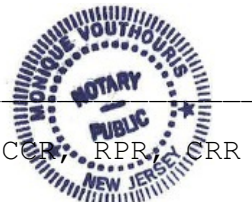
25

1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2
3
4 I, MONIQUE VOUTHOURIS, New Jersey License No.
5 30XI00083400, the officer before whom the foregoing
6 remote deposition was taken, do hereby certify that
7 the foregoing transcript is a true and correct
8 record of the testimony of CARL BETTERSON; that said
9 testimony was taken by me stenographically and
10 thereafter reduced to typewriting under my
11 direction; that reading and signing was not
12 requested; and that I am neither counsel for,
13 related to, nor employed by any of the parties to
14 this case and have no interest, financial or
15 otherwise, in its outcome.

16 IN WITNESS WHEREOF, I have hereunto set my hand
17 this 1st day of August, 2022.
18
19

20
21 *Monique Vouthouris*



22 Monique Vouthouris, CER, RPR, CRR
23 Notary Public of the State of New Jersey
24 My commission expires: April 8, 2024
25

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