

NEW YORK CITY POLICE DEPARTMENT
DEPUTY COMMISSIONER OF TRIALS

One Police Plaza
New York, New York

WEDNESDAY
November 5, 2025
10:07 A.M.

TRANSCRIPT OF THE MINUTES

RESPONDENT: DETECTIVE JAENICE SMITH
C-034320/2025

REPORTER: VANESSA WALKER

A P P E A R A N C E S:

BEFORE: HONORABLE ROSEMARIE MALDONADO
Deputy Commissioner-Trials

FOR THE DEPARTMENT: DAVID H. GREEN, ESQ.
Department Advocate's Office

FOR THE RESPONDENT: ERIC SANDERS, ESQ.
THE SANDERS FIRM, P.C.
30 Wall Street, 8th Floor
New York New York 10005

PROCEEDINGS

1 COURT OFFICER CARRINGTON: Good morning
2 everyone. I call before you case number C-034320 of
3 2025. Detective Jaenice Smith.

4 HONORABLE MALDONADO: Counsel, please note
5 your appearances for the record.

6 MR. GREEN: For the Department, David
7 Green. Good morning.

8 MR. SANDERS: For Detective Smith, Eric
9 Sanders. Good morning, Commissioner.

10 HONORABLE MALDONADO: And detective, I'm
11 Deputy Commissioner Maldonado. Good morning. Please
12 be seated. What are our preliminary matters?

13 MR. GREEN: There are a few pieces of
14 evidence we've exchanged, I guess, an evidentiary list.

15 HONORABLE MALDONADO: I'm sorry I left the
16 folder upstairs. We do have lists from both parties
17 and exhibit list from the Department. And Mr. Sanders,
18 your client's going to be Respondent's only witness.
19 Okay, proceed.

20 MR. GREEN: Mr. Sanders and I exchanged
21 exhibit lists and there are some indication that there
22 could be a stipulation to certain exhibits to possibly
23 save the court some time. I wanted to know if we can
24 explore that as a preliminary matter.

25 HONORABLE MALDONADO: Yes, let's do that.

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1 MR. GREEN: In addition to make a list of
2 preliminary matters. There were additional exhibits
3 that were stipulated by Mr. Sanders and on behalf of
4 his client which raised certain issues that I
5 respectfully submit are all well outside this court's
6 jurisdiction and as such should not be considered as
7 relevant evidence or exhibit.

8 HONORABLE MALDONADO: Why don't we take
9 those later. Why don't we deal with the stipulations
10 first.

11 MR. GREEN: Upon further review, there are
12 certain items on the exhibits list that I will not be
13 seeking to introduce.

14 HONORABLE MALDONADO: Okay.

15 MR. GREEN: The recording and transcript
16 of Detective Smith's official interview, I would only
17 offer into evidence should the Respondent, should the
18 need not arise subject to the Respondent testifying so
19 I will not be offering that.

20 HONORABLE MALDONADO: That makes sense.

21 MR. GREEN: Exhibit 1A and B, I won't be
22 offering. Therefore Exhibit 2 I won't be offering in
23 the case and chief. Exhibits 3A and 4A which is the
24 recording of Assistant Chief's Henderson interview, I
25 will be offering along with the corrected transcript

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1 that would be Exhibit 5. Exhibit 6 and 7, I would be
2 offering.

3 HONORABLE MALDONADO: Is that upon
4 stipulation?

5 MR. SANDERS: Is he going to be here?

6 MR. GREEN: No, ma'am. Chief Henderson
7 will not be present to testify.

8 HONORABLE MALDONADO: But you are going to
9 move them into evidence?

10 MR. SANDERS: If he's not going to be
11 here, that's different. Then I have no objection. If
12 he's going to be here, then I would object.

13 HONORABLE MALDONADO: Makes sense. So
14 would I.

15 MR. GREEN: As I would as well,
16 Commissioner.

17 HONORABLE MALDONADO: So you're moving 3A,
18 4A and 5 into evidence.

19 MR. GREEN: Correct.

20 HONORABLE MALDONADO: They are admitted
21 and it is upon stipulation they are admitted.

22 (Whereupon, Department's Exhibit 3A AC
23 Scott Henderson Official Interview Part 1 Recording and
24 Transcript 5/1/25 was received into evidence.)

25 (Whereupon, Department's Exhibit 4A AC

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1 Scott Henderson Official Interview Part 2 Recording and
2 Transcript 5/1/25 was received into evidence.)

3 (Whereupon, Department's Exhibit 5 AC
4 Scott Henderson Official Interview Parts 1 and 2
5 Corrected was received into evidence.)

6 MR. GREEN: Exhibits 6 and 7 those are
7 both recordings that have been provided to counsel and
8 the court. I offer both of those into evidence. They
9 are video recordings of text messages that were
10 provided by Respondent's during her official interview
11 to investigators.

12 HONORABLE MALDONADO: Is this upon
13 stipulation?

14 MR. SANDERS: That's fine.

15 HONORABLE MALDONADO: We will be admitting
16 6 and 7.

17 (Whereupon, Department's Exhibit 6 Text
18 Messages between Det. Jaenice Smith and AC Scott
19 Henderson 2/3/24 to 7/18/24 was received into
20 evidence.)

21 (Whereupon, Department's Exhibit 7 Text
22 Messages between Det. Jaenice Smith and AC Scott
23 Henderson Part 2 7/18/24 to 3/25/26 was received into
24 evidence.)

25 MR. GREEN: Exhibit 8 I would be offering

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1 into evidence as well.

2 HONORABLE MALDONADO: Any objection to
3 that going in?

4 MR. SANDERS: It's a business record. I'm
5 not going to object to that.

6 HONORABLE MALDONADO: That's admitted upon
7 stipulation.

8 (Whereupon, Department's Exhibit 8 Dt.
9 Jaenice Smith Enrollment History was received into
10 evidence.)

11 MR. GREEN: Exhibits 9 and 10 are e-mails
12 between the Department investigator who will be called
13 to testify and Ms. Nieves from the ITB of the
14 Department.

15 HONORABLE MALDONADO: Any objection?

16 MR. SANDERS: Again, it's a government
17 record. I'm not going to object to it.

18 HONORABLE MALDONADO: Nine and 10 are
19 admitted.

20 (Whereupon, Department's Exhibit 9 Email
21 from Melody Nieves to Sgt. Christopher Morano re:
22 Remote Access was received into evidence.)

23 (Whereupon, Department's Exhibit 10 Email
24 from Melody Nieves to Sgt. Christopher Morano re:
25 Computer Login Data was received into evidence.)

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1 MR. GREEN: I won't be offering in
2 Exhibit 11. I will not be offering.

3 HONORABLE MALDONADO: Okay, thank you.

4 MR. GREEN: And essentially the remainder
5 of the exhibits I will seek to offer in 12 through 19.

6 HONORABLE MALDONADO: Any objections to
7 those going in?

8 MR. SANDERS: I'm not going to object to
9 those going in.

10 HONORABLE MALDONADO: So Exhibits 12
11 through 19 are admitted into evidence.

12 (Whereupon, Department's Exhibit 12 Text
13 Messages between Dt. Jaenice Smith and Sgt. Jun Fong
14 4/17/24 was received into evidence.)

15 (Whereupon, Department's Exhibit 13 Text
16 Messages between Dt. Jaenice Smith and Sgt. Jun Fong
17 6/27/24 was received into evidence.)

18 (Whereupon, Department's Exhibit 14 Text
19 Messages between Dt. Jaenice Smith and Sgt. Jun Fong
20 11/6/24 to 12/21/24 was received into evidence.)

21 MR. GREEN: Now Mr. Sanders indicated that
22 he wished to offer in Exhibits 15 and 16, 17 and 18
23 which are the adjudicated disciplinary matters of the
24 co-Respondents in this case so that would obviate that
25 need because it will already be in evidence.

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1 MR. SANDERS: Yes. I'll only be cross
2 reference back to Respondent's A and B.

3 HONORABLE MALDONADO: But they are going
4 in as these exhibits.

5 MR. SANDERS: Yes.

6 HONORABLE MALDONADO: Okay, does that
7 cover all of them A through D?

8 (Whereupon, Department's Exhibit 15
9 Charges and Specifications and Plea Agreement -- AC
10 Scott Henderson was received into evidence.)

11 (Whereupon, Department's Exhibit 16
12 Adjudicated Command Discipline -- Lt. Latisha Witten
13 was received into evidence.)

14 (Whereupon, Department's Exhibit 17
15 Adjudicated Command Discipline -- Sgt. Jun Fong was
16 received into evidence.)

17 (Whereupon, Department's Exhibit 18
18 Adjudicated Command Discipline -- Sgt. Donovan Hunt was
19 received into evidence.)

20 (Whereupon, Department's Exhibit 19 Dt.
21 Jaenice Smith Payment Analysis was received into
22 evidence.)

23 MR. SANDERS: Yes, and then I guess the
24 Department wants to object to E through J. We don't
25 have to waste time. I can get testimony from my

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1 client. I don't have to have those admitted or even
2 seek to get them admitted.

3 HONORABLE MALDONADO: Mr. Sanders, what I
4 have before me only has A through D.

5 MR. SANDERS: Oh, they didn't get the
6 updated one. Here you go (indicating).

7 (Whereupon, the aforementioned exhibit was
8 presented by Counsel.)

9 MR. SANDERS: On that Police Commissioner,
10 those are the only ones the Department are objecting to
11 that I have in blue. So yeah, I'll just withdraw them.
12 I'm not going to waste time, I'm not going to waste the
13 court's time. The testimony is my client's testimony.

14 MR. GREEN: I guess we'll deal with
15 whatever we need to deal with.

16 HONORABLE MALDONADO: Yes. When we have
17 the witness here.

18 MR. GREEN: Just for the court's
19 knowledge, I wanted to go through the witness list to
20 let the court know which witnesses I intend to call and
21 the approximate order.

22 HONORABLE MALDONADO: Well, number one is
23 out.

24 MR. GREEN: Yes, ma'am.

25 HONORABLE MALDONADO: Go ahead.

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1 MR. GREEN: The first witness will be
2 number five, Sergeant Morano.

3 HONORABLE MALDONADO: Okay.

4 MR. GREEN: I hope the second witness will
5 be number 14, executive director Lodispoto.

6 HONORABLE MALDONADO: Okay.

7 MR. GREEN: And I hope to call number four
8 Lieutenant Witten. Then number seven followed by
9 number eight Sergeant Morano among and hunt, Fong. And
10 then I would call the police officers listed 9
11 through 12 depending upon which officers are here
12 today. If we can reach them today.

13 HONORABLE MALDONADO: All right. We have
14 a busy day. Are we ready to proceed with openings?

15 MR. SANDERS: I'm ready.

16 HONORABLE MALDONADO: Okay. You may
17 proceed.

18 MR. GREEN: Thank you, Commissioner. Once
19 again. Good morning everyone. I'm going to begin by
20 stating that there are a number of facts in this case
21 which are not in dispute. And they are as follows:

22 The Respondent in this case Detective Jaenice
23 Smith was assigned to Patrol Borough Brooklyn North
24 security detail on February 7, 2024. The Respondent
25 remained assigned to that security detail from

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1 February 7, 2024 to March 25, 2025, when she was placed
2 on modified assignment by members of the Internal
3 Affairs Bureau. The Respondent did not appear for work
4 once. Never appeared for work at all during that
5 entire period. However, the Respondent was manually
6 entered in as present for duty at the beginning of each
7 of her tours and at the end of each of her tours that
8 she had been assigned to work by another uniformed
9 member of service. Also not in dispute is that the
10 Respondent performed zero official duties at all from
11 February 7, 2024 through March 25, 2025. However, also
12 not in dispute is that the Respondent was paid as if
13 she had performed her official duties and was present
14 for duty during each of her assigned tours at work
15 during that period. The Respondent never applied for
16 any type of leave or official legal accommodation for
17 her absence of work during that entire period of time.

18 Also not in dispute is that there are
19 absolutely no duties that a member of the Patrol
20 Borough Brooklyn North security detail that can be
21 performed from home. Also not in dispute is that the
22 false entries indicating that the Respondent was
23 present for duty, worked her tour and left her tour at
24 the end of each assignment were made in the attendance
25 application used by Department timekeepers. Those

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1 Department timekeepers use that to prepare time sheets
2 and to enter the information into the CityTime system.
3 The CityTime system is used to inform and create
4 information in the payroll management system which
5 generates paychecks. And also informs the pension
6 section which creates pensionable times. Those false
7 entries that were created in the system were used to
8 create time, pay and benefits for the Respondent during
9 this period February 7, 2024, through March 25, 2025,
10 and she performed no work at all during that period of
11 time. The total value of all time, pay and benefits of
12 the Respondent that she received during this period of
13 time exceeded \$160,000 without working a single day.
14 None of those facts are in dispute.

15 Yet, the Respondent says that she is the
16 victim in this case. Why does she say that? The
17 evidence will show that the Respondent requested and
18 was granted by Chief Henderson, who was a friend of her
19 family, a transfer from her assignment working in the
20 operations unit at the wheel at One Police Plaza to
21 Patrol Borough Brooklyn North security the midnight
22 tour there specifically. That request was made in
23 early 2024 after the Respondent's mother had been
24 diagnosed with cancer. Assistant Chief Henderson told
25 the Respondent. Rather he was informed that the

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1 Respondent's mother had been suffering with cancer and
2 told her that he wanted to do anything he can for her
3 and she informed him, that is the Respondent informed
4 the chief, that she wanted to be her sole caregiver at
5 home.

6 The Respondent was hold by Chief Henderson to
7 take the time as needed to care for her mother. He
8 told her that she should work out her schedule with her
9 sergeants. No application for leave accommodation was
10 ever prepared by anyone. No supervisor at the Patrol
11 Borough Brooklyn North, not by Chief Henderson, not by
12 the Respondent.

13 At the time the Respondent a veteran with
14 about 18 years with the NYPD interpreted or wants you
15 to believe that she interpreted Chief Henderson's
16 directions as follows: That she was granted a no-show
17 job as a detective assigned to a security detail who
18 never had to appear for work but accrue time, pay and
19 benefits. And that that no-show job was going to going
20 to last more than 13 months. She will have this court
21 believe that it was okay and appropriate to falsify
22 records to make it appear that she was present for duty
23 and working as a public servant and a public official
24 when in fact she was not for over 13 months.

25 This case leaves one question for this court

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1 to answer essentially: Is it reasonable for a public
2 officer to have a no-show job with this Department for
3 over 13 months when a chief says to you do what you
4 need to do to take care of your mother? Commissioner,
5 the evidence will show clearly that the Respondent
6 failed to appear for work from 2/7/2024 to 3/25/25.
7 That she caused false entries to be made in Department
8 records by calling in at the beginning of each tour,
9 having the police officer at the command mark her
10 present manually for duty. And at the conclusion of
11 each tour, telephone and have a similar entry made at
12 the conclusion of each tour. The evidence will show
13 that she received over \$160,000 in time, pay benefits
14 during that period of time she did not earn. The
15 evidence will show that she failed to request any
16 extend of leave of absence or accommodation, and
17 instead chose to rely on Chief Henderson's open ended
18 and completely unauthorized statement.

19 Moreover, the evidence will show, that after
20 the death of her mother in early December 2024, the
21 Respondent continued to fail to appear for work. The
22 evidence will show that the Respondent visited
23 Chief Henderson at his office on or about December 26,
24 2024 and again on or about March 7, 2025. You will
25 hear that the Respondent claimed that she was initially

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1 emotionally not ready to return to work and that she
2 had family matters to attend to during the winter and
3 spring that were to come. You will hear that the
4 Respondent claims that she and the chief agreed that
5 she would return to work on April 18, 2025.

6 You will also hear that after the early March
7 meeting with Chief Henderson, the Respondent had
8 contacted Sergeant Hunt who is her immediate
9 supervisor, and had asked him to prepare for her a
10 pension statement telling her how much time she had and
11 other things related to her retirement. Sergeant Hunt
12 did as he was requested of her. After speaking to
13 Chief Henderson, the Respondent approached
14 Sergeant Hunt and actually looked at him and said
15 "sergeant what are the responsibilities of someone who
16 works Patrol Borough Brooklyn North security." This is
17 after she had been assigned to work there for over 13
18 months and did not appear for a single day. She didn't
19 know what her job was.

20 The only reason the Respondent returned to
21 work was that she was placed on modified assignment by
22 the members of the Internal Affairs Bureau on or about
23 March 25, 2025 and reassigned to the Queens Court
24 Section. Again , a question that needs to be answered.
25 Did the Respondent's actions comport with Department's

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1 guidelines and with the New York Penal Law or were they
2 completely unreasonable in a clear and obvious abuse
3 which indicated a shocking and superior improper
4 criminal sense of entitlement. I submit to you,
5 Commissioner, the Respondent's guilty of all of the
6 specifications. And no recommendation should be made
7 other than finding her guilty and recommending her
8 immediate termination of employment. Thank you.

9 HONORABLE MALDONADO: Thank you. Sir.

10 MR. SANDERS: I'm sitting here listening
11 to the Department's present its case trying to figure
12 out what to do about this. Think off the cup like I do
13 sometimes or should I actually read something. It's
14 this case is disappointing on so many levels that it's
15 actually disheartening to have to try this case, but we
16 have to do what we have to do. He's a clash of
17 employment law and Department rules. And I know the
18 Department loves to talk about rule, guidelines. What
19 you're not going to hear. Unfortunately, we're not
20 going to hear from the very person who is the executive
21 who made this decision. I know the Department likes to
22 characterize Chief Henderson as her friend, but he's
23 not her friend, he's not her personal friend. He was a
24 supervisor. He's an executive that's responsible for
25 understanding and enforcing the rules and regulations

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1 in the New York City Police Department. That's what
2 he's supposed to be doing. Let's talk about it.

3 He's not going to be here to be questioned so
4 we have to kind of try to fill things in. So this is
5 what we will have to say about this case when you
6 listen to. Most of the facts are not in dispute at
7 all. What's in dispute is how it's characterized
8 that's the difference. So this case is not anywhere
9 near related to theft, fraud or falsification as the
10 Department claims it is. It's about power. That's
11 what it's about. Who wields it. Who protects and who
12 would destroy when in question. Under Tisch
13 administration, the Department has divided the old
14 practice in a new vocabulary. The systemic under
15 handing of black executives, decision making under
16 guise of accountability.

17 MR. GREEN: Objection.

18 MR. SANDERS: I have my opening. He has a
19 theory.

20 HONORABLE MALDONADO: Go ahead.

21 MR. SANDERS: When Assistant Chief like
22 Scott Henderson exercised the lawful discretion. And
23 when your witnesses get up here, we're going to see
24 there's no rule that supports what the Department is
25 talking about. Discretion is granted of humane

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1 accommodation to a subordinate, Tisch Administration
2 calls it misconduct. Now Detective Smith is a thief
3 and a liar. So between February 2024 and March 2025
4 Detective Specialist Jaenice Smith did exactly what the
5 Department values.

6 Under Federal, State and Local Laws, it
7 requires that she disclose, she sought guidance and she
8 followed explicit authorization of her commanding
9 officer while caring for her dying mother, and later
10 recovering from diagnosed PTSD and caregiver burnout.
11 Her actions were transparent, her condition verified
12 and her leave approved. Yet under this administration,
13 her tenure transparency became incrimination;
14 compassion or liability.

15 When Internal Affairs labeled this time theft
16 as granted by a command of authority, what is now calls
17 unauthorized leave, was a reasonable accommodation
18 under the American Disabilities Act, the New York State
19 Human Rights Law as well as the New York City Human
20 Rights Law. No Patrol Guide, Administrative Guide or
21 Finest Messages conveys authorizations. And when your
22 witnesses get up here, they won't be able to point you
23 to any rule. No directive required a caregiver to
24 quote "work" while watching a parent die. Faced with
25 this silence, this administration invented a rule after

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1 the fact transferring a lawful act of discretion into a
2 fabricated breach of integrity.

3 When that fabrication wasn't enough, that
4 fiction wasn't enough, the Department went further.
5 Changing Detective Smith's retirement date and other
6 things related to it. And even putting on an
7 unauthorized leave of absence that she didn't apply
8 for. All this took 24 vesting rights and trying to
9 justify a false narrative of misconduct. This
10 prosecution is not about enforcement. It's a form of
11 politics. That's all it is.

12 And we believe after you hear all the
13 available evidence from the witnesses, it's more
14 important not about what they say, it's what they don't
15 say; which is there is no rule that has anything to do
16 with the discretion. There is no particular rule. And
17 we hope after you hear all the available evidence in
18 this case that you find Detective Smith not guilty of
19 all charges. Thank you.

20 HONORABLE MALDONADO: Thank you,
21 Mr. Sanders. Are we ready to proceed with our
22 witnesses?

23 MR. GREEN: Yes ma'am.

24 HONORABLE MALDONADO: Please call your
25 first witness.

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1 MR. GREEN: The Department calls Sergeant
2 Christopher Morano. Could I say something regarding
3 exhibits.

4 HONORABLE MALDONADO: Go ahead.

5 MR. GREEN: There are at least one or two
6 things that are already stipulated to that I want him
7 to look at that are recordings. So I don't know if you
8 want him to reference them or if you want them put up
9 on the screen so you can see what he's talking about
10 statement.

11 HONORABLE MALDONADO: Do you have a screen
12 shot, paper copies of the screen?

13 MR. GREEN: No because they were videos.

14 HONORABLE MALDONADO: Whatever you think
15 is best. I'm going to have them, I'm going to be
16 reading them, I'm going to be addressing them. I don't
17 need to have extensive projections of exhibits. If you
18 have any copies for me to look at here, that's fine.
19 And if I believe I need them, then I will certainly ask
20 you to do so. Thank you.

21 {Whereupon, SERGEANT CHRISTOPHER MORANO
22 was sworn in by HONORABLE ROSEMARIE MALDONADO.)

23 SERGEANT MORANO: Yes, ma'am.

24 COURT OFFICER CARRINGTON: State your
25 first and last name.

DIRECT EXAMINATION - SGT. C. MORANO

1 SERGEANT MORANO: Sergeant Christopher
2 Morano.

3 COURT OFFICER CARRINGTON: Spell your
4 first and last name.

5 SERGEANT MORANO: C-H-R-I-S-T-O-P-H-E-R,
6 M-O-R-A-N-O.

7 HONORABLE MALDONADO: Mr. Green.

8 MR. GREEN: Thank you, Commissioner.

9 DIRECT EXAMINATION BY

10 MR. GREEN:

11 Q. Good morning, sergeant.

12 A. Good morning, sir.

13 Q. Sergeant Morano, how long have you been
14 assigned to the Internal Affairs Bureau?

15 A. Approximately ten years.

16 Q. And where in the Internal Affairs Bureau are
17 you assigned?

18 A. Group 1.

19 Q. Is that also known as the Special
20 Investigations Unit?

21 A. That's correct.

22 Q. What are your duties and responsibilities in
23 that unit?

24 A. Specifically to investigate executives for
25 misconduct.

DIRECT EXAMINATION - SGT. C. MORANO

1 Q. Approximately how long have you served with
2 the NYPD?

3 A. Seventeen years.

4 Q. Sergeant, actually could you briefly tell you
5 us where you've been assigned before you were assigned
6 to the IAB?

7 A. Started off as a police officer in Transit
8 District 30, then I was promoted to sergeant. I went
9 to the 28th Precinct approximately two years. And I'd
10 been in IAB Group 54 for approximately nine years. And
11 I am now currently in SIU for a year.

12 Q. Now did there come a time in early 2025 that
13 you were assigned a case concerning the Respondent in
14 this case, Detective Jaenice Smith?

15 A. Yes.

16 Q. Approximately when were you assigned this
17 case?

18 A. March 25th of 2025.

19 Q. When you were assigned this matter, how many
20 subjects were there in the investigation at that point?

21 A. One.

22 Q. Who was that?

23 A. Detective Jaenice Smith.

24 Q. What, if any, allegations of misconduct were
25 there against Detective Smith in the matter that you

DIRECT EXAMINATION - SGT. C. MORANO

1 were assigned to investigate?

2 A. Generally speaking time theft.

3 Q. Could you be more specific what the
4 allegations were?

5 A. Well, the initial, the allegation was that
6 she had not. We got an anonymous complaint that stated
7 she had not gone to work for two years but was being
8 signed in as if she was going to work.

9 Q. Did you conduct an investigation or take
10 investigative steps in order to gather evidence in
11 connection with this?

12 A. Yes.

13 Q. Briefly tell us what those investigative
14 steps were.

15 A. So the first step would've been to look at
16 her attendance app.

17 Q. What is the attendance app?

18 A. The attendance app is exactly what it sounds.
19 It monitors the attendance of members of the service.
20 You have to scan in and out to verify that you were
21 present for duty. There's three different ways to do
22 that. There is with your ID card. There is manual
23 where someone can type in your tax ID that's specific
24 to you. And there is what's called A-I-M, which is
25 when you use your phone from a distance to scan in.

DIRECT EXAMINATION - SGT. C. MORANO

1 Q. Did you generate any reports from that
2 attendance application regarding the attendance of
3 Detective Smith from February 2024 through March 2025?

4 A. Yes, I did.

5 MR. GREEN: Commissioner, how would you
6 like me to handle this. I have extra copies that I can
7 show directly to the witness or should he be shown
8 whichever ones the courts.

9 HONORABLE MALDONADO: You can show them to
10 the witness, but I'd also appreciate a copy.
11 Especially all the exhibits that we have entered into
12 evidence should be here. We can do that one by one.

13 (Whereupon, the aforementioned exhibit was
14 presented to the witness on the stand.)

15 Q. Sergeant, is that the report that was
16 generated of the attendance application printout for
17 Detective Smith during the period in question?

18 A. Yes, it is.

19 Q. When you generated this particular report,
20 what, if anything, seemed unusual to you about it?

21 A. So from February 7, 2024, until March 21,
22 2025, every single one of Detective Smith's entries
23 into the attendance app were done manually.

24 Q. And could you show the court specifically
25 where on that printout it indicates that those were all

DIRECT EXAMINATION - SGT. C. MORANO

1 manual entries?

2 A. Yes.

3 Q. If you can just describe it.

4 A. So where it says date and time in, it will
5 have the date. For example the last date is the
6 3/21/25 and then there's an, at 1800 and then in
7 parenthesis M-A-N and that MAN stands for manual which
8 means that her tax ID was typed into the system. And
9 then it's the same with time out. It will say date and
10 time out, in this case the last one is 3/22/25 at 06 in
11 the morning and again parenthesis MAN which means a
12 manual. And then if you look further across the list,
13 it will actually have the location where this was done.
14 It will say location in, Patrol Borough Brooklyn North
15 which is where Detective Smith would've been manually
16 signed in. Meaning that supposedly she is at Patrol
17 Borough Brooklyn North for a tour of. And you see here
18 time present 12 hours.

19 Q. Is it unusual for a member of service,
20 particularly uniformed member of service to be manually
21 signed in at his or her command by another member of
22 service?

23 MR. SANDERS: Objection. That calls for
24 his speculation.

25 HONORABLE MALDONADO: I'll allow it if he

DIRECT EXAMINATION - SGT. C. MORANO

1 knows.

2 A. For this time amount straight, yes, I would
3 say it's highly, highly suspicious.

4 Q. Does it happen occasionally from time to time
5 for uniformed members of the service to sign in or to
6 have someone else sign them in or out?

7 A. On occasion. On occasion it can be, it can
8 be done. For example, if you're outside wire, you can
9 call your command. And typically that would be noted
10 in a comment section that you were signing in outside
11 wire. It can happen, you can sign in manually.

12 Q. When you made the observation for all of
13 these entries that were made manually, what additional
14 steps did you take, if any, to ascertain whether or not
15 Detective Smith had actually signed herself in manually
16 at the command or have someone else do it?

17 A. What we did was we try to ascertain if she
18 was going to Patrol Borough Brooklyn North and we did
19 that through LPR. I believe her domestic partner has a
20 vehicle. And an LPR is a license plate reader. If you
21 go to Patrol Borough Brooklyn North, typically it will
22 be picked up at sometime. Not necessarily every time,
23 but at sometime within the span of a year, the license
24 plate will be picked up on an LPR, a license plate
25 reader. There are no hits for that vehicle.

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1 We then conducted a MetroCard check to see if
2 possibly she was using a MetroCard to take the bus or a
3 subway. There were no hits on that either. We were
4 then able to check, there was video obviously at Patrol
5 Borough Brooklyn North. We were able to correlate the
6 sign-in times with the attendance app with video going
7 back 30 days to see when if she was actually present on
8 video at the times when she was being signed in. And
9 she was not.

10 We were then, the video that we were able to
11 look at shows the front door but there is a reflection
12 because it's glass. And we were actually able to see
13 after we obtained the phone records of the desk, we
14 were able to verify that she was calling at around the
15 exact same time she was being plugged in the attendance
16 app that way we were able to verify that she was not
17 present at the time.

18 Q. In connection with your investigation, did
19 you contact the Information Technology Bureau to
20 determine whether Detective Smith had been given
21 authorization for remote access to access the
22 Department's computer systems from another location?

23 A. Yes, we did.

24 Q. Did you also make contact the Information
25 Technology Bureau to determine whether or not

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1 Detective Smith actually did access Department computer
2 systems from any remote location during this period?

3 A. ITB could not find any records of her
4 accessing, remote accessing a computer.

5 Q. Handing you two different documents what has
6 previously been deemed into evidence as Department's 9
7 and 10.

8 (Whereupon, the aforementioned exhibit was
9 presented to the witness on the stand.)

10 Q. Sergeant Morano, do you see those documents?

11 A. Yes, sir.

12 Q. Are those documents e-mails referencing the
13 investigative steps that you just described that you
14 took?

15 A. Yes, they are.

16 Q. Now what other investigative steps, if any,
17 did you take in connection with establishing that
18 Detective Smith did not appear for work during this
19 period?

20 A. Well, once we were able to observe the video
21 of her not at work when she was being signed it, we
22 then spoke to members of the unit that she was
23 assigned.

24 Q. Did you speak to, when you say "you," was it
25 you personally or you as well as other members of Group

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1 1?

2 A. Myself and other members of Group 1.

3 Q. Who did you speak with?

4 A. Officer Dolce, Gibbons.

5 Q. That's Gibson?

6 A. Gibbons. Richard and.

7 Q. Rosas?

8 A. Yes, Rosas. That's correct.

9 Q. Did you also speak with Sergeant Fong?

10 A. Yes, Sergeant Fong, Sergeant Hunt and
11 Lieutenant Witten.

12 Q. And let's start with the police officers that
13 you made reference to. Did you speak to those police
14 officers individually in connection with this matter?

15 A. Yes.

16 Q. Were they named as subjects or witnesses in
17 your investigation?

18 A. Witnesses.

19 Q. Did you ask each of them if they had ever
20 seen Detective Smith appear for duty during the period
21 in question?

22 A. Yes.

23 Q. What, if anything, did each say?

24 A. They said they had never seen her. She had
25 never reported to duty. Some had never even seen her

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1 period.

2 Q. Did you ask those police officers anything
3 regarding entries in the attendance application for
4 Detective Smith?

5 A. Yes.

6 Q. What did you learn?

7 A. That they had been informed that they were to
8 sign her. She was going to call and they were to sign
9 her in and sign her out when she called.

10 Q. Did you speak with Sergeant Fong regarding
11 entries in the attendance application for
12 Detective Smith?

13 A. Yes.

14 Q. What, if anything, did he say?

15 A. He said that he was told by Lieutenant Witten
16 that Detective Smith as per Chief Henderson had been
17 given permission to work from home.

18 Q. Did you speak with Sergeant Hunt?

19 A. Yes.

20 Q. And what, if anything, did Sergeant Hunt say
21 regarding the Respondent's appearance at work?

22 A. He said that he was told by Hunt. I'm sorry.
23 He said he was told by Fong essentially the same thing
24 that Fong was told by Witten.

25 Q. Did you speak with Lieutenant Witten in

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1 connection with this matter?

2 A. Yes.

3 Q. Did Lieutenant Witten say anything about her
4 understanding of the Respondent's arrangement?

5 A. Yes. She said that she spoke with
6 Chief Henderson. And that as per Chief Henderson,
7 Detective Smith would be working from home. And that
8 she was to be signed in and out of the attendance app.

9 Q. Based on your interviews of those individuals
10 that you just referenced, were there any additional
11 subjects named in your investigation?

12 A. Yes.

13 Q. Who was named as a subject?

14 A. Chief Henderson. As well as
15 Lieutenant Witten and Sergeant Hunt and Sergeant Fong.

16 Q. Did Chief Henderson receive formal
17 discipline, that is charges and specifications with
18 this matter?

19 A. Yes, he did.

20 Q. Did Lieutenant Witten, Sergeant Fong and
21 Sergeant Hunt each receive a command discipline in
22 connection with this matter?

23 A. Yes, they did.

24 Q. Did your investigation include looking into
25 whether or not the Respondent ever applied for any type

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1 of extended leave of absence or legal accommodation in
2 connection with her mother's illness?

3 A. Yes.

4 Q. What, if anything, did your investigation
5 reveal regarding whether or not the Respondent had
6 applied for any type of lawful legal accommodation or
7 any type of extended leave of absence?

8 A. There was none.

9 Q. Did your investigation include an interview
10 of the Respondent in this case, the Detective Smith?

11 A. Yes.

12 Q. Did Detective Smith admit during her
13 interview that she had never once appeared once at work
14 for duty during the entire period of question?

15 A. Yes. That's correct.

16 Q. Did her interview include her knowledge that
17 the entries were made for her indicating she was
18 present for duty?

19 A. Yes.

20 Q. Did she acknowledge that she and no one else
21 on her behalf had ever submitted any request for any
22 formal or legal accommodation or extended leave of
23 absence during this period?

24 A. I believe she said that she thought possibly
25 Chief Henderson had.

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1 Q. Did she indicate why she thought that?

2 A. Well, she had not. I believe she said that
3 Chief Henderson, she thought because Chief Henderson
4 was allowing her to do it that he had set everything
5 up. Something to that effect.

6 Q. Did your investigation -- withdrawn.

7 During the course of Detective Smith's
8 official interview, did Detective Smith provide video
9 recordings, two video recordings of her text messaging
10 with Assistant Chief Henderson during this period of
11 time?

12 A. Yes, she did.

13 Q. What, if anything, during those text messages
14 did Detective Smith say about whether or not she had to
15 use her own leave during this period?

16 A. So there are two videos of her text messages
17 with Chief Henderson. In the first video at
18 approximately the 2:50 second mark, she, I believe it
19 was on February 17. She writes a text message to
20 Chief Henderson thanking him and saying something to
21 the effect of "I would have had to use a lot of time if
22 I were anybody else." Which well.

23 Q. Was there anything else remarkable about
24 those text messages?

25 A. With regards to. I can tell you that at one

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1 point, I believe it's video number two at approximately
2 00:27 seconds, Chief Henderson indicates that because
3 Detective Smith isn't coming in there's a manpower
4 issue.

5 Q. You've indicated that Assistant
6 Chief Henderson was named as a subject. Was he also
7 interviewed in connection with this matter?

8 A. Yes, he was.

9 Q. What, if anything, did Assistant Chief
10 Henderson say regarding the directions he gave the
11 Respondent regarding any leave that she was taking?

12 A. That as long as it didn't interfere with the
13 manpower and as long as she worked it out with
14 supervisors that she could remain at home.

15 Q. Did Assistant Chief Henderson indicate
16 whether or not he knew that the Respondent had never
17 appeared for work once during this entire period?

18 A. He said that he was not aware of that.

19 Q. Was Assistant Chief Henderson asked
20 specifically about his meeting with the Respondent in
21 his office on or about December 26, 2024?

22 A. Yes.

23 Q. And did he indicate what, if anything, the
24 Respondent said to him about her future plans regarding
25 returning to work?

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1 A. Yes.

2 Q. What, if anything, did the chief say?

3 A. Can I give a little context to that meeting?

4 Q. Sure.

5 A. So Detective Smith was allowed to stay home
6 because of her mother's illness. Her mother passed in
7 December, approximately 18th.

8 Q. You sure it wasn't December 6th?

9 A. It's possible. It's in the beginning of
10 December. Then after her mother's passing, there was a
11 meeting at the end of December between Chief Henderson
12 and Detective Smith. And there was also a second
13 meeting that was organized around the end of
14 February 2025. You're asking me about February 2025?

15 Q. No. I'm asking first about the December
16 meeting.

17 A. December, okay. In December, Detective Smith
18 was attempting to go to a Community Affairs position
19 she wanted to go to Community Affairs. And the reason
20 she gave was she didn't want to return to the borough
21 was because it reminded her of her mother. Her mother
22 was an avid member of the community. And so she was
23 trying to go to Community Affairs.

24 Q. Did she communicate whether or not she
25 intended to return to work when she met with the chief

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1 in December after her mother had passed away?

2 A. She said she was having a hard time going
3 back to work.

4 Q. Did she return to work?

5 A. No, she did not.

6 Q. You said that the Respondent met with Chief
7 Henderson, you said it was the end of February. Was it
8 the end of February or in March, if you know?

9 A. In the text messages they indicate one of the
10 last text messages was the end of February. She
11 requested a meeting as to when they met. I believe she
12 said stated in her interview that it was the beginning
13 of March.

14 Q. What, if anything, took place at that meeting
15 regarding the Respondent's returning to work?

16 A. As per her interview, she stated that she
17 told the chief she intended to take a lot of days off,
18 put in a lot of 28s was the term in March. Because she
19 intended to be out in large, he apparently allowed her
20 to take the entire month and to stay out and he gave
21 her a return date of April 18th.

22 Q. Now what you're describing is that what
23 Detective Smith represented or what the chief
24 represented?

25 A. That is what Detective Smith represented.

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1 Q. Did the chief represent the same thing?

2 A. No.

3 Q. What did the chief represent about his
4 understanding of whether the Respondent was returning
5 to work?

6 A. He stated that he believed that after her
7 mother had passed that she, Detective Smith, had
8 returned to work. Because in his words she had no
9 reason to stay out beyond that.

10 Q. Now you made reference to submission of 28s
11 or leave of absence requests. Did Detective Smith
12 submit leave of absence requests at all during the
13 period she was absent from work, that is from
14 February 2024 through March 2025?

15 A. Yes, she did.

16 Q. What would trigger such a request for a leave
17 of absence?

18 A. If she is out during the hours of her tour.
19 The hours of her tour she worked 12-hour tours so the
20 hours of her tour were from 6:00 P.M. to 6:00 A.M. If
21 she was not present from 6:00 P.M. to 6:00 A.M. she
22 would be required to put in a 28 or a leave of absence.

23 Q. Was there a mechanism for which she had
24 someone submit such a leave for her a few times during
25 her intense absence?

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1 A. Yes. She would contact Sergeant Fong.

2 Q. Do you know if she contacted Sergeant Hunt in
3 a similar fashion?

4 A. I would only be presuming.

5 Q. Essentially what did that, your investigation
6 conclude regarding Detective Smith?

7 A. That for approximately 13 months, she had
8 essentially a no-show job at the borough. She did not
9 go through the proper channels to request leave in a
10 situation like this. The Department offers avenues for
11 leave time. Specifically family, if you contact family
12 assistance, they offer to assign you to family
13 assistance. And while assigned temporarily to family
14 assistance, you can get up to two weeks off of time at
15 home. Beyond that, you have to use your own time.
16 Once you've used all of your own time, the detective in
17 endowment association as most unions do, offer a pool
18 of time that has been donated that you can use.

19 Once you exhaust all the time that the union
20 is willing to donate to you, then you would go to the
21 FMLA unit which is the family medical leave desk. And
22 essentially you have to take a leave of absence from
23 the Department which is unpaid. Because of the
24 arrangement because of the that Detective Smith had
25 with Chief Henderson, she was able to keep all of her

CROSS EXAMINATION - SGT. C. MORANO

1 time and not take a leave of absence. So continue
2 getting paid in full while not going to work.

3 Q. Did your investigation reveal whether or not
4 Chief Henderson and Detective Smith maintained
5 communication during this period?

6 A. Yes.

7 Q. That was via telephone, text messaging,
8 various sources?

9 A. Yes.

10 Q. Do you recall approximately how many
11 communications were discovered between the two of them
12 during this period of time?

13 A. It was fairly extensive. I don't recall the
14 exact number.

15 Q. Is it fair to say there were several hundred
16 communications between the two of them; two to 300
17 communications?

18 A. It's possible. I would have to look at the
19 exact.

20 MR. GREEN: Nothing further, Commissioner.

21 HONORABLE MALDONADO: Mr. Sanders.

22 CROSS EXAMINATION BY

23 MR. SANDERS:

24 Q. How are you?

25 A. Hello, sir.

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1 Q. I'm just going to ask you a few questions. I
2 know you're in a difficult position, but I'm going to
3 ask you a few things. Okay. Were you the lead
4 investigator in this case?

5 A. Yes, sir.

6 Q. So I'm going to start off with the back part.
7 There were 2 to 300, communications or somewhere in
8 that neighborhood that you found out that occurred
9 between Henderson and my client Smith, right?

10 A. Yes.

11 HONORABLE MALDONADO: I didn't hear the
12 question.

13 Q. There were two to 300 communications between
14 Henderson and Smith, right?

15 A. They communicated fairly regularly.

16 Q. So his representation that he doesn't know
17 certain things about Smith, do you find that to be
18 credible or incredibility?

19 A. Incredible.

20 Q. Did Smith tell you she had communications
21 with Henderson?

22 A. Yes.

23 Q. So now, let me ask you, you've been a
24 sergeant how long now?

25 A. Thirteen years.

CROSS EXAMINATION - SGT. C. MORANO

1 Q. And as a part of your training as a sergeant
2 is to learn about the policies and procedures of the New
3 York City Police Department, right?

4 A. Yes, sir.

5 Q. With respect to especially in this case
6 employment matters, right?

7 A. Yes. Well, specifically with leave of
8 absence as it pertains to leave of absence.

9 Q. What about reasonable accommodations, did
10 they teach you about that?

11 A. Yes, sir.

12 Q. What did you learn about that?

13 MR. GREEN: Objection.

14 HONORABLE MALDONADO: It's a bit broad.

15 MR. SANDERS: That's what this case is
16 about, Commissioner.

17 HONORABLE MALDONADO: It's a bit broad.
18 Narrow your question.

19 MR. SANDERS: Okay.

20 Q. I'll ask you this way. During the course of
21 your investigation, can you point to a rule that
22 suggests that Henderson could not grant the
23 accommodation he gave to Smith, one rule, Patrol Guide,
24 Administrative Guide, Finest Message, operation order,
25 what have you?

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1 A. So there are channels that have to be gone
2 through. You can't, there can't be one rule for a
3 person who knows a chief and another rule for everybody
4 else. So there are channels that have to go through
5 and that is why the family assistance unit exists.
6 That is why the detective endowment associations offers
7 time. And if there are reasonable accommodations, they
8 go through family assistance. Moreover, the reason
9 family assistance unit exists is also so that you can
10 be assigned to family assistance during a reasonable
11 accommodation so that you are not carried on the roll
12 call so that they're not missing manpower. That is why
13 there are these units in place.

14 Q. Well, you didn't answer my question. So I'm
15 going to ask a new question: You're a sergeant, right?

16 A. Yes.

17 Q. You have a certain line of discretion as a
18 supervisor?

19 A. Yes. A certain amount, sure.

20 Q. Is that written anywhere?

21 A. Yes.

22 MR. GREEN: Objection.

23 HONORABLE MALDONADO: If he knows he can
24 answer.

25 A. You're saying do I have discretion as a

CROSS EXAMINATION - SGT. C. MORANO

1 police officer? A reasonable amount of discretion.

2 Q. I'm asking as a part of your training you
3 receive New York City Police Department you learn as a
4 supervisor, you had a certain line of discretion with
5 the Department policy, right?

6 A. With Department policy?

7 Q. Yes.

8 A. A reasonable amount, sure.

9 Q. Is that written anywhere, your discretion?

10 A. Is it written that there is a reasonable
11 amount of discretion?

12 Q. Yes.

13 A. Not that I'm aware of.

14 Q. Do you know whether or not at his level,
15 Henderson's level as assistant chief, whether or not he
16 has discretion to grant an accommodation?

17 MR. GREEN: I'm going to object to the
18 term accommodation. It's a very legally specific term
19 and I would ask that it be referred to as an
20 arrangement than an accommodation.

21 MR. SANDERS: Her theory says
22 accommodation. Yours is. I'm not making it personal.

23 HONORABLE MALDONADO: I'll allow it.

24 SERGEANT MORANO: I'm sorry. Can you
25 repeat the question.

CROSS EXAMINATION - SGT. C. MORANO

1 Q. Do you know based on your investigation
2 whether at his level as an assistant chief he has the
3 discretion to accommodate an employee that's dealing
4 with a family matter?

5 A. No, I don't believe in this situation he did.
6 Obviously he did not have the discretion to do what he
7 did.

8 Q. Based on what rule that you can point to this
9 court what rule did he violate, that's what I'm asking
10 you?

11 A. As I said, there are guard rails in place for
12 accommodations that have to be followed. The fact that
13 he did not follow any of those rules that are in place
14 for this reason.

15 Q. Do you know what the requirements are for an
16 employee under the law, if an employee asks for an
17 accommodation to say I need help with handling a family
18 matter. Do they have to get a written request under
19 the law?

20 A. That would be a question for family
21 assistance.

22 Q. I'm asking in your investigation. Let me ask
23 you a question: When you did your investigation and I
24 understand you're not the investigator, you're not
25 making the overall decision, I understand. As part of

CROSS EXAMINATION - SGT. C. MORANO

1 your investigation did you go to Health and Wellness
2 and have a discussion with them about what are the
3 legal requirements for a person requesting an
4 accommodation?

5 A. Again, you'd have to. In order to get an
6 accommodation as far as I'm aware, you have to go
7 through family assistance. That was not done.

8 Q. That's not what I'm asking you. I'm asking
9 you when you came to your conclusion as part of your
10 investigation did you go to Health and Wellness to ask
11 them whether or not if an employee asks verbally for an
12 accommodation whether that meets the requirements of
13 the federal rules?

14 A. That goes to specifically to Health and
15 Wellness.

16 MR. GREEN: I would ask the Court to take
17 judicial notice of Administrative Guide Section 332-21.

18 HONORABLE MALDONADO: I'm going to let him
19 proceed.

20 MR. SANDERS: That's not the law.

21 HONORABLE MALDONADO: That you can argue
22 and certainly I will take judicial notice of all rules
23 and regulations. I'm sure you will supplement it. I
24 will tell the sergeant, just answer what he asks. If
25 it's a yes, it's yes. If it's no, no.

CROSS EXAMINATION - SGT. C. MORANO

1 A. Did I go to Health and Wellness, no.

2 Q. What about the Legal Bureau, did you go to
3 the Legal Bureau and have discussions with Legal Bureau
4 and ask them whether or not Smith making an request for
5 an accommodation to deal with a family matter is within
6 her right under the Federal Law, did you ask that
7 question?

8 A. Did I go to the Legal Bureau personally, no.
9 Obviously Legal Bureau was conferred with in regards to
10 this matter.

11 Q. Again, as a supervisor, part of your duties
12 and responsibilities is managing the police department.
13 Sometimes you have to fill out documents yourself,
14 right?

15 A. Okay.

16 Q. And the employees don't fill out the
17 documents for whatever reason; hurt, injured
18 incapacitated, mentally incapable to fill out the form;
19 isn't that true?

20 A. I suppose, yes.

21 Q. Wasn't that part of your training at B mock
22 that sometimes you have to fill out forms for the
23 employees because that's part of the manager's
24 obligations, right?

25 A. Part of my training is to fill out forms for

CROSS EXAMINATION - SGT. C. MORANO

1 employees? Is that what?

2 Q. Workers' compensation, line of duty, witness
3 statements. I mean there's a million different forms
4 you can fill out as a supervisor?

5 A. Yes, sir.

6 Q. Part of your training that's the manager's
7 obligation that the employee is trying to assert some
8 part of the law, it's her obligation as an employee to
9 fill it out, right?

10 A. An obligation?

11 Q. Yes.

12 A. You can fill out forms, I suppose.

13 Q. Also, you were questioned, there was an issue
14 about work. And is there any rule that says if a
15 person, during the course of your investigation I'm
16 asking. During the course of your investigation did
17 you find a rule that says what work even means or what
18 constitutes work, just asking you a question?

19 MR. GREEN: I have to object to this.

20 HONORABLE MALDONADO: I didn't object to
21 this it's really irrelevant as to.

22 MR. SANDERS: Commissioner, I'm going to
23 say why it's not irrelevant. The Department make a big
24 thing about work and there's an issue now about work.
25 I know Commissioner's going to eventually get to the

CROSS EXAMINATION - SGT. C. MORANO

1 legal issue with the work. But I'm asking whether or
2 not he find what constitutes. Because you're saying
3 she violated department policy not performing work.
4 And I'm asking did you see what work constitutes work,
5 and if it's even required. It's defense.

6 HONORABLE MALDONADO: If you can answer.
7 I think what you asked was much broader than that. You
8 need to focus it on the investigation and the work.

9 MR. SANDERS: I understand. The
10 Department used I'm using the word the same way the
11 Department uses it.

12 HONORABLE MALDONADO: It has to be related
13 to the specific case.

14 MR. SANDERS: It's related to this case.
15 I'm asking.

16 HONORABLE MALDONADO: No. As it relates
17 to these specific facts.

18 MR. SANDERS: I'm talking about these
19 facts.

20 Q. Did you ask anybody what constitutes work,
21 uses the word work?

22 A. During this time (crosstalk) --

23 HONORABLE MALDONADO: With respect to what
24 Respondent's assignments were?

25 MR. SANDERS: Yes, that's what we're

CROSS EXAMINATION - SGT. C. MORANO

1 talking about, yeah.

2 HONORABLE MALDONADO: Okay.

3 A. She was assigned to the Patrol Borough
4 Brooklyn North security detail. The duties and
5 responsibilities of the Patrol Borough Brooklyn North
6 security desk is to monitor the base, is to check the
7 parking lots and to voucher property. That is the work
8 of the Patrol Borough Brooklyn North. And the officers
9 who work in the Patrol Borough Brooklyn North obviously
10 asked what their duties and responsibilities were and
11 that what the answer was that they gave. Furthermore,
12 they were asked if you can perform any of those duties
13 and responsibilities from home and the answer is no.
14 Beyond that, I would add that, again, she did have
15 access, remote access, through a computer and she did
16 not. There was no history of her accessing the
17 computer.

18 Q. Getting back to Henderson for a minute. Did
19 you ask him whether or not he contacted Health and
20 Wellness on behalf of Smith?

21 A. I did.

22 Q. What did he say?

23 A. He put it back on Detective Smith and said
24 something along the lines of I assumed that she knew
25 because she had been a former member of POPPA.

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1 HONORABLE MALDONADO: I'm sorry, I didn't
2 hear your response.

3 SERGEANT MORANO: He insinuated that he
4 thought she, Detective Smith, had contacted the
5 appropriate units.

6 MR. SANDERS: Nothing further.

7 MR. GREEN: Nothing further, Commissioner.

8 HONORABLE MALDONADO: Thank you, sir. You
9 are excused.

10 (Whereupon, SERGEANT CHRISTOPHER MORANO
11 left the witness stand.)

12 HONORABLE MALDONADO: Why don't we take a
13 five-minute break. And why don't we line up the next
14 witness.

15 (Whereupon, a short recess was taken.)

16 HONORABLE MALDONADO: Back on the record.
17 Do we have our next witness.

18 MR. GREEN: Yes. The Department calls
19 executive director Joseph Lodispoto.

20 {Whereupon, EXECUTIVE DIRECTOR
21 JOSEPH LODISPOTO was sworn in by HONORABLE ROSEMARIE
22 MALDONADO.)

23 EXECUTIVE DIRECTOR LODISPOTO: Yes, I do.

24 COURT OFFICER CARRINGTON: Say your first
25 and last name.

TO DIRECT EXAMINATION - EXEC. DIRECTOR J. LODISPO

1 EXECUTIVE DIRECTOR LODISPOTO: Joseph
2 Lodispoto.

3 COURT OFFICER CARRINGTON: Spell your
4 first and last name.

5 EXECUTIVE DIRECTOR LODISPOTO:
6 J-O-S-E-P-H, L-O-D-I-S-P-O-T-O.

7 HONORABLE MALDONADO: You may proceed
8 counsel.

9 MR. GREEN: Thank you, Commissioner.

10 DIRECT EXAMINATION BY

11 MR. GREEN:

12 Q. Good morning, Director Lodispoto.

13 A. Good morning.

14 Q. Sir, how long have you served with the NYPD?

15 A. Approximately 20 years.

16 Q. And where have you worked in those 20 years?

17 A. I worked in the payroll and benefits section.

18 Q. What is your current position?

19 A. I'm the executive director of payroll and
20 benefits.

21 Q. What are your duties as executive director of
22 payroll and benefits?

23 A. I ensure individuals are paid properly on a
24 biweekly basis and ensure to make sure that individuals
25 that want to have health insurance have health

TO DIRECT EXAMINATION - EXEC. DIRECTOR J. LODISPO

1 insurance.

2 Q. And do you have any professional degrees,
3 certificates or anything else that are related to your
4 position?

5 A. I have a bachelor's in accounting. I have a
6 master's in finance.

7 Q. So you're the one who makes sure we all get
8 paid here?

9 A. Yes, I do.

10 Q. Thank you, sir. Did there come a time
11 earlier in 2025 that you were contacted by members of
12 the Department Advocate's Office regarding a case
13 concerning Assistant Chief Henderson and Detective
14 Jaenice Smith?

15 A. Yes, sir.

16 Q. Were you asked to perform certain
17 calculations regarding the value of time, pay and
18 benefits accrued particularly by Detective
19 Jaenice Smith during a specific period of time?

20 A. Yes, I was.

21 Q. Is that part of your ordinary duties and
22 responsibilities to do such calculations?

23 A. Yes. I'm requested at times from Department
24 Advocate's Office and IAB.

25 Q. I'm going to take a step back for one second.

TO DIRECT EXAMINATION - EXEC. DIRECTOR J. LODISPO

1 What is the name of the computer system or database
2 that is utilized by the payroll and benefit section to
3 calculate such time, pay and benefits?

4 A. Well, the system we use is called CHRMS and
5 it's based off of the payroll management system.

6 Q. And where is the data that is entered into
7 the payroll management system collected, where does
8 that data come from?

9 A. It comes from CityTime where individuals put
10 time in CityTime and it interfaces into the payroll
11 management system.

12 Q. Some employees of the NYPD use CityTime
13 themselves and enter it themselves and other use an
14 attendance application; isn't that correct?

15 A. Not to get into CityTime. The attendance app
16 is not used to go into CityTime. It actually has to be
17 inputted by an individual by a timekeeper or by the
18 member themselves.

19 Q. In a command in which the attendance
20 application is used, would the timekeeper take that
21 information and enter it into CityTime?

22 A. They possibly could. They're not supposed to
23 do it off of the attendance app. But they can possibly
24 take it and put it into the system.

25 Q. Once information is entered into CityTime,

TO DIRECT EXAMINATION - EXEC. DIRECTOR J. LODISPO

1 how, if at all, is that information then transferred or
2 utilized by the payroll management system?

3 A. It's interfaced by the office of payroll
4 administration which is our parent agency. They will
5 actually process through FISA, they process the
6 information and it interfaces from CityTime into the
7 payroll management system.

8 Q. FISA?

9 A. FISA is the financial arm. It's a financial
10 arm of the office of payroll administration.

11 Q. How if at all is the information that the
12 payroll management systems uses shared with the
13 application pension fund or the pension section?

14 A. They have access to the payroll management
15 system. They have the same access we have as to what
16 goes into payroll management system.

17 Q. If you were to trace information that was
18 entered out of a particular command by a particular
19 police officer regarding his or her attendance, that
20 information is then translated through various
21 databases to various places, correct?

22 A. It's translated into the payroll management
23 system. And you mentioned pension before. Pension has
24 access to the same system that we have access to.

25 Q. Now getting back to the calculation. Were

TO DIRECT EXAMINATION - EXEC. DIRECTOR J. LODISPO

1 you asked to perform a calculation of the value of the
2 time, pay and benefits of Detective Jaenice Smith for
3 the period February 7, 2024, through March 25, 2025?

4 A. Yes, I was.

5 Q. What information did you utilize to access
6 the value of the time, pay and benefits during that
7 period of time?

8 A. Well, we adjusted the time in the system to
9 put her with leave with no pay for that time period.
10 And then once the system recalculated the value we were
11 able to run a CHRMS report out of the payroll
12 management system to see what the value was during that
13 time period.

14 Q. I'm going to hand you a document that has
15 been deemed marked Department's Exhibit 19 in evidence.
16 And I apologize in evidence for the small font. I'm
17 going to ask you to take a look at that and tell us if
18 you recognize it.

19 (Whereupon, the aforementioned exhibit was
20 presented to the witness on the stand.)

21 A. Yes, I do. I recognize it.

22 Q. Director, is this the document that you
23 prepared valuing a time, pay and benefits of
24 Detective Jaenice Smith of the period February 7, 2024
25 to March 25, 2025?

PROCEEDINGS

1 A. Yes, sir.

2 Q. First, I'm going to ask you for the grand
3 total. I'm going to jump to the dessert first. What
4 is the grand total of the value of the time, pay
5 benefits during that period?

6 A. It was \$162,462.44.

7 Q. What is included in that?

8 A. It includes regular pay, longevity, overtime.
9 Anything that she earned during that time period.
10 Night shift, differential, holiday pay.

11 MR. GREEN: Nothing further, Commissioner.

12 HONORABLE MALDONADO: Mr. Sanders?

13 MR. SANDERS: No questions.

14 HONORABLE MALDONADO: Thank you very much,
15 sir. You are excused.

16 (Whereupon, EXECUTIVE DIRECTOR JOSEPH
17 LODISPOTO left the witness stand.)

18 HONORABLE MALDONADO: Our next witness.

19 MR. GREEN: The Department calls
20 Lieutenant Latisha Witten.

21 {Whereupon, LIEUTENANT LATISHA WITTEN was
22 sworn in by HONORABLE ROSEMARIE MALDONADO.}

23 LIEUTENANT WITTEN: Yes.

24 COURT OFFICER CARRINGTON: Say your first
25 and last name.

DIRECT EXAMINATION - LT. L. WITTEN

1 LIEUTENANT WITTEN: Latisha Witten.

2 COURT OFFICER CARRINGTON: Spell your
3 first and last name.

4 LIEUTENANT WITTEN: L-A-T-I-S-H-A,
5 W-I-T-T-E-N.

6 HONORABLE MALDONADO: Counsel, you may
7 proceed.

8 DIRECT EXAMINATION BY

9 MR. GREEN:

10 Q. Good morning, lieutenant. How are you today?

11 A. Good morning.

12 Q. Lieutenant Witten, where are you currently
13 assigned?

14 A. Currently, I'm Fleet Services division.

15 Q. What is your position there?

16 A. I am the police room security supervisor.

17 Q. Approximately how long have you served with
18 the NYPD?

19 A. Twenty-three years.

20 Q. And could you tell us very briefly where you
21 worked?

22 A. I have worked in Transit. Then I went to, I
23 actually worked here in One Police Plaza. Then I went
24 to the 83rd Precinct as a sergeant. Then I went, I
25 came back here, I went to risk management as a

DIRECT EXAMINATION - LT. L. WITTEN

1 sergeant. Took the lieutenant's test passed. I went
2 to the 72 as a lieutenant. Then I went to PSA9 as a
3 lieutenant. And then I went to the Patrol Borough
4 Brooklyn North.

5 Q. And from Patrol Borough Brooklyn North, you
6 went to Fleet Services?

7 A. Right.

8 Q. When were you assigned to Patrol Borough
9 Brooklyn North?

10 A. 2022.

11 Q. And what was your job there?

12 A. I was the operations coordinator.

13 Q. What is the operations coordinator do at
14 Patrol Borough Brooklyn North?

15 A. I was assigned to deal with administrative
16 matters and supervise the security unit.

17 Q. While you were there, who was the borough
18 commander?

19 A. Chief Henderson.

20 Q. That's Chief Scott Henderson?

21 A. Yes.

22 Q. Would you speak with him on a daily basis
23 during your time you were working there?

24 A. Yes.

25 Q. Now, did there come a time in early 2024 that

DIRECT EXAMINATION - LT. L. WITTEN

1 you had a conversation with Chief Henderson regarding
2 Detective Jaenice Smith?

3 A. Yes.

4 Q. Do you recall approximately when that was?

5 A. I'm going to say I know it was 2024. The
6 middle, mid-2024.

7 Q. Middle or before then, if you know?

8 A. The beginning of 2024.

9 Q. And what was the nature of the conversation
10 that you had with Chief Henderson?

11 A. He told me that she would be working from
12 home.

13 Q. Had you ever heard of anyone who at the
14 Patrol Borough Brooklyn North working from home before?

15 A. No.

16 Q. Did you know Detective Jaenice Smith at that
17 time?

18 A. Yes she worked at the wheel.

19 Q. So you had actually worked or supervised her
20 indirectly in the past?

21 A. Yes.

22 Q. Where was she assigned to work in
23 February 2024?

24 A. She was assigned to the wheel then she went
25 to One Police Plaza's wheel.

DIRECT EXAMINATION - LT. L. WITTEN

1 Q. And then after that, where did she go?

2 A. She was supposed to be back at security.

3 Q. And that's Patrol Borough Brooklyn North?

4 A. Brooklyn North, yes.

5 Q. Slash desk detail?

6 A. Yes.

7 Q. What does the security desk or security
8 detail there do?

9 A. Their job is to check the parameters of the
10 building, the lots and make sure everything is smooth
11 there.

12 Q. Where are the Patrol Borough Brooklyn North's
13 headquarters, the offices?

14 A. 179 Wilson.

15 Q. Wilson Avenue?

16 A. Avenue, Brooklyn, New York.

17 Q. Is that attached or part of any precinct
18 stationhouse?

19 A. No.

20 Q. So it's its own standalone building?

21 A. It's a standalone building.

22 Q. During your entire time that -- withdrawn.
23 When did you get transferred to Fleet
24 Services, approximately?

25 A. September 29th of 2025 this year.

DIRECT EXAMINATION - LT. L. WITTEN

1 Q. When you were told by Chief Henderson in
2 early 2024 that Detective Smith would be working from
3 home, what did you understand that to mean?

4 A. That she would stay home during her tour of
5 duty.

6 Q. Could you perform any security duties from
7 home?

8 A. No.

9 Q. Did you question Chief Henderson about that?

10 A. No.

11 Q. Did you ask Chief Henderson about
12 clarifications in any way whatever about that?

13 A. No.

14 Q. Was anyone else present that you recall
15 during the conversation you had with Chief Henderson?

16 A. No.

17 Q. Did Chief Henderson in any way tell you how
18 Detective Smith's time would be accounted for if she
19 was working from home?

20 A. No.

21 Q. Did you take any steps to ensure that her
22 time was accounted for?

23 A. No.

24 Q. Did you have any conversations with
25 Sergeant Fong regarding the arrangement that was being

DIRECT EXAMINATION - LT. L. WITTEN

1 made?

2 A. Yes.

3 Q. Do you remember when you had that
4 conversation, that is approximately how long after your
5 conversation with the chief?

6 A. I know it was after. I don't know the exact
7 date.

8 Q. Did you know why Chief Henderson made this
9 arrangement with Detective Smith?

10 A. Her mother had cancer and her mother was
11 gravely ill.

12 Q. Did you know Detective Smith's mother, her
13 mother?

14 A. No.

15 Q. Did you ask the chief about any details
16 concerning Detective Smith's mother's illness?

17 A. No.

18 Q. Did you become aware of a time in early
19 December 2024 that Detective Smith's mother passed
20 away?

21 A. Yes.

22 Q. Did you attend her funeral?

23 A. Yes.

24 Q. Did Detective Smith report for work at all
25 that is in person from the time you had the

DIRECT EXAMINATION - LT. L. WITTEN

1 conversation with the chief until the time you went to
2 the funeral?

3 A. She did come up to the borough one day.

4 Q. She came in to speak to the chief?

5 A. Yes.

6 Q. But she wasn't there to do work?

7 A. No.

8 Q. Did you ever see Detective Smith report back
9 to work after her mother's funeral?

10 A. No.

11 Q. Did anyone ever come to you and ask you about
12 whether she was coming back to work at some point after
13 her mother's funeral?

14 A. Yes. Sergeant Hunt came to me.

15 Q. That's Sergeant Donovan Hunt?

16 A. Yes.

17 Q. And do you recall approximately when it was
18 that he came to you?

19 A. I think it was maybe in March, February or
20 March.

21 Q. What was the nature of the conversation you
22 had with Sergeant Hunt about Detective Smith returning
23 to work?

24 A. He asked me what's happening with her. Was
25 she coming back. And I replied that I had to speak to

CROSS EXAMINATION - LT. L. WITTEN

1 the chief about it.

2 Q. Did you ever speak to the chief about it?

3 A. No.

4 Q. Do you know if any lawful or legal request
5 for accommodation or leave was ever submitted for
6 Detective Smith?

7 A. No.

8 Q. In connection with your role in this matter,
9 were you issued a command discipline?

10 A. Yes.

11 Q. I'm handing you what's already marked as
12 Department's Exhibit 16 (handing).

13 MR. SANDERS: Commissioner, you have my
14 list. It's A on my list as 16.

15 (Whereupon, the aforementioned exhibit was
16 presented to the witness on the stand.)

17 A. Yes.

18 Q. Is this the command discipline issued to you
19 in connection with this matter?

20 A. Yes.

21 MR. GREEN: Nothing further, Commissioner.

22 HONORABLE MALDONADO: Mr. Sanders.

23 MR. SANDERS: Yes, briefly.

24 CROSS EXAMINATION BY

25 MR. SANDERS:

CROSS EXAMINATION - LT. L. WITTEN

1 Q. Lieutenant, so let me ask you a couple
2 questions. You're a sergeant at some point?

3 A. Yes, sir.

4 Q. And part of your training is to go through
5 the basically matching course of B mock?

6 A. Yes.

7 Q. During part of your duties and
8 responsibilities as a newly promoted supervisor, that
9 you have a certain amount of discretion how to handle
10 personal related matters?

11 A. Yeah.

12 Q. What about as a lieutenant. Now you go to
13 the second level as a lieutenant and you had to go back
14 to another training, right?

15 A. Yes.

16 Q. Part of that training as a lieutenant now you
17 have theoretically, you have more personnel under you
18 and there's a thing that's called discretion, right?

19 A. Yes.

20 Q. And when you were taught this during your
21 training, is this something that the trainings pointed
22 to like a rule or did they say that is part of the
23 police department's culture that supervisors have
24 certain amount of discretion to enforce the
25 Department's guidelines right?

CROSS EXAMINATION - LT. L. WITTEN

1 A. It's not a rule, right.

2 Q. When you spoke to Henderson in February of
3 2027, he was an assistant chief, right?

4 A. '27?

5 Q. I'm sorry. February of 2024, you spoke to
6 Assistant Chief Henderson?

7 A. Yes.

8 Q. And he was the command officer of Patrol
9 Borough Brooklyn North?

10 A. Yes.

11 Q. Have you ever been a chief?

12 A. No.

13 Q. Do you know what discretion or any guidelines
14 he had to enforce Department policies?

15 A. No.

16 Q. When you had a conversation with Assistant
17 Chief Henderson, he said Smith is going to be. Home
18 did you question it?

19 A. No.

20 Q. Why didn't you question it?

21 A. Because he's the assistant chief.

22 Q. Did you make an assumption as a lieutenant?

23 A. Did I make an assumption? No.

24 Q. Did you make an assumption if he gives you an
25 order, it's valid?

CROSS EXAMINATION - LT. L. WITTEN

1 A. Yes.

2 Q. Did you call Internal Affairs and say hey
3 Henderson is having Smith stay home, that's corruption;
4 did you say that?

5 A. No.

6 Q. Did you call EE0?

7 A. No.

8 Q. Did you call any Department authority and
9 suggest that what Henderson was doing was in violation
10 of Department's guidelines?

11 A. Yes.

12 Q. You were required to do that because you were
13 lieutenant, right?

14 A. Yes.

15 Q. In fact, if that was true, yeah?

16 A. Right.

17 Q. As lieutenant and member of service, you have
18 to report corruption, right?

19 A. Yes.

20 Q. But you didn't report any corruption, right?

21 A. No.

22 Q. You didn't see corruption, did you?

23 A. No.

24 Q. Well, you got a command discipline that
25 suggests otherwise, right?

CROSS EXAMINATION - LT. L. WITTEN

1 A. Yes.

2 Q. You agree with that command discipline
3 because it says, let me read it. It says here "having
4 been made aware or made aware of an unauthorized
5 accommodation or misconduct by members of the service
6 related to an unauthorized accommodation failed to
7 report said alleged corruption or misconduct to
8 Internal Affairs Bureau." You see that?

9 A. Yes.

10 Q. And you signed off and agreed to it?

11 A. Yes.

12 Q. Do you agree with?

13 A. It was required for me to notify so.

14 Q. That's different than what you're saying
15 happened. That's my point.

16 MR. GREEN: Objection.

17 HONORABLE MALDONADO: Overruled.

18 Q. You testified a little bit earlier that when
19 you were given an order, you believed the order was
20 valid, correct?

21 A. Correct.

22 Q. You saw it as valid, right?

23 A. Yes.

24 Q. You didn't call Internal Affairs?

25 A. No, I didn't.

CROSS EXAMINATION - LT. L. WITTEN

1 Q. But later on you were issued a command
2 discipline suggesting that somehow that was corruption,
3 right?

4 A. Yes.

5 Q. But that's not your assessment?

6 A. It was required that I called IAB and I
7 didn't.

8 Q. And I'm asking you about your assessment.

9 HONORABLE MALDONADO: Counsel, ultimately,
10 that's the question for this tribunal.

11 MR. SANDERS: I understand, Commissioner.

12 Q. Do you know whether or not when Henderson
13 said Smith can stay home, he was actually granting her
14 a reasonable accommodation?

15 A. Yes.

16 Q. Did he talk about that?

17 A. No.

18 Q. At the time he knew the mother was very ill,
19 right?

20 A. Yes.

21 Q. And you knew that she was very ill, right?

22 A. Yes.

23 Q. Did you ever have a conversation with Smith
24 during that time period?

25 A. No.

CROSS EXAMINATION - LT. L. WITTEN

1 Q. Did you ever see her condition during that
2 time period?

3 A. No.

4 Q. Do you know whether how she was doing
5 mentally during that time period?

6 A. No.

7 Q. Do you know how she was doing after her
8 mother passed during that time period?

9 A. No.

10 Q. Do you know if she was suffering from
11 caregiver burnout?

12 A. No.

13 Q. And that's why she was at the borough, did
14 Henderson tell you that?

15 A. No.

16 Q. You never had a conversation with Smith at
17 all?

18 A. No.

19 Q. Did Smith, well, did you investigate, okay.
20 I think the Department Advocate's asked you a question
21 about Fong.

22 A. Sergeant Fong, yes.

23 Q. Are you the one that told Sergeant Fong to
24 facilitate the entries into the Department computers,
25 I'm just asking you?

RE-DIRECT EXAMINATION - LT. L. WITTEN

1 A. No.

2 Q. What conversation did you have with Fong?

3 A. What kind of what?

4 Q. Conversation did you have with Fong?

5 A. I told him that she's going to be working
6 from home.

7 Q. Did Sergeant Fong question it?

8 A. No.

9 Q. Did he tell you that he believed that was a
10 form of misconduct?

11 A. No.

12 Q. As far as you know did he ever report that to
13 Internal Affairs?

14 A. No.

15 MR. SANDERS: Nothing further.

16 HONORABLE MALDONADO: Anything further?

17 MR. GREEN: I just have a couple
18 questions, yes.

19 HONORABLE MALDONADO: Yes.

20 RE-DIRECT EXAMINATION BY

21 MR. GREEN:

22 Q. Lieutenant, you were just asked a few moments
23 ago about training as a sergeant and as a lieutenant,
24 correct?

25 A. Yes.

RE-DIRECT EXAMINATION - LT. L. WITTEN

1 Q. And you were asked questions about whether
2 you were told you have A certain amount of discretion
3 as a supervisor in certain types of matters?

4 A. Right.

5 Q. Were you ever told that you had the
6 discretion to permit people you supervised to commit
7 crimes?

8 MR. SANDERS: Objection.

9 A. No.

10 HONORABLE MALDONADO: I'll allow it.

11 Q. Were you ever told that you were allowed as a
12 supervisor to use your discretion to allow subordinates
13 to violate Department rules if it was convenient for
14 them to do so?

15 A. No.

16 Q. Were you ever told that as a supervisor you
17 had the discretion to make decisions regarding extended
18 leave of absences without conferring with anyone else?

19 A. No.

20 Q. When you were initially told Detective Smith
21 was working from home, you indicated that you believed
22 that was authorized; is that right?

23 A. Yes.

24 Q. Did you subsequently learn something else?

25 A. No.

RE-DIRECT EXAMINATION - LT. L. WITTEN

1 Q. Do you believe that it was authorized as you
2 sit here today?

3 A. No.

4 MR. GREEN: Nothing further.

5 HONORABLE MALDONADO:

6 MR. SANDERS:

7 Q. Lieutenant, you were just asked a question
8 about crimes. During the time period that you were her
9 supervisor, based on your assessment was Smith
10 committed a crime?

11 MR. GREEN: Objection. That's for this
12 tribunal to decide.

13 MR. SANDERS: Well, the Department just
14 asked that question about committing a crime.

15 MR. GREEN: But that wasn't the question.

16 MR. SANDERS: It seems like (crosstalk).

17 HONORABLE MALDONADO: Listen. Repeat the
18 question again.

19 Q. I'm asking you during the time period you
20 were supervising Smith, under your supervision did you
21 suspect that Smith was committing a crime meaning
22 stealing time and money from the taxpayers of the City
23 of New York?

24 HONORABLE MALDONADO: You opened the door,
25 Mr. Green. I'll allow her to answer for what it's

PROCEEDINGS

1 worth. If you can answer.

2 A. Did I think that she was committing a crime,
3 no.

4 Q. Is that why you didn't call Internal Affairs?

5 A. Yeah.

6 Q. Because if she had committed a crime, you
7 would've been required by Department policy to take
8 police action, correct?

9 A. Yes.

10 MR. SANDERS: Nothing further.

11 MR. GREEN: Nothing further, Commissioner.

12 HONORABLE MALDONADO: Thank you very much.
13 You are excused.

14 (Whereupon, LIEUTENANT LATISHA WITTEN left
15 the witness stand.)

16 HONORABLE MALDONADO: Our next witness,
17 please.

18 MR. GREEN: Department calls Sergeant Jun
19 Fong.

20 {Whereupon, SERGEANT JUN FONG was sworn in
21 by HONORABLE ROSEMARIE MALDONADO.}

22 SERGEANT FONG: Yes.

23 COURT OFFICER CARRINGTON: Say your first
24 and last name.

25 SERGEANT FONG: Sergeant Jun Fong.

DIRECT EXAMINATION - SGT. J. FONG

1 COURT OFFICER CARRINGTON: Spell your
2 first and last name.

3 SERGEANT FONG: J-U-N, F-O-N-G.

4 HONORABLE MALDONADO: You may proceed.

5 MR. GREEN: Thank you.

6 DIRECT EXAMINATION BY

7 MR. GREEN:

8 Q. Good afternoon, sergeant. How are you today?

9 A. Good, sir.

10 Q. How long have you served with the NYPD?

11 A. Over 22 years.

12 Q. Briefly can you tell us where you've been
13 assigned to?

14 A. Currently assigned to Patrol Borough Brooklyn
15 North the counterterrorism unit.

16 Q. And where have you been assigned before that
17 sir?

18 A. Patrol Borough Brooklyn North.

19 Q. Was there a time where you were assigned as
20 the Patrol Borough Brooklyn North security detail
21 supervisor?

22 A. Yes, sir.

23 Q. When was that?

24 A. Since I've been assigned to Patrol Borough
25 Brooklyn North, 2018 to last year November, beginning

DIRECT EXAMINATION - SGT. J. FONG

1 of November.

2 Q. And as supervisor of Patrol Borough Brooklyn
3 North security detail, what were your duties and
4 responsibilities?

5 A. To supervise the wheel and security. And
6 make sure they survey the surrounding area of the
7 building, our 179 Wilson Avenue, and also our three
8 parking lots. Also check the credentials for whoever
9 came into the building. And also supervise the
10 property transfer on the midnight shift.

11 Q. Do you know the Respondent in this case,
12 Detective Jaenice Smith?

13 A. Yes, I do.

14 Q. How do you know her?

15 A. She was my wheel person on the wheel. She
16 did the 1800 by 0600 tours.

17 Q. Did there come a time that Detective Smith
18 was assigned to the security detail?

19 A. Yes.

20 Q. Did Detective Smith ever actually report for
21 work at the security detail?

22 A. No.

23 Q. Did there come a time in early 2024 that you
24 had a conversation with Lieutenant Witten regarding
25 Detective Smith?

DIRECT EXAMINATION - SGT. J. FONG

1 A. Yes.

2 Q. Do you recall who else was present for that
3 conversation?

4 A. No, I do not.

5 Q. Do you know if anyone else was?

6 A. No.

7 Q. In substance, what was the conversation
8 about?

9 A. Briefly, there was chief knows. That she was
10 aware that chief is aware that she's going to be
11 working from home.

12 Q. Sergeant, are any duties of a member of
13 Patrol Borough Brooklyn North's security detail that
14 Detective Smith could perform at home?

15 A. No.

16 Q. Knowing that, what, if anything, did you say
17 or do after Lieutenant Witten told you this?

18 A. Not that I recall.

19 Q. Did you do anything, that is did you question
20 Lieutenant Witten and say wait a minute, how does she
21 work from home or any words like that?

22 A. I knew her situation from before. Because
23 she used to work for the wheel so I know her she had
24 family matter with her and her mom, that she's deeply
25 in care.

DIRECT EXAMINATION - SGT. J. FONG

1 Q. Did you speak to Chief Henderson and ask him
2 why this was being permitted?

3 A. Not personally, no.

4 Q. Do you know if anyone did?

5 A. Lieutenant Witten.

6 Q. Did you speak to the other members of the
7 security detail regarding this arrangement?

8 A. I don't recall.

9 Q. Do you know how the other members of the
10 security detail or your subordinates knew how to
11 document detective's appearances at work?

12 A. Yes. There is a sign in and sign out sheet
13 and she was manually entered into the system attendance
14 app.

15 Q. How did you know that that was what was to be
16 done?

17 A. Because the payroll collect them. It has to
18 be faxed over to payroll for them to enter it into the
19 system.

20 Q. Did anyone tell you she has to be entered
21 into the system this way?

22 A. No.

23 Q. Did you yourself actually enter her into the
24 system this way at all?

25 A. If I was on the security desk I might've done

DIRECT EXAMINATION - SGT. J. FONG

1 it.

2 Q. Did you report this arrangement to the
3 Internal Affairs Bureau?

4 A. No.

5 Q. Why not?

6 A. Because Chief Henderson's order.

7 Q. Did you question it?

8 A. No.

9 Q. Was it because he was the chief?

10 A. Yes.

11 Q. Did you ever inquire as to whether any formal
12 documentation for a legal accommodation was requested
13 for the detective?

14 A. No.

15 Q. Why not?

16 A. Because I followed orders.

17 Q. Did the order appear, do you know if the
18 order was in line with Department rules and procedures?

19 A. At the time I wasn't aware.

20 Q. Did you subsequently become aware whether or
21 not the order was a lawful one?

22 A. Yes.

23 Q. And what did you learn?

24 A. It's supposed to be going through proper
25 channels to get accommodations.

DIRECT EXAMINATION - SGT. J. FONG

1 Q. In connection with your role in this, were
2 you issued a command discipline?

3 A. Yes, I did.

4 Q. I'm handing a two-page document. I ask you
5 to take a look at it and tell us if that was the
6 command discipline that was issued to you in connection
7 with this matter?

8 HONORABLE MALDONADO: And this is exhibit.

9 MR. GREEN: I'm sorry, it's Exhibit 17.

10 HONORABLE MALDONADO: Okay.

11 (Whereupon, the aforementioned exhibit was
12 presented to the witness on the stand.)

13 A. Yes.

14 Q. During the course of Detective Smith's
15 absence, did she ever speak with you or communicate
16 with you in connection with personnel needs if her
17 presence was needed at the command?

18 A. She did contact me. She requested a few. We
19 call it 28s, it's a leave of absence.

20 Q. Other than that contact. First of all, were
21 you Detective Smith's immediate supervisor at that
22 time, her direct supervisor?

23 A. Up until.

24 Q. That is until Sergeant Hunt took over,
25 correct?

DIRECT EXAMINATION - SGT. J. FONG

1 A. Yes.

2 Q. Before Sergeant Hunt took over, were you
3 Detective Smith's immediate and direct supervisor?

4 A. Yes and no. Yes, she has been transferred to
5 One Police Plaza PSB wheel. So she has her own
6 supervisor. She had her own supervisor at the time
7 because that.

8 Q. Sergeant, I'm referring specifically to the
9 time that she was assigned to the security detail. Not
10 the wheel.

11 A. Yes.

12 Q. When she was assigned to the security detail,
13 were you her direct supervisor?

14 A. Yes.

15 Q. Other than contacting you to submit requests
16 for leave, did she contact you in any other way?

17 A. I might have spoke to her on the phone a few
18 times. But I can't remember exactly when we talked
19 about it.

20 Q. Did she ask you about the needs or personnel
21 needs of the command?

22 A. I don't recall.

23 Q. Did you at any time authorize any leave for
24 her?

25 A. Excuse me? I'm sorry.

DIRECT EXAMINATION - SGT. J. FONG

1 Q. Did you at any time submit a request for a
2 leave of absence on her behalf?

3 A. I did not. She did that on her own.

4 Q. I'm talking about the 28?

5 A. Yeah, she did on her own. She submit it and
6 I approve it.

7 Q. Okay, I'm handing up a three-page document
8 which is reflected in Department's Exhibit 12, 13 and
9 14. Take a look at those pages. Do you recognize
10 those?

11 (Whereupon, the aforementioned exhibit was
12 presented to the witness on the stand.)

13 A. Yes.

14 Q. What are they?

15 A. This is the first page. Starting with the
16 Detective Smith, with the dates, this is a chart
17 change. A chart change after we received a Finest
18 Message for her transfer. So she needed to change to a
19 different. She had to fit her in to the security
20 schedule.

21 Q. What are the other pages?

22 A. Those are leave of absences. We call it 28s
23 requests.

24 Q. She never submitted these in person, correct?

25 A. She submitted it in person, yeah. It's

CROSS EXAMINATION - SGT. J. FONG

1 through a computer.

2 Q. Did she appear at the command and hand them
3 to you?

4 A. No.

5 Q. Did she appear at the command and enter it
6 into any computer at the command?

7 A. I did not see her.

8 Q. Did you approve any requests for leave that
9 she submitted?

10 A. Yes.

11 MR. GREEN: Nothing further.

12 HONORABLE MALDONADO: Counsel.

13 MR. SANDERS: Yes.

14 CROSS EXAMINATION BY

15 MR. SANDERS:

16 Q. How long were you guys aware of Smith having
17 to deal with the terminal condition that her mother
18 experienced cancer, how long were you aware?

19 A. This was when she was on the wheel still at
20 the borough I was aware of it.

21 Q. Did members of your command do things to try
22 to help her to try to manage her mom's situation?

23 A. When I was here, she was the only caretaker.

24 Q. Did you do things as a unit to try to help
25 her to manage her mother's condition like?

CROSS EXAMINATION - SGT. J. FONG

1 A. Not that I can recall.

2 Q. But you were aware of it, right?

3 A. Yes.

4 Q. Was it common knowledge in your unit that her
5 mother experiencing this condition, common knowledge
6 between the members of your command --

7 MR. GREEN: Objection.

8 Q. -- her mother was experiencing cancer?

9 HONORABLE MALDONADO: I'll allow it. If
10 he knows.

11 A. Is it common knowledge?

12 Q. Let me ask this way. Are other members
13 assigned to that command, did they know about her
14 caretaking and responsibilities with her mom?

15 A. Some people do. Some people don't.

16 Q. That's all I'm asking. As a supervisor, you
17 have training, right?

18 A. Yes, sir.

19 Q. And how long were you a sergeant?

20 A. Fifteen years.

21 Q. Did any time as her supervisor, consistent
22 with Department policy, did you ever make a suggestion
23 that she contact, for example Health and Wellness, to
24 get a reasonable accommodation?

25 A. I did not.

CROSS EXAMINATION - SGT. J. FONG

1 Q. Did you as a supervisor ever tell her to
2 contact the Office of Equity and Inclusion so she could
3 get a reasonable accommodation to help her with her
4 caretaking responsibilities?

5 A. No, I don't. But she's appeared for, she
6 goes on her own.

7 Q. I'm asking about your role as a supervisor.

8 A. Yes.

9 Q. That's part of your duties and
10 responsibilities --

11 MR. GREEN: Objection. Counsel should not
12 be saying what the witness's duties and
13 responsibilities are. He should not be testifying.

14 HONORABLE MALDONADO: Just rephrase your
15 question.

16 MR. SANDERS: I'll rephrase.

17 Q. You have certain duties and obligations as
18 supervisor, correct?

19 A. Yes.

20 Q. Part of your Department's training, do you
21 learn about reasonable accommodation that one of the
22 things you were taught about?

23 A. It's in the Patrol Guide.

24 Q. I don't know. I'm asking you about your
25 training?

CROSS EXAMINATION - SGT. J. FONG

1 A. Yeah.

2 Q. So you're aware at the time your member was
3 having a problem managing the condition of her mother
4 as an employee, right, were you aware of that?

5 A. I know her mom's situation at the time, yes.

6 Q. You as a supervisor consistent with your
7 training, did you ever assist her in any way to help
8 her to use the Department's policies to manage her
9 mother's condition as well as to take care of herself
10 at any time?

11 A. No.

12 Q. Part of your duties and responsibilities when
13 you received your training as a sergeant is that
14 there's a thing that's called discretion, how to handle
15 and manage personal related matters. Do you remember
16 that part of your B mock training?

17 A. Yes.

18 Q. Is that written anywhere that you as a
19 supervisor have a certain amount of discretion, that
20 written anywhere?

21 A. No.

22 Q. So at the time when Assistant Chief
23 Henderson. By the way, have you ever been an assistant
24 chief?

25 A. No. I wish in my life.

CROSS EXAMINATION - SGT. J. FONG

1 Q. I know. I have to ask these questions. Are
2 you aware whether what his level and scope of
3 discretion he has as Assistant Chief Henderson?

4 A. No.

5 Q. When you said a little bit earlier that you
6 followed orders, isn't it a condition in the police
7 department that you're supposed to follow lawful
8 orders, right?

9 A. Yes.

10 Q. So at the time you were given an order, you
11 believed that it was lawful, right?

12 A. Yes.

13 Q. Because if it wasn't lawful, then you have an
14 obligation not to follow it, right?

15 A. Yes.

16 Q. And then also notify the Internal Affairs?

17 A. Yes.

18 Q. At that time, did you notify Internal Affairs
19 Bureau that there's corruption at Brooklyn North
20 meaning that Henderson is giving favorable treatment to
21 subordinate Smith?

22 A. No.

23 Q. Did you believe at the time he was giving
24 favorable treatment that was inconsistent with his
25 scope of discretion at the time?

CROSS EXAMINATION - SGT. J. FONG

1 A. No.

2 Q. You were asked questions that you
3 subsequently became aware. So after you were given
4 this command discipline, right?

5 A. Yes.

6 Q. And you signed this command discipline,
7 right?

8 A. Yes.

9 Q. Did you read what this discipline suggests
10 that you were aware that Smith was engaging in a form
11 of serious misconduct and you failed to notify Internal
12 Affairs, that's what this command discipline says,
13 right?

14 HONORABLE MALDONADO: If you recall.

15 A. Yes.

16 Q. Is that what you did? You're saying you
17 agreed the Department's version that you were aware of
18 Smith committing misconduct and you failed to take
19 action; is that what you did?

20 A. That's what I signed.

21 Q. I know that's what you signed. I'm asking is
22 that what you did?

23 A. No.

24 MR. SANDERS: Nothing further. One other
25 thing.

RE-DIRECT EXAMINATION - SGT. J. FONG

1 Q. During the time of this incident. The time
2 period of the period in question from 2024 to 2025, did
3 you ever have a conversation with Smith while she was
4 taking care of her mom before she passed away?

5 A. After her mom passed away, no.

6 Q. Do you know whether or not she was staying
7 out because of caregiving PTSD, related PTSD?

8 A. No.

9 Q. Did you see the condition of Smith during the
10 time period between February of 2024 and March of 2025?

11 A. No.

12 Q. And did Smith ever tell you that she wants
13 you to make certain entries in the payroll system or
14 the management system to account for her time at work?

15 A. No.

16 Q. And did you do this on your own volition?

17 A. Like I said I followed orders.

18 Q. So did someone specifically tell you to make
19 entries and assist to account for her checking in?

20 A. I don't recall that part.

21 Q. But Smith didn't tell you to do it, right?

22 A. Not that I can recall.

23 MR. GREEN: I have a couple.

24 HONORABLE MALDONADO: Go ahead.

25 RE-DIRECT EXAMINATION BY

RE-DIRECT EXAMINATION - SGT. J. FONG

1 MR. GREEN:

2 Q. Sergeant, what did you think would happen to
3 you if you challenged the direction that you were given
4 or if you questioned the direction that you were given
5 that she was working from home and it was authorized?

6 A. I'm sorry. Say that one more time.

7 Q. What did you think would happen if you had
8 questioned it?

9 A. It would be punitive punishment.

10 Q. For questioning something?

11 A. If I'm questioning the chief?

12 Q. Yes. What would happen?

13 A. I would think either immediate transfer.

14 Q. You said a little while ago under direct
15 examination that there weren't any duties of a member
16 of the security detail that could actually be performed
17 from home. So did you understand that to mean that
18 Detective Smith wasn't actually doing any police work?

19 A. She was not there.

20 Q. I'm sorry?

21 A. She was not there to perform the security
22 duty.

23 Q. So she wasn't performing any police work if
24 she was at home, right?

25 A. No.

RE-CROSS EXAMINATION - SGT. J. FONG

1 Q. Did you mention that concern to the chief?

2 A. I do not have direct conversation with the
3 chief.

4 Q. Why not?

5 A. I did not.

6 Q. Why didn't you say hey chief --

7 A. The chief of the command --

8 HONORABLE MALDONADO: I think we're going.
9 I'm not even sure this is relevant. There was no
10 conversation. That's it. Let's move on.

11 Q. Do you know the rules and procedures within
12 the Department concerning requests for extended leave
13 or any type of accommodations?

14 A. Yeah. It has to go through employee
15 relations.

16 Q. Does it have to be put in writing?

17 A. Yes.

18 HONORABLE MALDONADO: Counsel, I'm not
19 sure where we're going with these questions.

20 MR. GREEN: Fair enough, Commissioner.
21 Nothing further.

22 MR. SANDERS: One question about the
23 retaliation since he mentioned it.

24 RE-CROSS EXAMINATION BY

25 MR. SANDERS:

PROCEEDINGS

1 Q. Did you report to the Department that you
2 were afraid of being retaliated against by Assistant
3 Chief Henderson if you challenged his arrangement?

4 A. No.

5 MR. SANDERS: Nothing further. Thank you.

6 HONORABLE MALDONADO: Thank you very much,
7 sir. You are excused.

8 (Whereupon, SERGEANT JUN FONG left the
9 witness stand.)

10 HONORABLE MALDONADO: Off the record.

11 (Whereupon, a discussion was held off the
12 record.)

13 HONORABLE MALDONADO: Back on the record.
14 We will call our next witness.

15 MR. GREEN: The Department calls Sergeant
16 Donovan Hunt.

17 {Whereupon, SERGEANT DONOVAN HUNT was
18 sworn in by HONORABLE ROSEMARIE MALDONADO.)

19 SERGEANT HUNT: I do.

20 COURT OFFICER CARRINGTON: Please state
21 your first and last name.

22 SERGEANT HUNT: Sergeant Donovan Hunt.

23 COURT OFFICER CARRINGTON: Spell your
24 first and last name.

25 SERGEANT HUNT: D-O-N-O-V-A-N, H-U-N-T.

DIRECT EXAMINATION - SGT. D. HUNT

1 HONORABLE MALDONADO: Mr. Green, you may
2 proceed.

3 MR. GREEN: Thank you.

4 DIRECT EXAMINATION BY

5 MR. GREEN:

6 Q. Good afternoon, sergeant.

7 A. Good afternoon.

8 Q. Sergeant, approximately how long have you
9 served with the NYPD approximately?

10 A. Twenty-three years.

11 Q. Where have you worked before your current
12 post?

13 A. I did 19 years in the 84th Precinct. Got
14 promoted and went to the 90th Precinct for about a
15 year. And then I was transferred to Patrol Borough
16 Brooklyn North to do FTU for about six months. And
17 then I went back to the 90th Precinct for about a
18 month. And then back to Patrol Borough Brooklyn North,
19 yeah, from then.

20 Q. When you were assigned in your last time to
21 Patrol Borough Brooklyn North, were you initially
22 assigned as the supervisor of the security detail or
23 something else?

24 A. No. I came in Patrol Borough Brooklyn North,
25 I was a school sergeant for the Patrol Borough Brooklyn

DIRECT EXAMINATION - SGT. D. HUNT

1 North.

2 Q. What did the school sergeant do?

3 A. I supervised. I oversaw all ten commands in
4 terms of anything that was youth related. I was the
5 liaison to schools in Brooklyn North. If they needed
6 to get in contact with anybody within the precincts,
7 that's pretty much what I did.

8 Q. In the command, who was your direct
9 supervisor?

10 A. Lieutenant Witten.

11 Q. Did there come a time that you took over as
12 sergeant or supervisor of the security detail of Patrol
13 Borough Brooklyn North?

14 A. Yes.

15 Q. And you took over for Sergeant Fong?

16 A. Correct.

17 Q. Approximately when did that occur?

18 A. Around November of 2024.

19 Q. Now, before taking over Sergeant Fong's
20 duties and responsibilities, did you know Detective
21 Jaenice Smith, the Respondent, in this case?

22 A. Yes.

23 Q. How did you know her?

24 A. I know her in passing. She used to work for
25 the wheel, Patrol Borough Brooklyn North when they

DIRECT EXAMINATION - SGT. D. HUNT

1 turned out of the borough at 179 Wilson.

2 Q. And then at some point, the wheel even though
3 it was assigned, you could be assigned to Brooklyn
4 North, you turned out of 1PP, correct?

5 A. Correct.

6 Q. Did you at some point become aware that
7 Detective Smith was then transferred from the wheel at
8 1PP to the Patrol Borough Brooklyn North security
9 detail?

10 A. Yes. Well, when I took over for
11 Sergeant Fong is when I found out that she was a part
12 of the security team.

13 Q. Did you at any time know about
14 Detective Smith's mother's illness?

15 A. Not before I took over, no.

16 HONORABLE MALDONADO: I'm sorry. You're
17 mumbling. Speak clearly. I didn't hear your answer.

18 SERGEANT HUNT: No. Not before I took
19 over the security team for Sergeant Fong.

20 Q. Now how did you learn of Detective Smith's
21 mother's illness?

22 A. Basically when I took over for Sergeant Fong.
23 We went over all of his duties and responsibilities,
24 who he was in charge of. When we started talking about
25 scheduling, that's when he told me about

DIRECT EXAMINATION - SGT. D. HUNT

1 Detective Smith and her mom being sick.

2 Q. In substance what did he tell you?

3 A. Well, at the time we were talking about
4 scheduling. So we scheduled, when it came time to
5 schedule Detective Smith, he just told me she wasn't
6 there. That she wasn't, you know, she had an
7 accommodation from the chief. So not to worry about
8 scheduling her because she wasn't going to be here.

9 Q. How, if at all, did this effect your
10 scheduling of the members assigned to that command?

11 A. Well, I mean, in terms of manpower resources?

12 Q. Yes.

13 A. When it came time to if somebody was on
14 vacation or if the person she worked with went on
15 vacation, then we would have to find someone else to
16 cover the post because she wasn't there.

17 Q. Did you ever reach out to Detective Smith and
18 contact her and say hey we need you to come back and
19 fill in because your partner, the person you work with,
20 wants to take a vacation?

21 A. No.

22 Q. Why not?

23 A. Because I was just under the impression that
24 whenever the accommodation was, it was already
25 implemented for her to come back. That's when she

DIRECT EXAMINATION - SGT. D. HUNT

1 would come back.

2 Q. Did you ever have any conversation directly
3 with Lieutenant Witten about the arrangement?

4 A. No.

5 Q. Did you ever have any conversation with
6 Chief Henderson about this?

7 A. No.

8 Q. Are there any duties and responsibilities of
9 a member of service, even a uniformed member of service
10 assigned to the Patrol Borough Brooklyn North security
11 detail that can actually be performed from home?

12 A. In terms of security, no.

13 Q. How then could she be carried as working from
14 home?

15 MR. SANDERS: Objection.

16 HONORABLE MALDONADO: I will allow it.

17 MR. GREEN: I'll withdraw that question
18 and ask it differently.

19 Q. If you had certain concerns about whether or
20 not she could perform any police work from home, did
21 you raise those concerns with anyone?

22 A. I didn't, no.

23 Q. Why not?

24 A. Because the accommodation was already
25 implemented before I got there and I didn't know the

DIRECT EXAMINATION - SGT. D. HUNT

1 details of it. I just assumed that whatever was worked
2 out was already taken care before I got there.

3 Q. Did you inquire as to the details of the
4 arrangement that had been made?

5 A. No.

6 Q. Did you make any assumptions about the
7 details of the arrangement?

8 A. I didn't, know.

9 Q. Did there ever come a time Detective Smith
10 contacted you regarding personnel or manpower issues in
11 the command?

12 A. No.

13 Q. Did there ever come a time that
14 Detective Smith contacted you requesting individual
15 days off?

16 A. Yes.

17 Q. Did it strike you as strange that someone who
18 wasn't actually at work was requesting time off?

19 A. At the time, no. I didn't really think about
20 it.

21 Q. How was this put in place, that is how did
22 you know that Detective Smith would be contacting you
23 regarding requesting days off?

24 A. She would text message me requesting time
25 off.

DIRECT EXAMINATION - SGT. D. HUNT

1 Q. About how many times, if you know, did that
2 occur?

3 A. I don't really know. It wasn't that many,
4 though.

5 Q. How at Brooklyn North, specifically the
6 security detail, was attendance documented?

7 A. Through a sign-in sheet.

8 Q. If a member of the unit wasn't able to sign
9 in personally, how was his or her attendance
10 documented?

11 A. Through the sign-in sheet through a member
12 from the security team.

13 Q. Now do you know how Detective Smith's
14 attendance was documented?

15 A. It was she was getting signed in.

16 Q. By who?

17 A. By members of the security team.

18 Q. And by signed in, you don't actually mean
19 physically signing it. You mean entering her tax
20 number in the attendance application?

21 A. That I'm not aware of.

22 Q. Did you yourself ever mark her as present for
23 duty when she was not?

24 A. No.

25 Q. Do you know specifically that other members

DIRECT EXAMINATION - SGT. D. HUNT

1 members of service under your supervision did?

2 A. Yes.

3 Q. Did you ever question that?

4 A. No.

5 Q. Did they also mark her end of tour at the
6 conclusion of each workday?

7 A. Yes.

8 Q. Did you ever question that?

9 A. No.

10 Q. How did you know when you took over as
11 supervisor of the security detail that that was how her
12 attendance was being documented?

13 A. I don't remember when exactly I became aware
14 of it. But I did become aware at a certain point.

15 Q. Is there a reason that you didn't question
16 it?

17 A. I didn't question it at the time because the
18 accommodation was already implemented before I got
19 there.

20 Q. Did you subsequently learn that there was
21 something wrong with it?

22 A. There was something wrong with the
23 accommodation?

24 Q. Yes. The arrangement that had been made.

25 A. Well, I didn't know until I got questioned

DIRECT EXAMINATION - SGT. D. HUNT

1 about it by the Department.

2 Q. Did there come a time that somebody under
3 your supervision asked you if Detective Smith was
4 coming back to work?

5 A. Yes.

6 Q. First of all, approximately when did that
7 take place?

8 A. I want to say late January, early February,
9 maybe.

10 Q. Now, did you attend the funeral of
11 Detective Smith's mother?

12 A. I did.

13 Q. Do you remember approximately when that took
14 place?

15 A. The funeral was in December.

16 Q. Do you know why Detective Smith did not
17 return to work after that?

18 A. No.

19 Q. Who came to you in January or February of
20 2025 and said hey, is she coming back?

21 A. P.O. Richard.

22 Q. Who is P.O. Richard?

23 A. He's one of the security members of the
24 detail.

25 Q. Is he also the union delegate at that

DIRECT EXAMINATION - SGT. D. HUNT

1 command?

2 A. Yes.

3 Q. And when P.O. Richard came to you and said
4 hey, is she coming back, her, mom you know, passed
5 away, what did you do?

6 A. I told him that I would ask
7 Lieutenant Witten.

8 Q. And did you?

9 A. I did, yes.

10 Q. When was that, when did you speak to her?

11 A. That was the same day. Right after he asked
12 me.

13 Q. What was Lieutenant Witten's response?

14 A. She said she would ask Chief Henderson about
15 it.

16 Q. Did you ever hear back from her about it?

17 A. No.

18 Q. Did at that point did you believe that there
19 was something wrong with the arrangement that was made?

20 A. At the time I didn't know the details of the
21 accommodation so I didn't know whether it was right or
22 wrong.

23 Q. In early March, March 6th or 7th of 2025, did
24 there come a time that you saw and/or spoke with
25 Detective Smith in person?

DIRECT EXAMINATION - SGT. D. HUNT

1 A. Yes.

2 Q. Could you tell the Court what happened?

3 A. That day, I had the pension statements given
4 out every year. I was in position of everybody's
5 pension statement and she requested her.

6 Q. What is a pension statement?

7 A. Just we get it annually. It pretty much lets
8 us know how much money we have in the pension and how
9 much we contributed and some other details.

10 Q. Continue, please.

11 A. She let me know that she was going to come
12 down either that day or sometime after. And she wanted
13 to know if she could get her pension statement.

14 Q. What did you say to her or do?

15 A. I told her I would give it to her.

16 Q. And did there come a time shortly after that
17 conversation that you actually saw her?

18 A. Yes.

19 Q. Describe what occurred, under what
20 circumstances and where you were?

21 A. We were in the building. It was early
22 afternoon when I saw her. I had a pension statement, I
23 gave her the pension statement. And then she asked me
24 about the details of the duties and the
25 responsibilities of the security team, like what they

DIRECT EXAMINATION - SGT. D. HUNT

1 do on a daily basis. And I pretty much told her
2 somewhat of the details that security performed every
3 day.

4 Q. She had been assigned to that security detail
5 at that point for about 13 months, correct?

6 A. Correct.

7 Q. What did you think of her request of you at
8 that point as to what the job was for someone assigned
9 where she was assigned?

10 A. I figured she was going to come back to work
11 and, you know, she wanted to know what the job was that
12 she was going to be doing. That's what we spoke about.
13 That's what I told her. I thought we were preparing
14 for her to come back.

15 Q. Did she ever come back?

16 A. No.

17 Q. In fact, is it fair to say she never appeared
18 for work once during the entire time you were her
19 supervisor there?

20 A. That's correct.

21 Q. In connection with your role in this matter,
22 did you accept a command discipline?

23 A. I did.

24 MR. GREEN: I'm going to hand up a
25 two-page document this time, which has been admitted

CROSS EXAMINATION - SGT. D. HUNT

1 into evidence as Department's Exhibit 18.

2 (Whereupon, the aforementioned exhibit was
3 presented to the witness on the stand.)

4 Q. Sergeant, that two-page document the
5 adjudicated command discipline or a copy of the
6 adjudicated command discipline that you were issued in
7 connection with this?

8 A. Yes.

9 Q. As you sit here today, do you question
10 whether or not the arrangement that was made for
11 Detective Smith during the time that you were her
12 supervisor did not comport with Department rules and
13 procedures, do you question that at all? Well, what do
14 you believe regarding whether or not this arrangement
15 followed Department rules and procedures?

16 A. Well, I guess it didn't because, you know. I
17 didn't know the details of it. So that's where it was.

18 Q. You didn't ask?

19 A. And I didn't ask, no. And policy says that I
20 should've.

21 MR. GREEN: Nothing further, Commissioner.

22 HONORABLE MALDONADO: Mr. Sanders.

23 MR. SANDERS: Yes.

24 CROSS EXAMINATION BY

25 MR. SANDERS:

CROSS EXAMINATION - SGT. D. HUNT

1 Q. Starting backwards on the command discipline.
2 Is it fair to say you signed this command discipline to
3 resolve the disciplinary matter against you?

4 A. Yes.

5 Q. Does that mean that you agree with what the
6 contents of it which essentially says that you knew
7 about police corruption and you didn't take any action,
8 did you agree with that?

9 A. I didn't know the details of it.

10 Q. I'm asking you. It says that you essentially
11 knew about this arrangement about her being away from
12 work and you failed to report it, in other words she
13 engaged in corruption; is that true?

14 A. That's correct.

15 Q. You knew that she was involved in corruption?

16 A. Well, I knew that she wasn't at work.

17 Q. Okay, that's different than saying you knew
18 that she engaged in corrupt activity meaning staying
19 out of work to benefit herself, you agree, right?

20 A. I know that she wasn't at work and I didn't
21 inquire about why, and that's why I got in trouble.

22 Q. I'm asking you a very specific question. The
23 words mean something.

24 A. Okay.

25 Q. There's just suggestions that you knew about

CROSS EXAMINATION - SGT. D. HUNT

1 her engaging in corruption and stealing time and money
2 and you didn't do anything about it; is that true?

3 A. That I knew about that she was stealing time,
4 no, I didn't know that she was stealing time. At the
5 time, I just knew that she wasn't at work and I didn't
6 inquire about why she wasn't at work.

7 Q. Okay that's what you do know, right?

8 A. Correct.

9 Q. Do you know whether or not. You keep using
10 the word accommodation, right?

11 A. Correct.

12 Q. And the Department keep using arrangement.
13 Why are you using accommodation?

14 A. Because that's the word I just decided to
15 use.

16 Q. Is it related to the fact that you knew about
17 at least at some point that her mom was having terminal
18 conditions and that she was trying to take care of her
19 and manage her own life at the time?

20 A. Correct.

21 Q. That's why you're using the word
22 accommodation?

23 A. Correct.

24 Q. Where did you learn that word accommodation?

25 MR. GREEN: Objection.

CROSS EXAMINATION - SGT. D. HUNT

1 HONORABLE MALDONADO: I'll give him some
2 leeway. Go ahead, answer.

3 A. Accommodation was just a word I used because
4 that's how I understood it to be.

5 Q. Did you learn that as part of your training
6 as a supervisor when you went through B mock?

7 A. Accommodation?

8 Q. Yes, like reasonable accommodation?

9 A. Yeah. I mean I don't really remember the
10 details of it, but yes.

11 Q. So at the time of the accommodation, did you
12 believe it was within the chief's right to do it?

13 A. At the time that it was. I didn't know the
14 details of it so if the chief said that she was able to
15 get off, that's all I went off of.

16 Q. I understand, but you're a supervisor, right?

17 A. Correct.

18 Q. You're assuming that if some manager above
19 you gives you an order that that's in compliance with
20 Department policy, right?

21 A. Correct.

22 Q. Was there any indication of what he did was
23 not in compliance within Department's policy at the
24 time you learned of it?

25 A. No.

CROSS EXAMINATION - SGT. D. HUNT

1 Q. Did you call Internal Affairs and say hey I
2 have Ms. Smith, she's over here stealing time and
3 money?

4 A. I didn't.

5 Q. Did you ever do that at any point?

6 A. I didn't.

7 Q. Did you ever report Chief Henderson to
8 Internal Affairs suggesting that he's giving favor
9 treatment to subordinates because she's his friend?

10 A. No.

11 Q. When you saw Smith in person as a supervisor,
12 did you ask her how she was doing as a person as an
13 employee?

14 A. I don't remember.

15 Q. Is that part of your duties and
16 responsibilities as sergeant to check on the
17 well-beings of your subordinates?

18 A. I mean, maybe. I guess.

19 Q. Did you suggest whether or not asking her how
20 she doing whether or not she should be referred to
21 Health and Wellness?

22 A. No. I don't remember doing that, no.

23 Q. Health and Wellness is supposed to be here to
24 help members of the service, right, going through
25 difficult times, correct?

CROSS EXAMINATION - SGT. D. HUNT

1 A. Correct.

2 Q. Did she ever tell you that she was still out
3 because she was diagnosed with caregiving PTSD?

4 A. No.

5 Q. She never told you that?

6 A. No.

7 Q. Did she ever tell you she wanted to change
8 her assignment because of the connection her mother had
9 to her previous assignment that she doesn't want to be
10 in areas that remind her of her mother?

11 A. No.

12 Q. Now these sign-in and sign-out, did Smith
13 ever tell you to sign her in and sign out?

14 A. No.

15 Q. Do you know why that was done?

16 A. Why she was being signed in and signed out?

17 Q. Yes.

18 A. No.

19 Q. Did you ask any of your subordinates why they
20 were doing it?

21 A. No.

22 Q. Did you assume as a supervisor that this was
23 done as part of the accommodation?

24 A. Yes.

25 Q. Did you think that as a violation of

PROCEEDINGS

1 Department policy?

2 A. Not at the time, no.

3 MR. SANDERS: Nothing further. Thank you.

4 MR. GREEN: No.

5 HONORABLE MALDONADO: You're excused, sir.

6 Thank you.

7 (Whereupon, SERGEANT DONOVAN HUNT left the
8 witness stand.)

9 HONORABLE MALDONADO: Let's call our next
10 witness.

11 MR. GREEN: Department calls Police
12 Officer Wilson Richard.

13 {Whereupon, POLICE OFFICER WILSON RICHARD
14 was sworn in by HONORABLE ROSEMARIE MALDONADO.)

15 POLICE OFFICER RICHARD: I do.

16 COURT OFFICER CARRINGTON: Please state
17 your first and last name.

18 POLICE OFFICER RICHARD: Wilson Richard.

19 COURT OFFICER CARRINGTON: Spell your
20 first and last name.

21 POLICE OFFICER RICHARD: W-I-L-S-O-N,
22 R-I-C-H-A-R-D.

23 HONORABLE MALDONADO: You may proceed,
24 Mr. Green.

25 MR. GREEN: Thank you, Commissioner.

DIRECT EXAMINATION - P.O. W. RICHARD

1 DIRECT EXAMINATION BY

2 MR. GREEN:

3 Q. Good afternoon, officer.

4 A. Good morning.

5 Q. Officer, how long have you served with NYPD?

6 A. Eighteen plus years.

7 Q. Where have you been assigned?

8 A. I was in IRT in the 90. Then I was in task
9 force for about seven and a half years. Then I do
10 borough.

11 Q. Since you've been assigned to the Patrol
12 Borough Brooklyn North, have you always been assigned
13 to the security detail?

14 A. Yes, sir.

15 Q. How long has that been, sir?

16 A. I think it was from 2015 or 2016. When task
17 force merged to SIG, I stayed at the borough.

18 Q. Are you the senior police officer in your
19 command?

20 A. No.

21 Q. Are you a union delegate at your command?

22 A. Yes.

23 Q. Do you know the Respondent in this case,
24 Detective Jaenice Smith?

25 A. Yes.

DIRECT EXAMINATION - P.O. W. RICHARD

1 Q. How do you know her, sir?

2 A. She worked at the wheel.

3 Q. What is the wheel?

4 A. The wheel is the Brooklyn North wheel. They
5 answer calls that are from the other ten precincts in
6 Brooklyn North. And whatever comes in comes to them
7 and they refer you to the senior supervisors.

8 Q. Were you aware that you were assigned to the
9 Patrol Borough Brooklyn North security detail on
10 February 7, 2024?

11 A. Yes.

12 Q. How did you became aware of that?

13 A. Well, the guys brought it to my attention
14 that they were signing her in. After they told me
15 that, I went to my immediate supervisor, Sergeant Fong,
16 to ask him why do they have to sign her in. And he
17 told me that it's above his pay grade but it's okay for
18 them to sign her in.

19 Q. When you said your guys, you mean?

20 A. I mean the POs. As a delegate, I mean the
21 POs.

22 Q. When you say sign her in, do you mean in the
23 attendance application?

24 A. Yes.

25 Q. Why were they doing that?

DIRECT EXAMINATION - P.O. W. RICHARD

1 A. They get the okay. Like I said, the sergeant
2 told me it was okay for them to do it. And I went back
3 and tell them sergeant said it's okay for them to do it
4 because it was above his pay grade. She had an
5 accommodation to stay home.

6 Q. Did you know the particular circumstances of
7 the arrangement that Detective Smith had?

8 A. No.

9 Q. Did you ask?

10 A. No.

11 Q. Why did you go to Sergeant Fong and ask about
12 this?

13 A. As a delegate I didn't want my guys to get
14 into any trouble.

15 Q. Why did you think that signing
16 Detective Smith in and out at the end of her tour could
17 possibly cause them trouble?

18 A. Because if a person is no-show and you sign
19 them in and out, it is a problem.

20 Q. When you say "no show," what do you mean, be
21 more specific?

22 A. Not coming to work. They calling in and they
23 call out.

24 Q. What are the duties and responsibilities of a
25 police officer assigned to the security unit?

DIRECT EXAMINATION - P.O. W. RICHARD

1 A. We have to, first of all, we have to maintain
2 security of the building inside and outside. We also
3 do inspection of the lots. And then, plus anyone who
4 comes in to make a report, we do entertain it. We take
5 the report and stuff.

6 Q. Are you able to perform any of those duties
7 at home?

8 A. No.

9 Q. Yet Detective Smith was assigned to that
10 command and working from home, so to speak?

11 A. Yes.

12 Q. Other than going to Sergeant Fong and saying
13 why are my guys signing her in and out, did you ever
14 ask anyone else any questions about it?

15 A. Yes. Earlier this year after I found out her
16 mother passed away and she was still calling in, I went
17 to my immediate supervisor, Sergeant Hunt, and asked
18 him why Detective Smith still calling in. And he told
19 me he's not sure but he's going to ask, find out from
20 Lieutenant Witten.

21 Q. Did you yourself ever make manual entries of
22 Detective Smith's attendance in the attendance
23 application?

24 A. Yes.

25 Q. Do you remember approximately how many times?

DIRECT EXAMINATION - P.O. W. RICHARD

1 A. No.

2 Q. And is it fair to say that every police
3 officer, all of your guys, also did?

4 A. Yes.

5 Q. Do you know who authorized this?

6 A. I have no idea. All the sergeant told me it
7 was above his pay grade.

8 Q. Did you ever speak to Detective Smith and say
9 how do you have this arrangement, what is this
10 arrangement?

11 A. No.

12 Q. Why not?

13 A. It's not for me to do.

14 Q. Did you ever make any inquiries of
15 Lieutenant Witten about it?

16 A. Yes. I asked Sergeant Hunt did he get to
17 talk to lieutenant and he told me yes. But she said
18 she would talk to the chief and get back to him but I
19 never got a response after this.

20 Q. Did you ever yourself speak to the
21 lieutenant?

22 A. No.

23 Q. Did you ever yourself speak to the chief
24 about it?

25 A. No. I follow chain of command.

DIRECT EXAMINATION - P.O. W. RICHARD

1 Q. Did you ever make any notifications outside
2 your command about the arrangement?

3 A. No.

4 Q. Why not?

5 A. It's not for me to do.

6 Q. What do you mean it's not for you to do?

7 A. I'm a PO. I'm a police officer.

8 Q. You're a uniformed member of the service,
9 correct?

10 A. Yes.

11 Q. Did you suspect there was some sort of
12 misconduct going on related to this?

13 A. Well, in my opinion, I'm a police officer. I
14 think it's the role of a supervisor and that's why I
15 brought it to their attention. And I think they
16 should've taken it from there.

17 Q. Did you ever get an answer to your question
18 at all?

19 A. No.

20 Q. Did you ever see Detective Smith actually at
21 work while she was assigned to the security detail?

22 A. No.

23 Q. Did you attend the funeral for her mother in
24 December 2024?

25 A. No.

CROSS EXAMINATION - P.O. W. RICHARD

1 MR. GREEN: Nothing further, Commissioner.

2 HONORABLE MALDONADO: Mr. Sanders.

3 MR. SANDERS: Briefly.

4 CROSS EXAMINATION BY

5 MR. SANDERS:

6 Q. So you were the PBA delegate, correct?

7 A. Yes, sir.

8 Q. At the time you were assigned as PBA
9 delegate, were you aware that one of your members that
10 at the time she was detective specialist?

11 A. Yes, she was a detective.

12 Q. Is that part of the PBA or DEA?

13 A. No, that's DEA.

14 Q. She's a member of the command and you're
15 still delegate, right?

16 A. Yes.

17 Q. Did you suggest to Smith that there's
18 services available to help her with caregiving needs as
19 well as taking care of herself at the same time, did
20 you ever do that?

21 A. No.

22 Q. You ever recall doing an interview with
23 Internal Affairs Bureau that you said something to the
24 effect that her mother is dead and gone, why doesn't
25 she return to work?

CROSS EXAMINATION - P.O. W. RICHARD

1 A. I said that to the sergeant that her mother
2 passed away, she's buried. And I think that why is she
3 still calling, she should be back at work.

4 Q. You didn't know what she was experiencing at
5 the time when you made that comment, right?

6 A. No, sir.

7 Q. Did you know whether or not that she was
8 actually suffering from caregiving PTSD relating to
9 watching her mother die?

10 A. No, sir.

11 Q. Yet, you were signing in and out as well?

12 A. I did, but I stopped after.

13 Q. I'm just asking if you did. You did, right?

14 A. Yes, sir.

15 Q. So based on your understanding of the
16 Department policy, that would be a violation of
17 Department policy, correct?

18 A. Yes, sir.

19 Q. But yet you were doing it, right?

20 A. Like I said, yes, I stopped doing it after
21 her mother was passed away and buried because at that
22 point I told the sergeant I do not feel comfortable
23 doing it. Because the accommodation was her mother was
24 sick and that's why she was home. At this point the
25 mother passed. God bless her soul. There was no need

CROSS EXAMINATION - P.O. W. RICHARD

1 for me to sign her in.

2 Q. Okay, so you signed in and out because you
3 believe that was part of her accommodation?

4 A. The accommodation that she got from the
5 chief. I guess from whatever it was, yeah.

6 Q. As a police officer, you're not a supervisor,
7 right?

8 A. That's correct.

9 Q. Even as a police officer, you have certain
10 discretion on how you handle things?

11 A. Yes, sir.

12 Q. Is that written on paper anywhere?

13 A. It's in the Patrol Guide, right, how, what
14 you should follow and I follow chain of command.

15 Q. No. I'm asking about discretion, about how
16 to handle things even as a PBA person. You worked as a
17 PBA delegate, right?

18 A. Yes, sir.

19 Q. You have a certain amount of discretion how
20 you handle things, right?

21 A. Yes, sir.

22 Q. Is that written on paper anywhere?

23 A. No, sir.

24 Q. You're not a chief, right?

25 A. No, sir.

CROSS EXAMINATION - P.O. W. RICHARD

1 Q. Do you know what level of any discretion he
2 has to manage personnel under his command?

3 A. No, sir.

4 Q. Do you know if anything. Well, let me ask
5 you this: Did you call Internal Affairs Bureau and say
6 hey, you have my officers in the Brooklyn North signing
7 in and out and this police officer hasn't shown up to
8 work, Detective Smith, did you ever do that?

9 A. No. I went to my union supervisor, like I
10 said.

11 Q. I'm just asking if you ever did it?

12 A. No, I didn't.

13 Q. Did you ever have a conversation with
14 Detective Smith?

15 A. No, sir.

16 Q. And did you ever have a conversation with
17 Henderson?

18 A. No, sir.

19 Q. What about Lieutenant Witten?

20 A. No, sir.

21 Q. Did you ever report Lieutenant Witten to the
22 Internal Affairs Bureau suggesting that whatever order
23 was being delegated down to her to you guys that she
24 was violating Department policy by having you guys sign
25 in and out?

PROCEEDINGS

1 A. No, sir.

2 Q. Did you ever report Sergeant Jones for the
3 same thing that suggests that somehow the signing in
4 and out was improper and inconsistent with policy?

5 A. You mean Sergeant Fong? No, sir.

6 Q. Fong, I mean, I'm sorry. And also
7 Sergeant Hunt, did you ever report him to the Internal
8 Affairs Bureau suggesting that whatever orders he would
9 give you was in violation of Department policy by
10 signing Detective Smith in and out?

11 A. No, sir.

12 MR. SANDERS: Nothing further.

13 MR. GREEN: I have nothing else. Thank
14 you.

15 HONORABLE MALDONADO: Thank you very much,
16 sir. You are excused.

17 (Whereupon, POLICE OFFICER DONOVAN HUNT
18 left the witness stand.)

19 HONORABLE MALDONADO: It's 1:20 now.
20 Let's come back at 2:30.

21 MR. GREEN: Before we do that, the only
22 exhibits that is on paper that I haven't shown or can
23 be handed up a copy of is the disposition of Chief
24 Henderson as well as the charges and specifications
25 issued to him. If the Court wishes for a copy of that,

PROCEEDINGS

1 I have.

2 HONORABLE MALDONADO: Yes. So the rest of
3 them are?

4 MR. GREEN: Are electronic recordings.

5 HONORABLE MALDONADO: Okay. Off the
6 record.

7 (Whereupon, a discussion was held off the
8 record.)

9 HONORABLE MALDONADO: Back on the record.
10 Mr. Green, anything else on behalf of the Department.

11 MR. GREEN: No, Commissioner. Subject to
12 the Respondent testifying on her own behalf, the
13 Department rests.

14 HONORABLE MALDONADO: Mr. Sanders.

15 MR. SANDERS: Okay. Respondent calls
16 herself, Detective Smith.

17 {Whereupon, DETECTIVE JAENICE SMITH was
18 sworn in by HONORABLE ROSEMARIE MALDONADO.)

19 DETECTIVE SMITH: Yes, ma'am.

20 COURT OFFICER CARRINGTON: Stay your first
21 and last name.

22 DETECTIVE SMITH: Jaenice Smith.

23 COURT OFFICER CARRINGTON: Spell your
24 first and last name.

25 DETECTIVE SMITH: J-A-E-N-I-C-E,

DIRECT EXAMINATION - DT. J. SMITH

1 S-M-I-T-H.

2 HONORABLE MALDONADO: Please remember to
3 keep your voice up and try to project as much as
4 possible. You may proceed, sir.

5 MR. SANDERS: Sure.

6 DIRECT EXAMINATION BY

7 MR. SANDERS:

8 Q. Good afternoon, Detective Smith.

9 A. Good afternoon.

10 Q. When were you appointed to the New York City
11 Police Department?

12 A. July 11, 2005.

13 Q. As part of your appointment to the New York
14 City Police Department, did you have to go through
15 training?

16 A. Yes, sir.

17 Q. Where did you receive the training?

18 A. The Police Academy.

19 Q. Just a brief description of your assignments.
20 After you left the Academy, where did you go?

21 A. I worked out of the 104th Precinct.

22 Q. How long were you at the 104, from what year
23 to what year?

24 A. 2005 to maybe 2009.

25 Q. Did there come a point in time when you

DIRECT EXAMINATION - DT. J. SMITH

1 changed your assignment?

2 A. Yes, sir.

3 Q. What was your next assignment?

4 A. I worked at Patrol Borough Queens North.

5 Q. How long were you assigned to Queens North?

6 A. A number of years.

7 Q. Did there come a point in time when you left
8 Queens North?

9 A. Yes.

10 Q. What was your next assignment?

11 A. I worked at the personnel bureau here at One
12 Police Plaza.

13 Q. From what year to what year?

14 A. I don't remember the exact years.

15 Q. You were there more than one year?

16 A. Yes.

17 Q. What was your job assignment at the time?

18 A. I was the executive assistant of retired
19 chief Diana Pizzuti.

20 Q. How long did you work for Pizzuti?

21 A. From the time I was in Queens North up until
22 she left the Department. I think it might've been 2017
23 or 2019. I'm not sure.

24 Q. Did there come a point in time your
25 assignment changed?

DIRECT EXAMINATION - DT. J. SMITH

1 A. Yes, sir.

2 Q. What was your next assignment?

3 A. From the time that Chief Pizzuti left the
4 department, I went to Internal Affairs for about nine
5 months.

6 Q. How long were you assigned to Internal
7 Affairs?

8 A. Just about nine months.

9 Q. Where were you assigned?

10 A. The command center at Hudson Street.

11 Q. How long were you at 315 Hudson Street?

12 A. Nine months.

13 Q. What was your next assignment?

14 A. Community Affairs Bureau.

15 Q. About what year?

16 A. It would've been 2019, early 2020.

17 Q. How long were you assigned there?

18 A. Maybe two years. It might've been from 2008
19 to 2020 when I went to Community Affairs.

20 Q. What was your next assignment?

21 A. After Community Affairs I was the executive
22 assistant to retired Chief Nilda Hofmann at Community
23 Affairs. I then went to Patrol Borough Brooklyn North.
24 I was the executive assistant to Assistant Chief Judith
25 Harrison.

DIRECT EXAMINATION - DT. J. SMITH

1 Q. How long did you work for Hofmann?

2 A. From 2018 to about 2020. COVID hit and then
3 things just kind of.

4 Q. Then you started working for Chief Harrison?

5 A. Yes.

6 Q. How long did you work for Chief Harrison?

7 A. 2021, maybe two years.

8 Q. While you worked with Chief Harrison, did
9 anything in your life change at that point?

10 A. In 2021, May of 2021 that's when my mother
11 was diagnosed with cervical cancer.

12 Q. At the time, were you her primary caregiver?

13 A. Yes, sir.

14 Q. At that time did you seek any Department
15 resources to help you manage your mom's condition?

16 A. Well, at that time, no. I just requested
17 because, like I said, I was one of our executive
18 assistants. I requested to be transferred to the
19 midnight wheel, they had an opening. So I could be
20 available during the day to take my mother back and
21 forth to her cancer and radiation treatments.

22 Q. What about your colleagues, did they do
23 anything at the time to assist you with trying to
24 manage yourself and your mom at the same time?

25 A. Yes. So that position was becoming

DIRECT EXAMINATION - DT. J. SMITH

1 available. The person who held the position had not
2 left just yet. So on the days I could not take her to
3 radiation and chemotherapy, the Community Affairs
4 officers from the 83rd Precinct would take her to her
5 appointment.

6 Q. Was that part of their duties and
7 responsibilities as police officers?

8 A. At the time, yes.

9 Q. How long did that occur that you were trying
10 to manage her health while still working in the
11 Department physically at work?

12 A. Like I said, it started in May of 2021. And
13 that went on until February 2024.

14 Q. Other than that, there was police officers
15 also in the 83rd Precinct also helping you in the
16 management of the care of your mom?

17 A. I'm sorry?

18 Q. These are officers, colleagues that you
19 worked with in the 83rd Precinct that helped you manage
20 and care of your mom?

21 A. Yes.

22 Q. This is while they were on duty?

23 A. Yes.

24 Q. They were using Department equipment?

25 A. Yes.

DIRECT EXAMINATION - DT. J. SMITH

1 Q. So it gets to a point in 2024, what changed?

2 A. Early February 2024, for the first time my
3 mother had complications. Her kidneys went into acute
4 failure and she had to be admitted into the hospital.

5 Q. What did you do as a primary caregiver?

6 A. Well, she was in the hospital for about
7 fifteen days. I stayed at the hospital with her
8 overnight. So while at the hospital, because my mother
9 also along with her cervical cancer, she was legally
10 blind in her right eye, low vision in her left. I
11 pretty much stayed at the hospital with her. I was a
12 health care proxy so any information that the doctors
13 had, they would give it to me. And I would pretty much
14 with her manage her decisions as far as like what next
15 treatments to be had.

16 And because she was having issues with her
17 kidneys, they weren't sure if she was going to have to
18 have surgery. They were a lot of tests they had ran on
19 why it was the issues with her kidney, they thought it
20 might've been her bladder. Because it was cervical
21 cancer and her tumors had started to grow. They didn't
22 know exactly what was happening. So I just kind of
23 managing that, talking to the doctors, figuring out
24 what her next steps of treatment would be.

25 Q. How were you managing your duties and

DIRECT EXAMINATION - DT. J. SMITH

1 responsibilities as a police officer at that time?

2 A. At the time I was not at work. I was at the
3 hospital with her full time. When all of this began, I
4 reached out and contacted members of the community. My
5 mother was the 83rd Precinct Community Council
6 President at the time that this happened. So community
7 bodies knew what was happening. I also let the borough
8 commander at the time Chief Henderson know what was
9 happening. And from then I was in communications with
10 Chief Henderson. Told him what was happening with her,
11 keeping him abreast.

12 I also notified the 85th Precinct commanding
13 officer and the XO. Because she was active at the time
14 so they all were aware. Chief Henderson knowing that I
15 was at the hospital with her but still at the time I
16 was assigned to the jock here at One Police Plaza
17 because they moved all the wheels over here. He had me
18 temporary transferred on the telephone message back to
19 Brooklyn North. And had me reporting to Brooklyn North
20 calling in and calling out at Brooklyn North so that I
21 could still be at the hospital with my mother while she
22 was receiving her treatments.

23 Q. At that time did you consider that an
24 accommodation?

25 A. Yes.

DIRECT EXAMINATION - DT. J. SMITH

1 Q. Was that anything written on paper?

2 A. No.

3 Q. How long did you do that?

4 A. I did that all the way up until I was
5 modified in March.

6 Q. Prior to that, just talking about the
7 hospital for a minute. Did he have you fill out a
8 reasonable accommodation form?

9 A. No.

10 Q. Did he talk about a reasonable accommodation
11 form?

12 A. No.

13 Q. Did he address it as an reasonable
14 accommodation?

15 A. No.

16 Q. What did you understand it to be?

17 A. He just told me that to stay there, take care
18 of my mom. He said not to worry about work and all the
19 other things, that he would take care of everything.

20 Q. What was your state of mind at the time?

21 A. Well, it was a lot of going on. Like I said
22 this was the first time my mother had been
23 hospitalized. Her condition had gotten increasingly
24 worse from the time she was admitted into the hospital.
25 She had a severe blood infection because of the

DIRECT EXAMINATION - DT. J. SMITH

1 blockage. We found it was a blockage in her kidney, a
2 bladder causing her kidneys to fail. It was just a lot
3 of going on. Yeah, it was just a lot of going on.

4 Q. So how are you managing at that time your
5 life?

6 A. Well, my life kind of got put on hold. You
7 know, I was with her 24 hours. Like I said, she had a
8 lot of different ailments happening at the same time.
9 Even with that, she was still very spicy and still very
10 active with the 83rd Precinct. So even though was
11 battling all these types of health issues, she was
12 still trying to get on her Zoom calls and still holding
13 meetings. So even though I was her health care proxy
14 and she's looking at tests and scans and surgeries, she
15 was still trying to manage her responsibilities as the
16 83rd Council President. So I was kind of juggling all
17 those things.

18 Q. At the time, how were you holding up as a
19 police officer to go back to working and engage in
20 police enforcement activities?

21 A. That wasn't something I was able to do at
22 that time.

23 Q. Did you have a conversation with then
24 Assistant Chief Henderson about that?

25 A. Yes.

DIRECT EXAMINATION - DT. J. SMITH

1 Q. What, if anything, did you tell him?

2 A. I told him everything that was happening with
3 my mother. I told him that because of the kidney issue
4 that she was no longer eligible for chemotherapy or
5 radiation and that her doctor recommended hospice
6 services but she refused.

7 Q. When he recommended hospice, what did you
8 understand that to mean?

9 A. That she wasn't going to survive.

10 Q. How did that affect you?

11 A. It was hard.

12 Q. Did you have discussion with Chief Henderson
13 about that?

14 A. I stayed in contact with him regularly about
15 everything that was happening with my mother. He knew
16 that she was no longer eligible for chemotherapy. He
17 knew that she was still fighting and still active in
18 her duties. And he just pretty much told me to, you
19 know, focus on her care, don't worry about work. Just
20 make sure she's good.

21 Q. And what did you do in response to his
22 direction?

23 A. I took care of my mom the best I could.

24 Q. Did you physically show up at work?

25 A. No.

DIRECT EXAMINATION - DT. J. SMITH

1 Q. Did you call in to work?

2 A. Yes.

3 Q. Why were you calling into work?

4 A. Because when he had me transferred back to
5 Brooklyn North, the way that I would be accounted for
6 was to be signed in and signed out so I wouldn't be
7 listed as AWOL or anything like that.

8 Q. Who told you that information?

9 A. Chief Henderson.

10 Q. Did he tell you that was going to be
11 executed?

12 A. No. He told me to call into the borough
13 building at the security desk.

14 Q. Did he tell you there's a particular person
15 to call?

16 A. No. Whoever answered.

17 Q. Did he ever refer your case to Health and
18 Wellness?

19 A. No. Not that I know of, no.

20 Q. What about did Health and Wellness ever
21 contact you?

22 A. No.

23 Q. What about the officer at Office of Equity
24 Inclusion, do you know if he ever referred you there?

25 A. I don't think so.

DIRECT EXAMINATION - DT. J. SMITH

1 Q. Did they ever contact you?

2 A. No.

3 Q. So you continued during this time. Did there
4 come a point in time when your mom passed away?

5 A. Yes.

6 Q. Did you tell Chief Henderson about that?

7 A. I did.

8 Q. What, if anything, did you tell him?

9 A. I told him that my mother passed. He knew
10 because he had come to visit her a couple of days
11 before she passed away. She started transitioning
12 right after Thanksgiving and I made him aware. I was
13 in contact with him the entire time my mother was sick
14 through text messages and phone calls. It was constant
15 conversation of communication of me updating him on
16 what's happening with her.

17 Q. Was he the only member of the executive staff
18 who knew you was out with this accommodation?

19 A. No.

20 Q. Who else knew about it?

21 A. The chief of the Department, at the time
22 Jeffrey Maddrey.

23 Q. Anyone else?

24 A. The first dep.

25 Q. Who is the first dep?

DIRECT EXAMINATION - DT. J. SMITH

1 A. Kinsella.

2 Q. Anyone else?

3 A. The commanding officer of the 83rd Precinct.

4 Q. Who is that?

5 A. At the time he was the Captain Poggioli, I'm
6 not sure, P-O-G-G-L-I-O.

7 Q. Under former Chief of Department Jeffrey
8 Maddrey, did he ever tell you that the accommodation.
9 Well, did he know that you was home being paid?

10 A. He knew I was home.

11 Q. What about First Deputy Commissioner Tania
12 Kinsella, did she know?

13 A. She knew. She came to the house. My mother
14 couldn't make it to the meeting that she had for all
15 the community council presidents. She wasn't strong
16 enough to leave the house. So she made arrangements
17 and she came to our house.

18 Q. Did First Deputy Commissioner Tania Kinsella
19 know that you were home being paid as an accommodation?

20 A. I'm not sure if she knew or not.

21 Q. So your mother then passes away in December,
22 right?

23 A. Yes.

24 Q. And then during the time between February and
25 December, how often would you communicate with then

DIRECT EXAMINATION - DT. J. SMITH

1 Assistant Chief Henderson?

2 A. Regularly.

3 Q. What kind of things would you communicate
4 with him about?

5 A. Just everything with my mom. I kept him
6 abreast of everything that was going on. He would text
7 me and ask how she was doing, ask how I was holding on.
8 If I needed anything to let him know and let the
9 Department know whatever I needed to.

10 Q. Was he your personal friend?

11 A. No.

12 Q. Prior to this, do you know who Henderson was?

13 A. I knew who he was, yes.

14 Q. Did you ever have any interaction with him
15 before asking him for an accommodation?

16 A. Other than him being the XO of the borough,
17 no.

18 Q. Now in December, what do you tell Henderson
19 after your mom passes away?

20 A. I went in and met with him. And I told him
21 what I was dealing with at the time. I was having some
22 mental health issues. Not necessarily because she
23 passed away, but because of the length of time that she
24 was passing away. She had cervical cancer, she was 76
25 so it literally destroyed her body from the inside out.

DIRECT EXAMINATION - DT. J. SMITH

1 And again, like I said, my mother was extremely spicy.
2 Because she still, the entire time she fought through.
3 And she believed she was going to get better. So she
4 stayed. She never stepped down from her duties as
5 Community Council President. She never stepped down
6 from her duties from the community board.

7 And she would constantly look to me for
8 reassurance that she was going to get better. She
9 would ask me how do you know, how are we going to know
10 when the cancer is out of my body now that the
11 radiation and the chemo was finished. And I would have
12 to pretty much lie to her the entire year and tell her
13 that, you know, you'll be fine. I didn't want to break
14 her spirit so I pretty much told her what I needed to
15 tell her in order to believe she would be okay.

16 Q. Did there come a point in time where you
17 sought the assistance of a mental health professional?

18 A. I was dealing with the mental health
19 professional the entire time my mother was sick.

20 Q. When did you start dealing with mental health
21 professionals?

22 A. It was really before 2024. But during 2024
23 once my mother went into the hospital and everything
24 kind of snowballed from there, I started talking to my
25 therapist twice a week. And sometimes in between, if I

DIRECT EXAMINATION - DT. J. SMITH

1 needed emergency appointments and such.

2 Q. Why were you speaking to her at least twice a
3 week and sometimes emergency appointments?

4 A. Because I was out having a really hard time
5 managing everything.

6 Q. Did you tell the Police Department about
7 that?

8 A. I told Henderson.

9 Q. Did he offer any Department assistance in
10 addition or to supplement what you already received?

11 A. No. He just told me do what I needed to do
12 to take care of my mental health.

13 Q. Did you tell him whether or not there was an
14 official diagnosis that you were given by a mental
15 health professional?

16 MR. GREEN: Objection. Commissioner, my
17 objection is this: This trial's been scheduled for
18 quite some time. There has been demand for reciprocal
19 discovery. Counsel has amended the documents that he's
20 indicating to the court and to me that he intended to
21 introduce into evidence. At no time has counsel ever
22 indicated that there were any medical records,
23 diagnoses, anything formal of that nature. All of that
24 would've been something the Department would be
25 entitled to have. To offer testimony about diagnosis

DIRECT EXAMINATION - DT. J. SMITH

1 at this point is improper and I would ask that it be
2 stricken.

3 MR. SANDERS: We don't have to deal with
4 the diagnosis. We can talk about her experiences and
5 what she told Henderson. We can stick with that.

6 HONORABLE MALDONADO: Okay. Let's take
7 stick with that.

8 Q. But you did tell him you had a diagnosis,
9 right, you don't have to say what it was. Did you tell
10 him something?

11 A. Yes.

12 Q. What did he tell you in response to that?

13 A. He said that, when he gave me the
14 accommodation to take care of my mother, that we didn't
15 know how long it would last. We didn't know how long
16 she would essentially be alive. And that he wasn't
17 looking for me to return back to work immediately and
18 that I should do what I needed to do to make sure that
19 my mental health was in tact before I return back to
20 work.

21 Q. During that whole entire period February of
22 2024 up until the time you were modified, where were
23 you located?

24 A. I was at my home.

25 Q. Were you always there?

DIRECT EXAMINATION - DT. J. SMITH

1 A. Yes.

2 Q. Did the members of the Department show up
3 there?

4 A. Yes.

5 Q. Were you hiding anywhere?

6 A. No.

7 Q. There comes a point in time where you were
8 visited by the Internal Affairs Bureau, right?

9 A. Yes.

10 Q. At that time in March you were modified,
11 right?

12 A. I was.

13 Q. During the course of this investigation, you
14 were asked questions about why you were out all this
15 time, right?

16 A. Yes.

17 Q. During the interview, did anyone from the
18 Internal Affairs Bureau point to a rule that says
19 Henderson couldn't give you this accommodation because
20 he's precluded from doing it; did anyone show you a
21 rule?

22 A. No.

23 Q. There were suggestions that you stole and did
24 all this stuff, right?

25 A. Yes.

DIRECT EXAMINATION - DT. J. SMITH

1 Q. Was it your intention to steal anything?

2 A. No.

3 Q. Did you steal anything?

4 A. No.

5 Q. What about these Department records, did you
6 tell anyone to change them?

7 A. No.

8 Q. Did you have any conversation with how to
9 facilitate this accommodation?

10 A. No.

11 Q. When was your 20th year?

12 MR. GREEN: Commissioner, can we have a
13 sidebar, please, on this issue?

14 MR. SANDERS: It's a simple question.

15 MR. GREEN: There's a reason.

16 MR. SANDERS: You know what I'm going to
17 do, we don't have to deal with that. We'll keep it
18 clean.

19 HONORABLE MALDONADO: Let's keep it clean.

20 MR. SANDERS: We'll deal with that later.

21 Q. Let me ask you another question. You were
22 modified, right?

23 A. Yes.

24 Q. And then you were given charges and
25 specifications in this case, right?

DIRECT EXAMINATION - DT. J. SMITH

1 A. Yes.

2 Q. Now, did anyone from the Legal Bureau ever
3 contact you about this accommodation that you were
4 given?

5 A. No.

6 Q. Let me ask you this: During this time period
7 from February 2024 until March of 2025, did you fill
8 out a reasonable accommodation form?

9 A. No.

10 Q. Why not?

11 A. Because Chief Henderson told me he would take
12 care of it. He would take care of everything.

13 HONORABLE MALDONADO: I'm sorry. I didn't
14 hear your response.

15 DETECTIVE SMITH: Chief Henderson said
16 that he would take care of what is necessary.

17 Q. At the time, what was his rank?

18 A. Assistant Chief.

19 Q. Is that an executive in the police
20 department?

21 A. Yes.

22 Q. Did you rely upon his representation?

23 A. Yes.

24 Q. Did you ever make any entries into the
25 Department system to account for your whereabouts?

CROSS EXAMINATION - DT. J. SMITH

1 A. No.

2 Q. While you were being interviewed, did anyone
3 talk to you about the EEO guidelines with respect to
4 reasonable accommodations?

5 A. The IAB interview?

6 Q. Yes.

7 A. No. They just asked me if I did any or
8 something like that. I don't remember exactly.

9 MR. SANDERS: Nothing further.

10 HONORABLE MALDONADO: Thank you,
11 Mr. Sanders. Mr. Green.

12 MR. GREEN: Yes, ma'am. Thank you.

13 CROSS EXAMINATION BY

14 MR. GREEN:

15 Q. Good afternoon, detective.

16 A. Good afternoon.

17 Q. I'm going to ask you questions. If there's
18 anything you don't understand or need repeated, please
19 just say so, okay?

20 A. Okay.

21 Q. Isn't it true that you were assigned
22 temporarily or otherwise to the Patrol Borough Brooklyn
23 North security detail February 7, 2024?

24 A. On or about, yes.

25 Q. Isn't it true that you did not appear present

CROSS EXAMINATION - DT. J. SMITH

1 for duty that is at work physically at Patrol Borough
2 Brooklyn North's security detail from February 7, 2024
3 through March 25, 2025?

4 A. I wasn't required to, no.

5 Q. Isn't it true that you were not present
6 physically at that location?

7 A. Yes.

8 Q. It's true also isn't it that when you had
9 initial conversations with Assistant Chief Henderson
10 about the arrangement that you had with him that he
11 told you to call the Patrol Borough Brooklyn North
12 security desk and tell whoever answered that you should
13 be entered as present for duty?

14 A. Yes. That was part of the accommodation.

15 Q. And isn't it true that you were told also to
16 make a similar phone call each workday at the
17 conclusion of your scheduled tour to be marked end of
18 tour?

19 A. Yes.

20 Q. And it's true isn't it that you understood
21 that the uniform member of service who answered the
22 telephone of that desk would be making manual entries
23 for you in the attendance application?

24 A. Yes.

25 Q. Each and every time you called, yes?

CROSS EXAMINATION - DT. J. SMITH

1 A. Correct.

2 Q. Isn't it true, also, that you performed no
3 official security detail duties at all from February 7,
4 2024 through March 25, 2025?

5 A. I wasn't required to, no.

6 Q. Putting aside whether you believe you were
7 required to. Isn't it true that you performed no
8 duties as a member of Patrol Borough Brooklyn North
9 security detail during that year?

10 A. No.

11 Q. It's not true?

12 A. I did not.

13 Q. Isn't it also true that you continued during
14 that period of time to receive time, pay and benefits
15 as if you were present for duty at work each and every
16 tour that you were required to be there?

17 A. Yes.

18 Q. Is it also true that you never applied for
19 any type of long term leave and never applied for any
20 type of official legal accommodation during that entire
21 period of time during that absence?

22 A. No.

23 Q. It's not true?

24 A. I did not.

25 Q. You did not apply for anything like that.

CROSS EXAMINATION - DT. J. SMITH

1 Did you familiarize yourself with the rules and
2 procedures of the NYPD regarding applying for such
3 leave during that period of time?

4 A. No.

5 Q. Did you inquire of anyone about applying for
6 any type of long term leave or accommodation during
7 that period of time?

8 A. No.

9 Q. Did anyone specifically tell you don't make
10 inquiries, don't inquire at all how to apply for a long
11 term leave?

12 A. Did anyone tell me?

13 Q. Did anyone specifically tell you not to,
14 don't inquire, don't look into applying for any type of
15 long term leave?

16 A. No. I wasn't in contact with anyone.

17 Q. Is it fair to say that you understood in
18 addition to your whereabouts being accounted for by
19 making those entries from the attendance application
20 that that was also a way for you to continue to get
21 paid?

22 A. I mean, yeah.

23 Q. Are you in any way contesting the value of
24 the time, pay and benefits that you received during
25 that period as described by Executive Director

CROSS EXAMINATION - DT. J. SMITH

1 Joseph Lodispoto?

2 A. I don't know the exact number.

3 Q. So are you in any way contesting that
4 Executive Director's calculation?

5 A. I don't know his exact calculation so I'm not
6 contesting anything.

7 Q. Is it true that you had been a POPPA
8 representative in your career?

9 A. Back in 2017 or so.

10 Q. Tell the court what POPPA is.

11 A. It's Police Officers Providing Peer
12 Assistance.

13 Q. What, if any, role does POPPA have or
14 representatives of POPPA have in applying for the
15 recognized accommodations or other types of legally
16 binding arrangements for members of the service in
17 need?

18 A. What is the role?

19 Q. Yes, what does POPPA do?

20 A. POPPA they provided peer assistance to other
21 police officers. So I was on the hot line. And
22 whenever you would be on call, if someone called who
23 was in crisis, you would speak with them and try to
24 help them resolve their issues.

25 Q. Was part of your being a POPPA representative

CROSS EXAMINATION - DT. J. SMITH

1 knowing about various resources the Department offered
2 its uniformed members of service in need?

3 A. Yes.

4 Q. Did you contact POPPA at any time during the
5 period you were absent from work?

6 A. No.

7 Q. Did you contact any of the resources that you
8 had referred to other members of this Department for as
9 a POPPA representative --

10 A. No because.

11 Q. During that period of time?

12 A. Because once chief told me not to worry about
13 work, I literally focused on caring for my mother.

14 Q. Now you indicated on direct examination that
15 former chief of Department Jeffrey Maddrey knew that
16 you were at home, you remember saying something like
17 that?

18 A. Yes.

19 Q. That's because he personally visited you
20 there?

21 A. He did. He visited my mother, not me.

22 Q. But you have conversations about the
23 arrangement that you had with Chief Maddrey regarding
24 calling in at the beginning of each tour and end of
25 each tour to have entries present for duty?

CROSS EXAMINATION - DT. J. SMITH

1 A. We didn't have a full conversation. He was
2 there to visit my mom.

3 Q. Similar question for first Deputy
4 Commissioner Kinsella. Did you have any conversations
5 with her at all about the arrangements that had been
6 put in place involving you calling in and causing
7 entries to be made in Department records?

8 A. No, I told her I was there with her 24/7.

9 Q. Did you tell either of them specifically 'I
10 never applied for any formal accommodation'?

11 A. We didn't have that long of a conversation.

12 Q. You also indicated that nothing was ever put
13 on paper. Is that your testimony regarding the
14 arrangements that were made?

15 A. That I know of at the time.

16 Q. You said that former Assistant
17 Chief Henderson was not a personal friend of yours,
18 correct?

19 A. No.

20 Q. You had known him, though, for 17, 18 years?

21 A. I know a lot of people in this Department for
22 17, 18 years. Not personally know, though.

23 Q. Is it fair to say he was a close personal
24 friend of your mother's?

25 A. No. They had a working relationship.

CROSS EXAMINATION - DT. J. SMITH

1 Q. Did it go beyond a working relationship?

2 A. No. She was 76.

3 Q. That's not. No. What I mean is did they
4 confer with each other, were they confidants, that is
5 did she speak with him about his role as the borough
6 commander as a supervisor in Brooklyn North?

7 A. As a community council president, yes. She
8 had conversations with all executives and some
9 non-executives in the boroughs.

10 Q. You went to Chief Henderson's office on or
11 about December 26, 2024, isn't that right?

12 A. Right.

13 Q. Was that your idea or his?

14 A. It was mine.

15 Q. Why did you go there?

16 A. Because I wanted to update him on my
17 condition, what was happening.

18 Q. And that was about a couple weeks after your
19 mother had passed away, correct?

20 A. Correct.

21 Q. And it was after your mother's funeral,
22 correct?

23 A. Correct.

24 Q. And you had a conversation with him about
25 your future plans, correct?

CROSS EXAMINATION - DT. J. SMITH

1 A. Correct.

2 Q. You indicated to him that you were
3 considering applying to the Community Affairs Bureau?

4 A. I was looking to transfer out of the borough.

5 Q. Specifically you wanted to be assigned to a
6 post out of Community Affairs on Pennsylvania Avenue?

7 A. Yes.

8 Q. You also told him that you wanted to stay,
9 that you were not prepared to return to work at that
10 time?

11 A. Correct.

12 Q. You said it was because of the stress and
13 other mental health issues that you were undergoing?

14 A. I was struggling, yes.

15 Q. And you also indicated that your son was
16 involved in some sort of weightlifting competition in
17 Albany that you wanted to attend, correct?

18 A. Yes.

19 Q. So you had family matters to attend to,
20 personal family matters that you wanted to be available
21 to attend?

22 A. Yes. We had just lost my mom so that was the
23 first competition he would be having after she passed
24 and I wanted to make sure I was there for him.

25 Q. And you believed and you expressed to him

CROSS EXAMINATION - DT. J. SMITH

1 that it was more important for you to have this
2 experience with your family than to return to work,
3 correct?

4 A. I didn't have that type of more important. I
5 just told him I wanted to support my son.

6 Q. Did you submit a leave of absence so you
7 could attend your son's competition?

8 A. Yes.

9 Q. But you still didn't want to return to work?

10 A. I don't think I was ready to return to work
11 at that time.

12 Q. Now at that time you said you were suffering
13 from?

14 A. PTSD.

15 Q. Mental health related issues, correct?

16 A. Correct.

17 Q. Did you ever go to the counselling services
18 unit of the NYPD?

19 A. No.

20 Q. Did you ever go to the psychology unit of the
21 NYPD?

22 A. I had a personal therapist so no.

23 Q. Did you ever contact members of the medical
24 division to seek using the unlimited sick leave with a
25 person of your rank and choice?

CROSS EXAMINATION - DT. J. SMITH

1 A. No.

2 Q. So you knew that you had a mental health
3 condition, illness, whatever you want to call it?

4 A. That's what I disclosed, yes.

5 Q. And you did not in any way contact the
6 medical division or report sick or anything like that
7 of that nature?

8 A. No, I had a conversation with chief and a
9 private conversation. And I disclosed everything to
10 him. I was extremely transparent and he told me to
11 continued what I had been doing and to take care of my
12 mental health.

13 Q. What exactly made you think that an assistant
14 chief, a borough commander had the authority to allow
15 you to have a no-show job for over 13 months with the
16 NYPD? Why would you a member of this Department with
17 17 to 18 years of experience think that existed, that
18 authority existed?

19 A. Because he said he did. Because he said he
20 had the authority. He had executive discretion as the
21 borough commander of Brooklyn North.

22 Q. Did you ever look if he did?

23 A. Sir, no. I was dealing with my mother at the
24 time. When this all happened he told me that as
25 borough commander he had the discretion to make that

CROSS EXAMINATION - DT. J. SMITH

1 decision. I believed him.

2 Q. You believed that he could authorize a
3 no-show job with the NYPD?

4 A. I believed what he did for me, he was capable
5 of doing. I didn't even work for him. He had me
6 transferred from patrol service back to Brooklyn North
7 specifically for this. So I believed everything he
8 told me.

9 Q. And you never looked at any rules,
10 procedures --

11 A. Absolutely not.

12 Q. Let me finish. Any rules, procedures,
13 guides?

14 A. No.

15 Q. Anything at all regarding what, if any,
16 authority he actually had, you never bothered to look
17 and see if he actually had that authority?

18 A. My mother was dying so no, I did not. The
19 moment he told me not to worry about it, I literally
20 stopped worrying about it. I was both trying to keep
21 her alive knowing she was going to die and keep her
22 pain free.

23 Q. And then you continued to stay out of work?

24 A. Yes.

25 Q. Believing that he still had the authority to

CROSS EXAMINATION - DT. J. SMITH

1 approve your continued no-show position for many, many
2 months to come, correct?

3 A. Correct.

4 Q. So you go to see him on or about December 26,
5 2024, you tell him you're not ready to return to work
6 or at the very least not ready to return to any
7 commands in Brooklyn North so you're looking to make
8 the transfer to the Community Affairs Bureau asking if
9 he could facilitate that?

10 A. Right. I talked to him about not wanting to
11 go back to the borough building.

12 Q. So at that point you have an open ended
13 no-show position when you leave his office; is that
14 right?

15 A. For the most part, yes.

16 Q. And you don't question that at all, that's
17 okay with you?

18 A. He immediately told me to do what I needed to
19 do to make sure my mental health was intact.

20 Q. So then you come back to his office on or
21 about March 6th or 7th, right?

22 A. Correct.

23 Q. Do you remember which of those days it was?

24 A. I think it was the 6th.

25 Q. Why did you go and see him on that day?

CROSS EXAMINATION - DT. J. SMITH

1 A. Because I was in constant contact with him
2 and I wanted to give him an update of my condition.

3 Q. Why on that day in person?

4 A. That's the day he was available.

5 Q. But you didn't come in a month earlier, you
6 came in then. Why? Why didn't you try to come in
7 sooner?

8 A. I had started reaching. I reached out to his
9 assistant to try get dates in February. And by the
10 time we went back and forth that was the date that was
11 available.

12 Q. After seeing him December 26th, you had this
13 open ended no-show position but you decide you're going
14 to go see him on or about March 6th. You go into his
15 office and you have conversation with him. Again, you
16 say, I'm not ready to come back to work, right?

17 A. It was a little bit more detailed than that.
18 I told him exactly what I was dealing with.

19 Q. And again, you never contacted any members of
20 the medical division?

21 A. No because I was in contact with him.

22 Q. But why do you think your contact with him
23 and your knowing of assistant chief change the rules
24 for you from every other member of the service?

25 A. That's not what I believed.

CROSS EXAMINATION - DT. J. SMITH

1 Q. Well, did you think at that time you were the
2 only member of the service who had mental health
3 issues?

4 A. No.

5 Q. Did you think you were the only member of
6 service who lost a loved one?

7 A. No.

8 Q. Why did you think that the rules about
9 getting extended leaves didn't apply to you that
10 everyone else had to follow?

11 A. That's not what I thought.

12 Q. But that's what you did, isn't it?

13 A. I followed the borough commander's directive.

14 Q. Which deviated from every rule in the book?

15 MR. SANDERS: Objection.

16 A. I don't know everybody else he gave an
17 accommodation to.

18 Q. You decided if this guy says it's okay, I
19 don't have to follow any of the rules?

20 A. It wasn't "this guy." He was borough
21 commander.

22 Q. Who happens to know your mother for many,
23 many years?

24 A. It had nothing to do with that.

25 HONORABLE MALDONADO: Counsel, you're

CROSS EXAMINATION - DT. J. SMITH

1 getting argumentative. You can make your arguments,
2 but not here.

3 Q. So in early March you go to see him and after
4 having a discussion, you somehow come up with the date
5 of April 18th as a date that you think you might be
6 ready to come back, right?

7 A. Yes.

8 Q. How was that date, how did you land on that
9 date?

10 A. That's just the date we came up with. By the
11 time we talked back and forth, it's the date that he
12 came up with.

13 Q. If all was going to plan, you would've
14 continued to have a no-show job with the NYPD until
15 around April 18th, right?

16 A. Correct.

17 Q. Which was roughly four plus months after your
18 mom passed away, correct?

19 A. Yes.

20 Q. Roughly about four months?

21 A. About.

22 Q. And you still at that point didn't have any
23 intention of notifying anyone else in the Department
24 who could actually authorize a legal accommodation or
25 legal leave of absence, right?

CROSS EXAMINATION - DT. J. SMITH

1 A. When I went to speak with chief in March, I
2 explained to him what was happening, mentioned what it
3 was. So I gave him details what it was, I told him my
4 therapist was willing to put me out sick. He told me
5 it wasn't necessary and I need to do what I needed to
6 do to take care of my mental health. So that's what I
7 did, sir.

8 Q. Initially, he told you do whatever you had to
9 do to take care of your mom and then do whatever you
10 have to do to take care of yourself?

11 A. Correct.

12 Q. And you don't notify anyone else about this
13 situation in the NYPD who requires notifications about
14 having mental health issues?

15 A. I wouldn't know who to notify beyond the
16 borough commander. That's who I was in contact with
17 directly.

18 Q. But you didn't call medical?

19 HONORABLE MALDONADO: Asked and answered.
20 Asked and answered.

21 MR. SANDERS: Note my objection.

22 Q. And your plan would've been to continue to
23 call and have yourself marked present for duty every
24 workday up until April 18th?

25 A. That's what I was instructed to do.

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1 MR. GREEN: Nothing further, Commissioner.

2 HONORABLE MALDONADO: Mr. Sanders?

3 MR. SANDERS: The Respondent rests.

4 HONORABLE MALDONADO: Thank you very much.

5 (Whereupon, DETECTIVE JAENICE SMITH left
6 the witness stand.)

7 HONORABLE MALDONADO: Anything else from
8 either side?

9 MR. GREEN: No, ma'am.

10 MR. SANDERS: No.

11 HONORABLE MALDONADO: Are we ready for
12 closing?

13 MR. SANDERS: I'm ready.

14 HONORABLE MALDONADO: Let's do it.

15 MR. SANDERS: As I suggested in opening is
16 exactly what the Department did. They didn't bring one
17 witness in here other than arguments from counsel that
18 suggests that Henderson violated any rule. I've said
19 that from the very beginning and that's exactly what
20 played out in the trial room. This is kind of
21 reminding me of something happening in corporate law.
22 It's called the business judgment rule with a general
23 analysis. Business judgement rule is I don't like what
24 this boy did, right. So the next boy comes in, I don't
25 like what they did. And they want the court to solve

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1 the problem and the court says hey there's a separate
2 rule. Just because you don't agree with their
3 decision, I'm not going to come along and second guess
4 the first decision. Unless it's an act in Florida,
5 some other kind of exception obviously. But that's
6 what's happening here. That's exactly what's happening
7 here.

8 The Department is suggesting that the
9 subordinate is responsible for the rules and the law.
10 Not that they're responsible for the rules and the law,
11 the subordinate is responsible for knowing the rules
12 and law. We got to see some interesting things in
13 here. We got to see the supervisor came in, don't even
14 know what the law is. It's actually disheartening to
15 see that. There's a big difference between someone
16 miscommunicating, misunderstanding the obligations and
17 outright stealing. There was no stealing, what's the
18 steal? It's a no-show job.

19 Since we couldn't go too much into it, I
20 understand, Commissioner, we have these little
21 parameters we have to deal with. They don't know what
22 they're doing here is wrong. The EEOC guideline covers
23 all this stuff by the way. There's no such thing as
24 they have to do it this way or that way. The employer
25 is the, they want to say it's an interactive process,

PROCEEDINGS

1 the employer can fashion any kind of situation they
2 want really. They can say don't show up at work, show
3 up at work, go to this assignment, go to that
4 assignment, it's right of the employee. To suggest
5 that somehow an assistant chief is just some guy. He's
6 an executive in the police department.

7 Do you think the employee should be able to
8 rely upon what he says? You're assuming that he
9 understands department policy otherwise how did he get
10 on to assistant chief. He's an executive. Now you
11 want to argue against someone that an employee
12 reasonably relied upon. And then blame her for not
13 contacting EEO, for not contacting this person and that
14 person and this person. No. I keep saying over and
15 over when I come in here: Stop treating these members
16 of the service, you make them inanimate objects. They
17 are human beings, they're like everybody else. They
18 make mistakes, they fail, they cry, they get upset.
19 Maybe the public you know don't get to see much, but
20 the people who are part of the culture, uniformed
21 people, yeah, we get to see it all the time. They may
22 not do it in front of you, but they do it in front of
23 people who are uniformed members.

24 Since we want to keep talking about the
25 members of the service stuff. There hasn't been a

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1 witness to come in here that says Henderson violated
2 his discretion. We keep hearing arguments about it,
3 but no one knows. No one came in here and said it.
4 Because all the supervisors all agree on one thing:
5 They have a certain amount of discretion. How much
6 discretion is? We don't know. You know why? Because
7 it's not written anywhere. Discretion is something I
8 call selective outrage. We're upset with this person
9 but not upset when it's this person. And believe me,
10 we can compare, which is not to be part of this case.
11 You're going to see this is done a lot more than
12 everyone likes to talk about.

13 Now, you take this woman who is dealing with
14 the death of her mother. She's got to deal with the
15 demise of her mother right before her, her own mental
16 health trying to manage herself. And then we turn into
17 a thief. She wasn't hiding anywhere. She wasn't
18 saying oh, I'm in Atlantic City or some vacation
19 somewhere. She's home dealing with that situation. So
20 what did she do, good bearer of difference, an
21 executive made a decision.

22 Now the administration comes in and they
23 don't like the decision and now we want to criminalize
24 everything. There's nothing criminal here. Because if
25 that's true that means all the people here, I guess

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1 they helped facilitate the crime. Then you have to ask
2 the question of why wasn't Lieutenant Witten given
3 charges and specifications, right? She was the
4 facilitator, she should've been charged with charges
5 and specifications but she wasn't. What about the
6 other sergeant, Hunt. He was a facilitator, he wasn't
7 given charges and specifications. Because according to
8 the Department's theory, they all helped her commit
9 this crime and they knew about it. And the other
10 Sergeant Fong, he was the facilitator, too. According
11 to the Department's theory, that means he should've
12 received charges and specifications. And forget about
13 the police officers. All the police officers who were
14 signing their names in and out, guess what they were
15 doing? They were committing crime of official
16 misconduct, right, according to the Department theory.

17 And also modifying these government records.
18 That's a crime, too. No one's charged. Only one
19 person: Smith, the person that needed the support. We
20 show how you support her is you bring her up on charges
21 and you claim that she's a thief, she's stealing
22 things, she's causing this to happen, causing that to
23 happen. No. She's trying to survive. And this is the
24 thanks she gets 20 years into the police department.
25 This is what you get? They always say we support the

PROCEEDINGS

1 members. We support the members is BS. You don't
2 support your members. You really don't. Because if
3 that's true, then you tell me why every supervisor who
4 was sitting up on that damn stand didn't make one
5 referral to any of these so-called supportive groups.
6 Not one of them did it. They all failed in their
7 obligations to her. All of them. From Witten all the
8 way down, they failed.

9 And the Department has failed her by bringing
10 her on the damn charges against her right now. And
11 then Henderson is not even here. So either he's a
12 coward who couldn't stand up to his decision or the
13 Department made a strategic decision not to bring him
14 here. Why not? He's the one who should be answering
15 for his conduct. She has the right to rely upon his
16 good, bad or different information. It's not because
17 she's in, what, cahoots with him. Why? Because they
18 know each other? People know each other in the police
19 department all day long. That doesn't make it
20 misconduct. And that doesn't mean they're getting
21 favor treatment. If you even understand the Police
22 Department, you know dog-on well that these
23 accommodations are done all the time. But it's
24 selective outrage for who it's done for. That's what
25 it boils down to.

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1 We're suggesting that Detective Smith
2 benefitted? Oh, she benefitted. She sat there and
3 watched her mom dying. Her mom is telling her oh, I'm
4 going to be all right. Yeah, mom, everything is going
5 to be okay. Meanwhile, Detective Smith is dying inside
6 herself because she's got to lie to her mother and
7 watch her deteriorating right in front of her. That's
8 what we're sitting here doing? Second guessing her
9 now? That's the wrong thing on so many levels, it's
10 not even funny. And then not one witness. The
11 Department didn't call one witness that says what rule
12 Detective Smith Henderson violated. Not one witness,
13 one. Not argument. That's not you violating the
14 rules. Show me a rule that's violating.

15 Let's talk about this is a rules
16 organizations. That's all nonsense, too. Show me a
17 rule. Show me where discretion was violated. Where?
18 There is no rule. Because he used discretion. He was
19 the borough command there. He had well over a thousand
20 people working for him that he managed and had to be a
21 supervisor. And you know how we know that he didn't do
22 anything wrong? Because all his subordinates, you know
23 what they did? They all supported it. And the police
24 officer from the 83rd Precinct, that's not police work.
25 She says it's police work, it's not. Police work is

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1 out there on patrol chasing the radio and all the other
2 stuff that police officers do. We understand what that
3 is.

4 But bringing mom to the hospital and all that
5 stuff, that's not police work. But yet they were doing
6 it. Why? Because there's something that happens in
7 the police culture. You know what we try to do, we try
8 to take care of each other. But depending on who's
9 being taken care of we have selective outrage again.
10 Well, I don't like this person so oh, we're going to
11 say it's stealing, we're going to say it's doing this
12 and doing that. Meanwhile this stuff is done all the
13 time. Way before I was even on the job. Probably from
14 1645 since the inception of the police department.
15 This ain't nothing new. This is selective outrage.
16 How does she benefit? Watching her mother deteriorate
17 oh maybe she should've come to work. Then when we
18 wonder why we can't anything about the suicide rate in
19 here. You know why? Because we mistreat people all
20 day long. That's what happens. Oh, you didn't call,
21 you didn't call.

22 The supervisor responsible for making sure
23 the member is okay, that's not my rule. That's not
24 Eric Sanders's rule. That's the law, by the way, the
25 police department don't seem to follow. The law is

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1 very clear. The employer has an obligation to make
2 sure that the employee's taken care of. It's not the
3 other way around. It goes this way, not that way. She
4 went and did the best way she can. We didn't get into
5 it, but I'm certain she had her own therapist because
6 she doesn't trust the police department like most of
7 these cops. They don't trust anybody in the commission
8 because they're treated different even more; you're
9 crazy, insensitive, they should be back to work. And
10 you know how we know how the culture is because this
11 guy gets up on the stand and says well her mother is
12 dead already in the ground, she should be back to work.
13 That's the culture of the police department. That's
14 what the public doesn't get to see. The nonsense they
15 deal with and Smith had to deal with.

16 There's no evidence in this courtroom that
17 one, that she has since we're talking about these
18 crimes that we're trying to allude to, the mens rea of
19 what? The intent to steal. Who has the intent to
20 steal? There's no evidence of that. What we have is a
21 disagreement about how an accommodation was given. I
22 know the Department uses word arrangement like it's
23 personal. You can use arrangement, you use
24 accommodation, you can use any word you want. An
25 objective court looks at the situation for what it is.

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1 It's an accommodation. There's no suggestion of any
2 misconduct.

3 During an investigation, they tried to
4 suggest that she had a personal relationship with
5 Henderson as if people of color can't actually be
6 business and deal with colleagues as opposed to having
7 personal relationships all the time. There's no
8 personal relationship. There's no evidence of grand
9 larceny. The only thing we know is that she followed
10 her supervisor's directive. And I think in his
11 Department interview he says that very thing. And he
12 says something else that he thought he had in his
13 discretion to do what he did. That alone sinks the
14 Department's case.

15 For someone to come along to say later that
16 it's not right. Who is it because I didn't see him
17 today. And I don't know how the Commissioner is going
18 to rule on that because there should've been someone to
19 come in here and say at this level the chief has
20 certain amount of discretion. But then of course they
21 can't in here because it's all a Morpheus, it all
22 depends on who it is. If they like the decision or if
23 they don't like the decision. There's no evidence of
24 grand larceny. The only thing we know is that she was
25 being paid and she was following the directive of

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1 Henderson. And I think once you see his statement, you
2 see that part is true. There's no crime.

3 The official misconduct knowingly refrain
4 from duties to obtain a benefit. That's the same
5 thing, that's just really piling on the same type of
6 charges. The bottom line is she wasn't trying to get a
7 benefit. She was trying to do what she thought she
8 could do which is take care of herself and her mom
9 within the confines of the law. That's all she did.
10 There's no evidence of official misconduct as well so
11 it's mischaracterizing. Failed to report for 184
12 tours. All right, she's not disagreeing that she was
13 home. That's not a disagreement. That's how it's
14 being characterized. If you know anything about
15 reasonable accommodations, reasonable accommodations
16 are done lots of different ways. Physically at work,
17 not at work, assignment changes. And there's at least
18 five I can rattle off the top of my head where I know
19 where police officers stayed off the job for years and
20 never did a day back on patrol. Yet they were carried
21 with reasonable accommodation. So to act like we're
22 having this is something new, selective outrage.

23 Failed to follow up on an accommodation
24 request. That's interesting to suggest even. There is
25 nothing in law that says she has to give directive

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1 request. Matter of fact, if you look at the EOC
2 guidelines, it's very clear. There's Case Law that
3 support this on the district level and the appellate
4 level, it says something very clear. Once someone
5 makes an oral demand, in other words 'I need an
6 accommodation,' the law applies. And then it's up to
7 the employer to then engage in an interactive process;
8 not the employee. We seem to, like, turn things on its
9 head when you come into the police department. Yeah,
10 she didn't file an accommodation form. But she asked
11 for an accommodation.

12 You know who is supposed to do it? And I got
13 this sergeant to admit it. That sometimes supervisors
14 fill out forms. We act like we're shocked about that,
15 too. Officers get hurt, they get shot, they get
16 injured and guess who is filling out the forms?
17 Supervisors are filing the form, other police officers
18 are filling out the form. We act like this is
19 something new. This ain't nothing new. Again,
20 selective outrage because Smith did it. There's no
21 fair and final anything because she's not obligated
22 under the law to follow anything. If you want to look
23 at the Department rule, it's inconsistent with the law.
24 There's no evidence of any misconduct there as well.

25 Falsifying business records. The

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1 Department's claim is she made or caused false payroll
2 entries to be made. Well, we had all the witnesses get
3 up there on the stand. They said no, Smith never told
4 us to do this. Matter of fact, the police officers who
5 made the entry, they can't even tell you how it
6 originated. All they knew to them is that it was
7 supposed to be done and they did it. So now we're
8 going to blame Smith for that? We can't even get a
9 definitive answer on how that even happened. They all
10 thought that was part of the accommodation. She didn't
11 cause anything. All she thought she was following the
12 direction of her chief. Not some guy. The highest guy
13 in the borough and one of the highest chiefs in the
14 police department.

15 Attendance application, same thing here.
16 There's really another group of charges saying the same
17 thing. There's attendance application and there's
18 entries being made, but no one, not one witness here
19 today, can say Smith caused me to do this or she
20 directed us to do this. They all thought, all the
21 sergeants and the one police officer that came here
22 because there were others, that this was supposed to be
23 done and they did it. And they thought that was with
24 the accommodation. So how can Smith be charged with
25 that misconduct? There's no violation here. Those are

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1 the six charges.

2 And the last thing I'm going to say is that,
3 you know, we want the Commissioner to really consider
4 what happened here. And there's a big difference
5 between having a disagreement about whether a person
6 has discretion or has that authority as opposed to if
7 they have authority and whether the employee, because
8 that's what she is the subordinate, is responsible for
9 someone else giving her information that was either
10 accurate or inaccurate. If she's following in good
11 faith--the Case Law is clear on this--the employer is
12 responsible for the manager's information or
13 misinformation. So therefore, after looking at all the
14 evidence, we believe that the Court should find
15 Detective Smith not guilty and let her lead off to
16 retirement and on to the next phase of her life. Thank
17 you, Commissioner.

18 HONORABLE MALDONADO: Thank you
19 Mr. Sanders. Counsel.

20 MR. GREEN: Thank you, Commissioner. The
21 sense of entitlement demonstrated by Respondent and her
22 counsel on her behalf is shocking. Counsel's
23 repeatedly use of the phrase selective enforcement or
24 selective prosecution when it comes to the Department
25 enforcing the rules and the laws of the City and State

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1 of New York. As I began in my opening statement, the
2 same thing applies here. These facts are not in
3 dispute. The Respondent was assigned to the security
4 detail in February 7, 2024. She never appeared for
5 work, not once from February 7, 2024 through March 25,
6 2025.

7 Based upon an arrangement, she called in
8 every workday at the beginning of her tour and spoke to
9 whichever police officer answered the phone and told
10 that officer mark me present for duty at such and such
11 time. She did the same thing for at the end of each
12 tour of each workday. Knowing that she wasn't at work
13 for that tour, knowing that making those entries would
14 cause her to accrue time, pay and benefits for that
15 tour and knowing that the entries essentially were
16 false. She knew that there was zero duties in her
17 assignment that she could perform from home. And she
18 acknowledged that she performed exactly zero official
19 duties from February 7, 2024 to March 25, 2025.

20 She even had the audacity to ask
21 Sergeant Hunt when she came in to speak to the chief in
22 early March 2025, having been assigned to the command
23 13 months and marked present for duty each workday, by
24 the way what does somebody who works here actually do?
25 But she's the victim, Commissioner. She was paid as if

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1 she performed official duties and was present for work
2 every workday. The sections of the law which are cited
3 in the charges and specifications. Specifically those
4 that deal with applying for specific accommodation,
5 which were provided to court and counsel prior to the
6 beginning of this proceedings, specifically detail who
7 has to do what and when and how. I heard draw your
8 attention to 331-21 of the Administrative Guide,
9 reasonable accommodations for employees and applicants.
10 Who is supposed to fill out the relevant caption of the
11 reasonable accomodation? The member of service
12 requesting it.

13 This is a woman who worked for POPPA, but
14 she's the victim, just ask her. The Department showed
15 that the total value of the time, pay and benefits for
16 all the time that the Respondent failed to appear for
17 work exceeded \$160,000. The Respondent received that
18 despite not performing a minute of work during that
19 time. Yet she's the victim, just ask her. The
20 Respondent was a member of this Department or is a
21 member of this Department who worked for many years in
22 different commands, in precincts as an assistant, as an
23 executive assistant for a variety of different chiefs.
24 Yet she believed that an assistant chief, a borough
25 commander, somehow had the power to grant her the power

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1 to commit crimes.

2 Now one of the things that counsel seemed to
3 stress in his opening statement and in his closing
4 statement is that the Department never came forward
5 with a rule that specifically says an executive,
6 specifically an assistant chief or borough commander of
7 this Department, does not have the, to use his word
8 discretion, to authorize stealing from the good people
9 of the City of New York. That executive also doesn't
10 have the power or the discretion to authorize you to
11 drive drunk today, Commissioner. There doesn't have to
12 be a rule that says you don't have the power to
13 authorize the commission of crimes. Because that's
14 apparently is what the defense requires.

15 The defense also preposterously seems to
16 suggest that this case is somehow focused on his
17 client's based upon some physical characteristic of
18 her. There has been zero, and I repeat zero evidence
19 to support that claim. There is nothing in any record,
20 any document, anything anywhere to suggest that any
21 physical characteristics of the Respondent plays any
22 role in this at all, to suggest somehow that the Police
23 Commissioner is actually enforcing the rules and laws
24 of the City of New York and of this Department somehow
25 is offensive to her is problematic. Whether or not

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1 there has been criminal activity conducted in the past
2 by the NYPD is not, I repeat not a defense to crimes
3 committed by the Respondent.

4 Counsel took it upon himself through again
5 testified through summation that he knows five, six
6 people within the Police Department assigned none-NYPD
7 duties. The fact that counsel might be aware of
8 criminal activity in the past by other members of the
9 police department does not in any way at all justify
10 his client's committing crimes today. There is no
11 reasonable way an intelligent person with as much time
12 on the job as the Respondent and as much experience as
13 the Respondent could possibly reasonably believe that a
14 no-show job for 13 months plus, and it would have been
15 longer had the IAB not intervened, is somehow okay. It
16 is impossible. It defies logic to assume that anyone
17 with a couple active brain cells would conclude that
18 it's okay to continue to get paid falsify records, call
19 false entries in official Department records as well as
20 business records to fail to perform duties that you're
21 required to form, to get paid for not showing up to
22 work and not follow any rules seeking official leave
23 from the Department is okay. It is not okay. The
24 Respondent must be held accountable.

25 The Department is not unsympathetic to the

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1 Respondent having suffered through the drawn out death
2 of her mother. However, that does not excuse in any
3 sense of the word Respondent's criminal misconduct.
4 She cannot use her personal hardships to justify
5 stealing from the people of this city. Counsel
6 actually tried to suggest that the last witness called
7 by this Department, Police Officer Richard, somehow
8 acted callously, inappropriately, when he suggested to
9 his supervisor, on behalf of the membership of his
10 union, wait a minute, she was out because her mother
11 passed away. Well, because her mother was dying, her
12 mother passed away, why isn't she back to work.
13 Counsel suggests that's callous. Working as a member
14 of this Department is not a chalice. We don't pay
15 people to not show up. If that were the case, every
16 one of us would happily sit at home, watching old
17 movies and reading books but we don't. All of us have
18 personal hardships, but we cannot use those as
19 justifications for criminal conduct. We cannot use
20 those as excuses to somehow drop and abandon all common
21 sense and say oh, he's a borough commander he has, to
22 use counsel's word discretion. As a member of this
23 Department, once again, cannot be made any clearer.
24 You do not have discretion to authorize the commission
25 of crimes. And anyone who thinks so or relies upon it

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1 is a fool.

2 Commissioner, I submit that all of the
3 evidence in this case that was presented by the
4 Department proves all of the specifications. No other
5 penalty is appropriate other than the immediate
6 termination of employment of this Respondent. Thank
7 you.

8 HONORABLE MALDONADO: I am going to give
9 the parties, this is your choice. I'm going to give
10 you one week to submit any legal arguments, but more
11 importantly applicable rules, regulations, relating to
12 procedures for accommodations and procedures for leave
13 in the Department. I also would like you to focus on
14 any Case Law because we've both sort of talked
15 extensively and had different opinions about relying on
16 the supervisor's instructions or recommendation. So I
17 would like that for you to submit within the week, any
18 Case Law that may or may not support your respective
19 positions on the relying of supervisors and structure.

20 MR. SANDERS: Thank you.

21 HONORABLE MALDONADO: At the very least,
22 it may have an impact such as mens rea. Now that being
23 said, detective, I'm going to address you.

24 If I should find you guilty of any
25 specifications, I will review your employment record in

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1 connection with a recommendation that I will make as to
2 penalty. The review will generally include prior
3 disciplinary actions if any; monitoring, if any;
4 Department recognition, if any; consideration of your
5 last three performance evaluations. You have the
6 right, and this is what's important, to review your
7 employment record. If there's anything there that is
8 missing besides what I just mentioned that you wish to
9 have considered, have your attorney submit it to this
10 tribunal within a week. A draft of my report and
11 recommendation will be sent to you through your
12 attorney for comment and your comments on the draft
13 decision will be sent to the Police Commissioner along
14 with my report and recommendation.

15 And with that we rest and close.

16 (Time noted: 3:50 P.M.)
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C E R T I F I C A T E

STATE OF NEW YORK)

SS:

COUNTY OF KINGS)

I, VANESSA WALKER, a shorthand reporter within and for the State of New York, do hereby certify that the within is a true and accurate transcript of the statement taken on 11/05/2025.

I further certify that I am not related to any of the parties to this action by blood or by marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of November, 2025.

Vanessa Walker
Vanessa Walker