

Page 1

1 IN THE UNITED STATES DISTRICT FOR THE  
2 DISTRICT OF KANSAS

3

4 COLLEEN STUART, ET AL., )  
5 )  
6 Plaintiffs, )  
7 )  
8 )CASE NO.  
9 vs. )23-CV-2021-JWB-RES  
10 )  
11 CITY OF TOPEKA, ET AL., )  
12 )  
13 Defendants. )

14 DEPOSITION OF WILLIAM COCHRAN  
15 TAKEN ON BEHALF OF THE PLAINTIFFS  
16 SEPTEMBER 6TH, 2023

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11 CITY OF TOPEKA, ET AL., )  
12 )  
13 Defendants. )

14 DEPOSITION OF WILLIAM COCHRAN,  
15 produced, sworn and examined on SEPTEMBER 6TH, 2023,  
16 between the hours of 2:00 o'clock in the afternoon  
17 and 6:00 o'clock in the afternoon at the office of  
18 Henson, Hutton, Mudrick, Gragson & Vogelsberg, 3649  
19 SE Burlingame Road, Suite 200, Topeka, Kansas, 66611,  
20 before Mary Lynn Cushing, a Shorthand Court Reporter  
21 (KS), Certified Court Reporter (MO), in a certain  
22 cause now pending In the United States District  
23 Circuit for the District of Kansas, between COLLEEN  
24 STUART, ET AL., Plaintiffs, vs. CITY OF TOPEKA,  
25 KANSAS, ET AL., Defendants; on behalf of the  
Plaintiffs.

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1 A P P E A R A N C E S

2

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21 Also present: Colleen Stuart, Jana  
22 Harden Kizzar and Jennifer  
23 Cross and Chief Bryan  
24 Wheelles

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Kansas City, Missouri 64108  
(816) 221-1160  
1-800-280-3376

A.H. 7

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1 IT IS HEREBY STIPULATED AND AGREED

2 that this deposition may be taken in shorthand by

3 Mary Lynn Cushing, CCR/CSR, a Certified Court

4 Reporter, Certified Shorthand Reporter, and

5 afterwards transcribed into typewriting; and the

6 signature of the witness is expressly reserved.

7 \* \* \* \* \*

8 WILLIAM COCHRAN,

9 of lawful age, produced, sworn and examined on behalf

10 of the PLAINTIFFS, deposes and says:

11 (Starting time of the deposition: 2:00 p.m.)

12 EXAMINATION

13 BY MR. JESS:

14 Q. It is approximately 2:03. And my

15 first question is --

16 A. Bill.

17 MR. GRAGSON: Bill.

18 MR. JESS: Bill. Thank you for being

19 so kind.

20 Q. (By Mr. Jess) -- have you ever had

21 your deposition taken before?

22 A. Yeah.

23 Q. Do you know how many times?

24 A. Three or four probably.

25 Q. Do you remember the last time?

Page 6

1 A. Long time ago. It would have been

2 '05.

3 Q. Do you know what your deposition was

4 taken in connection with, what kind of litigation?

5 A. It was an automobile accident that had

6 taken place while I was deployed to Iraq, and the

7 supervisor, Corporal Huddleston, at the time was

8 filling in for me as the accident reconstructionist

9 supervisor, and we had communication via e-mail and

10 so.

11 Q. Okay. So really it wasn't a

12 deposition that had to do with your conduct or

13 misconduct in any way?

14 A. Well, no, but it was -- they always

15 get there.

16 Q. Any of the other depositions, do you

17 recall what those cases were in connection with?

18 A. Employment termination, and actually

19 that was probably -- that would have been a couple

20 years ago, I guess.

21 Q. So that would have been more recent?

22 A. Yeah.

23 Q. Who was the employee who sued over

24 their termination?

25 A. Morrison, I believe.

Page 7

1 MR. GRAGSON: If I may Mark, I think

2 it was an arbitration.

3 A. Arbitration.

4 MR. GRAGSON: Go ahead.

5 Q. (By Mr. Jess) What was Mr. or Ms.

6 Morrison's first name?

7 A. I think --

8 MR. GRAGSON: Tim.

9 A. Tim.

10 Q. (By Mr. Jess) Was Tim a member of the

11 police department prior to termination?

12 A. Yes.

13 Q. What rank?

14 A. Officer.

15 Q. Patrol officer?

16 A. (Witness nods head.)

17 Q. Is that yes?

18 A. Yes.

19 Q. Forgive me. For the record and for

20 Mary Lynn, our court reporter's benefit, please say

21 yes, no, or whatever words are appropriate to answer

22 the question accurately, but uh-huh, huh-huh or even

23 yeah can be kind of ambiguous in the record, so if

24 you can try to do that, that would be great.

25 A. Okay.

Page 8

1 Q. All right. Do you know who it was

2 that took your deposition in connection with Tim

3 Morrison's action?

4 A. I don't remember.

5 Q. When did you first start with the

6 police department?

7 A. July 13th, 1987.

8 Q. When did you retire from the

9 department?

10 A. January 1st, 2021.

11 Q. And after retiring as Chief of Police

12 for the department, did you then take on a position

13 as Chief of Staff of the City of Topeka?

14 A. I did.

15 Q. How did that process take place, from

16 your perspective?

17 A. The City Manager was needing a Chief

18 of Staff. He was told that he could hire a Chief of

19 Staff, and our relationship as the Chief and him as

20 the City Manager, he asked me to be the Chief of

21 Staff.

22 Q. Which City Manager was that?

23 A. Brent Trout.

24 Q. When was this?

25 A. When did I start that?

Page 17

1 Q. Thank you. Sorry. So were you the  
 2 Chief when Captain Stuart, now Captain Stuart, was  
 3 promoted to Captain?  
 4 **A. Yes. I promoted her to Captain.**  
 5 Q. It was your decision to promote her,  
 6 correct?  
 7 **A. Correct.**  
 8 Q. And you made the decision to promote  
 9 her at a time when she was serving as the public  
 10 information officer, correct?  
 11 **A. I believe it was her assignment, yes.**  
 12 Q. Because she left that position to then  
 13 become a Captain, correct?  
 14 **A. Correct.**  
 15 Q. Do you know whether she managed social  
 16 media and mainstream media and interviews and press  
 17 releases as a part of her duties as Public  
 18 Information Officer?  
 19 **A. I believe she did.**  
 20 Q. Do you know if she was expected to be  
 21 available 24/7 to come back to crime scenes to  
 22 provide information whether or not she was on duty?  
 23 **A. I believe that was part of the**  
 24 **responsibilities.**  
 25 Q. And then after you promoted her to

Page 18

1 Captain, she would have left that position and some  
 2 one else came in, correct?  
 3 **A. Correct.**  
 4 Q. Do you remember who that was?  
 5 **A. I believe Lieutenant Bell was there**  
 6 **for a little while.**  
 7 Q. And then after Lieutenant Bell, would  
 8 it have been Lieutenant Munoz that filled that  
 9 position?  
 10 **A. Correct.**  
 11 Q. And then when Lieutenant Munoz -- and  
 12 he's a male officer, correct?  
 13 **A. Yes.**  
 14 Q. When he took that position, was the  
 15 title changed from Public Information Officer to  
 16 Executive Officer to the Chief?  
 17 **A. Yes.**  
 18 Q. Who made the decision to make that  
 19 change?  
 20 **A. I did.**  
 21 Q. And while Colleen Stuart was serving  
 22 in that position, she was not called an XO to the  
 23 Chief, correct?  
 24 **A. Correct.**  
 25 Q. And when Lieutenant Munoz became XO,

Page 19

1 he was given his own exclusive office, correct?  
 2 **A. There was reconstruction of the front**  
 3 **office. Yeah, I believe he had a cubicle outside. I**  
 4 **moved the copy machines and stuff down the way so**  
 5 **that they were out of the functional area of the main**  
 6 **office and right outside the main office, so that**  
 7 **whole cubicle area was converted to --**  
 8 Q. To his office?  
 9 **A. Yes, workspace.**  
 10 Q. For his workspace alone, correct?  
 11 **A. I believe that Kerry Connell occupied**  
 12 **part of that as well at one time. It was a bigger**  
 13 **workspace.**  
 14 Q. If Colleen testified under oath that  
 15 her recollection is that she was never given an  
 16 exclusive workspace such as Lieutenant Munoz, do you  
 17 know if that's true?  
 18 MR. GRAGSON: Object to form,  
 19 misstates testimony. Go ahead and answer if you can.  
 20 **A. I don't know what her workspace was.**  
 21 **I knew she was there in the front office somewhere,**  
 22 **but she wasn't there very long when I was the Chief,**  
 23 **you know, before she was promoted, so I don't know --**  
 24 **I really don't recall where her workspace was at.**  
 25 Q. (By Mr. Jess) Well, you had begun as

Page 20

1 Interim Chief on October 31 of 2017, correct?  
 2 **A. Correct.**  
 3 Q. And when in 2018 was she promoted?  
 4 **A. March timeframe, February, yeah**  
 5 **February/March.**  
 6 Q. Of 2018?  
 7 **A. Yes.**  
 8 Q. And then Lieutenant Munoz, when he  
 9 became XO, he was not required to remain on call  
 10 24/7, whether he was on duty or not, correct?  
 11 **A. I don't know if he was on call 24/7,**  
 12 **but there was also a change of -- other change of**  
 13 **duties in that position.**  
 14 Q. So the answer is no, he was not  
 15 required to be on 24/7, or is it not true?  
 16 **A. I don't recall because I do know that**  
 17 **he came back on some but, like I said, that position,**  
 18 **that whole thing changed.**  
 19 Q. In what way did it change, and whose  
 20 decision was it to change?  
 21 **A. It was mine.**  
 22 Q. How did it change?  
 23 **A. What I did was after going through**  
 24 **some training, I came back and the -- there was a**  
 25 **civilian position that was in the PIO area that was**

<p style="text-align: right;">Page 21</p> <p>1 not filled for about a year, and so I made the</p> <p>2 decision to go hire a civilian PIO, and that civilian</p> <p>3 PIO was on call 24/7; had to take home a car and a</p> <p>4 radio and a cell phone.</p> <p>5 I changed the duties of that position</p> <p>6 because I was looking for a person that I could send</p> <p>7 to community events and stuff in my place, and also</p> <p>8 who, at that time I was also expanding the Latino</p> <p>9 outreach efforts, and so Lieutenant Munoz spoke</p> <p>10 Spanish, and so that played into why he was put into</p> <p>11 that position, but the title changed because the role</p> <p>12 changed as well because we then had a civilian PIO.</p> <p>13 Q. So you agreed with Colleen Stuart that</p> <p>14 he perform duties different than what she had</p> <p>15 performed as Public Information Officer, correct?</p> <p>16 MR. GRAGSON: Object to form. It's</p> <p>17 misleading. Go ahead and answer.</p> <p>18 A. Yes, but the position changed. I</p> <p>19 changed the position so it wasn't the same position.</p> <p>20 Q. (By Mr. Jess) Right. I'm not saying</p> <p>21 that it was the same position, but what we do know is</p> <p>22 what Colleen Stuart had been doing is different from</p> <p>23 what Lieutenant Munoz ended up doing after you</p> <p>24 instituted this change, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. So March of 2018?</p> <p>2 A. I think it would have been -- it's</p> <p>3 February or March, yeah.</p> <p>4 Q. Okay. Did you have a discussion with</p> <p>5 Jana Harden about the fact that she was not selected</p> <p>6 to become Major?</p> <p>7 A. Yeah. I believe I met with all of</p> <p>8 them or gave them all the opportunity to.</p> <p>9 Q. Including Jana Harden; she came into</p> <p>10 your office and you-all talked, right?</p> <p>11 A. Correct.</p> <p>12 Q. Did you tell her words to the effect</p> <p>13 that in order to be considered for a senior position,</p> <p>14 she really needed to get a master's degree?</p> <p>15 A. I think I told all of them to be a</p> <p>16 Major and only a Major, that you needed a master's</p> <p>17 degree.</p> <p>18 Q. My question, sir, was not exactly</p> <p>19 that. Did you tell Jana Harden words to the effect</p> <p>20 that in order to be considered for such a promotion</p> <p>21 she needed to have a master's degree?</p> <p>22 A. I don't know exactly how it was said.</p> <p>23 I do know I conveyed to all of them that under me, if</p> <p>24 you were going to be a Major in the future, you were</p> <p>25 going to need a master's degree. That was my desire.</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Okay. After you instituted this</p> <p>2 change, she was not expected to come back to crime</p> <p>3 scenes as Colleen Stuart had?</p> <p>4 MR. GRAGSON: Object to form; she?</p> <p>5 Q. (By Mr. Jess) I'm sorry, he.</p> <p>6 Lieutenant Munoz was not required to go back to crime</p> <p>7 scenes after you instituted this change, as had</p> <p>8 Colleen Stuart been required, correct?</p> <p>9 A. Correct, because we had the civilian</p> <p>10 PIO.</p> <p>11 Q. Which is the change that I referenced</p> <p>12 in my question, right?</p> <p>13 A. Correct.</p> <p>14 Q. All right. Thank you. Do you know,</p> <p>15 after you made the decision in early 2018 to promote</p> <p>16 Russell Klumpp to Major, do you know if Jana Harden</p> <p>17 now Kizzar, if Jana had applied for that position as</p> <p>18 well?</p> <p>19 A. She did.</p> <p>20 Q. And you ended up choosing Major</p> <p>21 Klumpp, correct?</p> <p>22 A. Major Klumpp and Major Gilchrist.</p> <p>23 Q. And when was that?</p> <p>24 A. That would have been at all the same</p> <p>25 time we did Lieutenants, Captains, Majors.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Including Jana Harden; you would have</p> <p>2 had this conversation with, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Jennifer Cross had applied for a</p> <p>5 promotion to Captain in early 2018, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And she was not selected, but Colleen</p> <p>8 Stuart and then Captain Jamey Haltom, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Did you have a conversation with</p> <p>11 Jennifer Cross about her not being selected?</p> <p>12 A. I did.</p> <p>13 Q. And, again, that would have taken</p> <p>14 place in your office with both of you present,</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. And did she ask you why she was not</p> <p>18 selected?</p> <p>19 A. I'm sure she did.</p> <p>20 Q. She testified and will testify under</p> <p>21 oath that you explained to her it was because she</p> <p>22 didn't have a master's degree, is that accurate?</p> <p>23 A. That is not accurate.</p> <p>24 Q. So no way, no how did you say words to</p> <p>25 the effect that she needed a master's degree?</p>

<p style="text-align: right;">Page 25</p> <p>1 <b>A. No, I did not.</b></p> <p>2 Q. Did you take any notes of this</p> <p>3 conversation?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Did you send an e-mail or a memo to</p> <p>6 anybody about this conversation?</p> <p>7 <b>A. No.</b></p> <p>8 Q. This conversation would have taken</p> <p>9 place I'm, my math is terrible, over five years ago,</p> <p>10 correct?</p> <p>11 <b>A. Correct.</b></p> <p>12 Q. Did Jennifer ever question you about</p> <p>13 why Jamey Haltom was promoted to Captain even though</p> <p>14 he did not have a master's degree?</p> <p>15 <b>A. Yes, she did.</b></p> <p>16 Q. So the question of whether someone had</p> <p>17 a master's degree did arise in this discussion with</p> <p>18 Jennifer Cross, correct?</p> <p>19 <b>A. I really don't recall that.</b></p> <p>20 Q. Well, I just asked you, Bill, whether</p> <p>21 she asked about now Captain Haltom not having a</p> <p>22 master's degree and you said yes, she did, right?</p> <p>23 <b>A. I don't recall. Can you read that</b></p> <p>24 <b>back because what I said was when I met with those</b></p> <p>25 <b>who wanted to be Majors, that a master's degree was</b></p>	<p style="text-align: right;">Page 27</p> <p>1 <b>A. I did not say that.</b></p> <p>2 Q. Have you ever used that phrase "it was</p> <p>3 just their time" in connection with telling any</p> <p>4 candidate that they were not selected for promotion?</p> <p>5 <b>A. Not me. That's not a term I use.</b></p> <p>6 Q. Major Gilchrist, when you promoted him</p> <p>7 to major, didn't have a master's degree, correct?</p> <p>8 <b>A. Correct.</b></p> <p>9 Q. In fact, he had and has no degree</p> <p>10 whatsoever?</p> <p>11 <b>A. Correct.</b></p> <p>12 Q. I'm sure he has a high school degree,</p> <p>13 but doesn't have a bachelor's or any graduate degree,</p> <p>14 correct?</p> <p>15 <b>A. Correct.</b></p> <p>16 Q. So why did you promote Major Gilchrist</p> <p>17 if you had this importance that you placed on someone</p> <p>18 having a master's degree to be a Major?</p> <p>19 <b>A. Because there were only so many</b></p> <p>20 <b>candidates for that position, and I also had to take</b></p> <p>21 <b>into consideration who I felt at the time could do</b></p> <p>22 <b>the job effectively to what my expectations were</b></p> <p>23 <b>going to be.</b></p> <p>24 Q. So you told Jana Harden that she</p> <p>25 needed to have a master's degree in order to be</p>
<p style="text-align: right;">Page 26</p> <p>1 <b>important. Up to that, no. So, Captain, Lieutenant,</b></p> <p>2 <b>master's was not -- it would be great to have a</b></p> <p>3 <b>master's, but that was not --</b></p> <p>4 Q. Why, if it wasn't, because as she</p> <p>5 believed that you told her that she didn't have a</p> <p>6 master's degree, why was she not selected at that</p> <p>7 time to be promoted to Captain?</p> <p>8 <b>A. Because the two that I selected was</b></p> <p>9 <b>Colleen Stuart, and part of that was based on</b></p> <p>10 <b>education, but not the sole factor, and then the</b></p> <p>11 <b>other Captain Haltom was a very experienced commander</b></p> <p>12 <b>and had a lot of ties to operations experience.</b></p> <p>13 Q. Did you ever say words to the effect</p> <p>14 to Jennifer Cross in that meeting that it was, quote,</p> <p>15 "Just his time," in reference to Jamey Haltom?</p> <p>16 <b>A. I did not say that.</b></p> <p>17 Q. No way, no how, correct?</p> <p>18 <b>A. Not me.</b></p> <p>19 Q. And if she testifies that you did say</p> <p>20 that, you're saying that she lied under oath,</p> <p>21 correct?</p> <p>22 <b>A. I'm not saying she lied. I'm just</b></p> <p>23 <b>saying I didn't say that.</b></p> <p>24 Q. It's not possible that you said words</p> <p>25 to that effect?</p>	<p style="text-align: right;">Page 28</p> <p>1 promoted, and yet you promoted Major Gilchrist when</p> <p>2 he had no undergrad or graduate degree whatsoever,</p> <p>3 correct?</p> <p>4 <b>A. Yes. It was also made very plain that</b></p> <p>5 <b>he would be the last person promoted under me to that</b></p> <p>6 <b>rank.</b></p> <p>7 Q. Who did you make it plain to?</p> <p>8 <b>A. I know I told him. I know I told</b></p> <p>9 <b>others in the command staff, because education is</b></p> <p>10 <b>something that is very important to me.</b></p> <p>11 Q. You would agree that Jana Harden</p> <p>12 Kizzar is female?</p> <p>13 <b>A. Correct.</b></p> <p>14 Q. You would agree that Major Gilchrist</p> <p>15 is a male?</p> <p>16 <b>A. Correct.</b></p> <p>17 Q. Do you know if at any point in</p> <p>18 November of 2019 Jennifer Cross was coached or had</p> <p>19 discussion about social media conduct that you had a</p> <p>20 problem with?</p> <p>21 <b>A. I know there was some conversation. I</b></p> <p>22 <b>don't know the date.</b></p> <p>23 Q. If she testifies that it took place in</p> <p>24 November of 2019, do you have any information to</p> <p>25 dispute that?</p>

<p style="text-align: right;">Page 29</p> <p>1 <b>A. No.</b></p> <p>2 Q. What was the issue, as you understood</p> <p>3 it?</p> <p>4 <b>A. If I remember right, I was considering</b></p> <p>5 <b>moving her up to the PIO position, and Kansas City</b></p> <p>6 <b>Chiefs played like the Sunday before, and she made</b></p> <p>7 <b>social media posts, I don't remember exactly what was</b></p> <p>8 <b>said, about Andy Reid and the Chiefs. And so then I</b></p> <p>9 <b>looked at it, and I had to go, okay, is this the</b></p> <p>10 <b>person that I can have in the PIO position that is</b></p> <p>11 <b>out in the public making social media posts like</b></p> <p>12 <b>that.</b></p> <p>13 Q. You don't recall what the post was or</p> <p>14 what it said?</p> <p>15 <b>A. I don't remember the words.</b></p> <p>16 Q. How did you learn about this post that</p> <p>17 you found troubling?</p> <p>18 <b>A. Through other commanders.</b></p> <p>19 Q. Do you remember who?</p> <p>20 <b>A. I believe Major Purney.</b></p> <p>21 Q. Do you recall what he told you?</p> <p>22 <b>A. Something to the effect that post was</b></p> <p>23 <b>that Andy Reid was a fucking idiot and something</b></p> <p>24 <b>else.</b></p> <p>25 Q. Did you look at this post?</p>	<p style="text-align: right;">Page 31</p> <p>1 egregious social media posts, right?</p> <p>2 <b>A. No.</b></p> <p>3 Q. During the time you observed, whether</p> <p>4 as Interim Chief, Chief or prior to that, Colleen</p> <p>5 Stuart's performance as Public Information Officer,</p> <p>6 did you think she did a good job?</p> <p>7 <b>A. Yes, I think she did a very good job.</b></p> <p>8 Q. Do you think she was an effective</p> <p>9 public speaker?</p> <p>10 <b>A. I did.</b></p> <p>11 Q. Would you agree that she has</p> <p>12 administrative experience, given her background?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Do you know of any of the operational</p> <p>15 or tactical situations that Captain Stuart was part</p> <p>16 of during her career at the department?</p> <p>17 <b>A. I'm not aware of any specific ones.</b></p> <p>18 Q. What about Jana Harden Kizzar, are you</p> <p>19 aware of any operational or tactical situations that</p> <p>20 she had been a part of during her career?</p> <p>21 <b>A. Not any specific. I know they're both</b></p> <p>22 <b>involved in them just because of the nature of the</b></p> <p>23 <b>job, but I don't remember any specific events per se.</b></p> <p>24 Q. Do you know if Jana applied more than</p> <p>25 once to be a part of the Topeka Police Department</p>
<p style="text-align: right;">Page 30</p> <p>1 <b>A. No.</b></p> <p>2 Q. So you never actually viewed the post</p> <p>3 that was at issue on this concern you had about</p> <p>4 Jennifer, correct?</p> <p>5 <b>A. Correct.</b></p> <p>6 Q. Lieutenant Munoz was subsequently</p> <p>7 placed in that position instead of Jennifer Cross,</p> <p>8 correct?</p> <p>9 <b>A. All around the same time, yes. I</b></p> <p>10 <b>would have to say yes, I guess.</b></p> <p>11 Q. If Jennifer testifies that's what</p> <p>12 happened, you don't have any information to dispute</p> <p>13 that?</p> <p>14 <b>A. No.</b></p> <p>15 Q. All right. Were you aware of any</p> <p>16 issues whatsoever with Lieutenant Munoz' social media</p> <p>17 posts?</p> <p>18 <b>A. No.</b></p> <p>19 Q. So you agree that Jennifer is female,</p> <p>20 right?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Lieutenant Munoz is a male, right?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. So no commander such as Major Purney</p> <p>25 or anyone else told you about his inappropriate or</p>	<p style="text-align: right;">Page 32</p> <p>1 response team?</p> <p>2 <b>A. I do know that now.</b></p> <p>3 Q. Did you know prior to, I'm assuming,</p> <p>4 preparation for your deposition today?</p> <p>5 <b>A. I think I read it in the paper.</b></p> <p>6 Q. But prior to that you weren't aware?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Do you know if there was an Officer</p> <p>9 McNeal that was a part of the response team at any</p> <p>10 point?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Is it Tim McNeal?</p> <p>13 <b>A. I can't remember the first name. It's</b></p> <p>14 <b>been quite a while.</b></p> <p>15 Q. Do you know if Officer McNeal said</p> <p>16 that Jana would not be a part of the response team</p> <p>17 because leadership did not want a female on the team?</p> <p>18 <b>A. That, I do not know.</b></p> <p>19 Q. If that was the reason that she was</p> <p>20 denied being a part of the response team, you would</p> <p>21 agree that would be inappropriate, right?</p> <p>22 MR. GRAGSON: Object to form, calls</p> <p>23 for speculation. Go ahead.</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. (By Mr. Jess) And if based on her</p>

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1 because again, those were filed with HR and not  
 2 through the police department. They were filed with  
 3 HR, so HR did the investigations; and so at that  
 4 time, like I said, several people had issues with  
 5 Officer Wheelles and didn't get along with her, and so  
 6 that may have been why HR recommended that she attend  
 7 those sessions.  
 8 Q. Was this requirement of Officer  
 9 Wheelles a form of discipline as you understood it?  
 10 A. She viewed it as discipline. I did  
 11 not view it as discipline.  
 12 Q. Was that a decision that was made  
 13 internally to require this of Officer Wheelles?  
 14 A. I required it of her because I was  
 15 directed by HR.  
 16 Q. So again the discipline or this  
 17 requirement of Officer Wheelles was handled  
 18 internally, even though HR did the investigation,  
 19 correct?  
 20 A. Correct.  
 21 Q. You mentioned that several people felt  
 22 that Officer Jeralyn Wheelles had an inability to get  
 23 along with others, correct?  
 24 MR. GRAGSON: Object to form. Go  
 25 ahead.

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1 A. There's a lot of people down there  
 2 like that.  
 3 Q. (By Mr. Jess) Well, isn't that what  
 4 you just stated a few moments ago, sir?  
 5 A. There's a lot of people that had  
 6 issues with her.  
 7 Q. Okay. Do you know if female officers  
 8 that were underneath you when you were Chief, or at  
 9 any point in your career, felt that she had a  
 10 particular inability to get along with other female  
 11 officers?  
 12 A. I had heard that she didn't get along  
 13 with several of them.  
 14 Q. Several females officers?  
 15 A. Yes.  
 16 Q. To your knowledge, did any of these  
 17 people to whom you remember referring, that indicated  
 18 an inability to get along with her, were any of those  
 19 people, when you answered that, male officers?  
 20 A. Yea, there were male officers that she  
 21 didn't get along with, they didn't get along.  
 22 Q. How did you become aware of these  
 23 multiple officers feeling that she had an inability  
 24 to get along with others?  
 25 A. Again, that's just conversation that

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1 -- in the shop, that takes place. People don't get  
 2 along with each other or people have disagreements or  
 3 whatever, that's just a workplace environment.  
 4 Q. And you were aware of Officer Hanika's  
 5 formal HR complaint about Officer Wheelles, correct?  
 6 A. Correct.  
 7 Q. So you would have been aware of her  
 8 feelings in that regard through that mechanism,  
 9 correct?  
 10 A. Correct.  
 11 Q. If you could, sir, in the binder could  
 12 you please turn to Exhibit 3, that had been marked  
 13 previously, and it's a lengthy exhibit. Look through  
 14 as much of it as you like.  
 15 A. That's awful small print.  
 16 Q. But my question really is -- only  
 17 question or questions really are only going to  
 18 revolve around the first two pages. Are you ready,  
 19 sir?  
 20 A. I believe so.  
 21 Q. All right. My first question is, have  
 22 you ever seen this top e-mail on page 1 of Exhibit 3,  
 23 that was from Jana Harden to Steve Purney, dated May  
 24 9th, 2018?  
 25 A. The very top page?

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1 Q. Yes.  
 2 A. I really don't recall seeing that.  
 3 Q. Did Major Purney at any point discuss  
 4 with you that Lieutenant Robert Simmons had expressed  
 5 the fact that he felt uncomfortable with the obvious  
 6 conflict of having Deputy Chief Wheelles be in that  
 7 position, and that one of the TFOs involved in this  
 8 situation was Officer Jeralyn Wheelles, his wife. Did  
 9 Major Purney ever explain that to you?  
 10 A. I don't believe so.  
 11 Q. Jennifer Cross wrote a memorandum that  
 12 Chief Wheelles testified about in which she concluded  
 13 that the interrogation of a suspect after that  
 14 suspect had invoked their rights to talk to an  
 15 attorney or have an attorney present was  
 16 unconstitutional. Did you know that she wrote such a  
 17 memorandum?  
 18 A. I don't recall a memorandum. I  
 19 remember the situation.  
 20 Q. Did you agree with Jennifer Cross's  
 21 interpretation of the law, that that was a violation?  
 22 A. Yes.  
 23 Q. And that's one of the reasons that you  
 24 shut down this particular task force, correct?  
 25 A. Yes.

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1 Q. Because you and then Deputy Chief  
 2 Wheelles had a series of meetings with the DEA and  
 3 with the U.S. Attorneys Office and the DEA in which  
 4 they indicated they thought they'd done nothing wrong  
 5 and didn't plan on changing?  
 6 **A. There were several conversations in**  
 7 **which Deputy Wheelles -- Chief Wheelles was not**  
 8 **involved in. I had conversation with AUSA Jared**  
 9 **Maag, and then I had conversation with, I can't**  
 10 **remember the DEA agent who was in charge here, and**  
 11 **then there was some conversations where Deputy Chief**  
 12 **Wheelles was involved.**  
 13 Q. So there were meetings on this issue  
 14 with various agencies, some of which he attended with  
 15 you, some of which you had without his attendance,  
 16 correct?  
 17 **A. Correct.**  
 18 Q. Do you know if you ever told Shane  
 19 Hilton about the discipline that Deputy Chief Wheelles  
 20 had imposed on then Jana Harden?  
 21 **A. I don't recall a specific**  
 22 **conversation. I do recall that we were in the**  
 23 **training room. There was an event going on. At the**  
 24 **time Hilton and Lieutenant Harden were close and**  
 25 **talked a lot, and he asked what was going on, and I**

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1 **think I told him she had received some discipline**  
 2 **that day or something like that.**  
 3 Q. If Jana testifies that Shane told her  
 4 that you told him about that discipline that was  
 5 issued against her, you're not denying that, correct?  
 6 **A. No.**  
 7 Q. That would be a violation of policy to  
 8 discuss with someone outside her chain of command  
 9 discipline that had been issued against her, correct?  
 10 **A. Yes.**  
 11 Q. If you could turn to the next exhibit  
 12 marked previously. That should be Exhibit 4. Take  
 13 as long as you'd like to look at this, and then  
 14 please let me know when you're ready for questions.  
 15 Are you ready for questions, Bill?  
 16 **A. Sure.**  
 17 Q. Wonderful. Thank you. After you met  
 18 with Jana Harden to rescind the discipline that  
 19 Deputy Chief Wheelles had issued to her on August  
 20 27th, 2019, did you later have a subsequent  
 21 discussion with Jana about this memo that is marked  
 22 as Exhibit 4?  
 23 **A. I had a conversation with her. I**  
 24 **don't know if it was specifically about this memo,**  
 25 **but it was brought -- it was included in the**

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1 **conversation.**  
 2 Q. This memo in Exhibit 4, addressed to  
 3 you from her, was a part of that conversation,  
 4 correct?  
 5 **A. Uh-huh.**  
 6 Q. Is that yes?  
 7 **A. Yes.**  
 8 Q. All right. Thank you. And if she  
 9 testifies that that discussion with you on issues,  
 10 including Exhibit 4, took place after August 27th,  
 11 2019, when you rescinded her discipline, do you have  
 12 information to dispute that?  
 13 **A. That the rescinding of the discipline**  
 14 **took place before or after this?**  
 15 Q. Before your discussion with her about  
 16 Exhibit 4.  
 17 **A. What date did I rescind it?**  
 18 MR. GRAGSON: Do you want to show him  
 19 the document so he can answer?  
 20 Q. (By Mr. Jess) We looked at it before,  
 21 and it's in front of you. It's Exhibit 8, but it's  
 22 dated August 27th, 2019. So my question is if she  
 23 testifies that you had a discussion with her about  
 24 Exhibit 4, this memo she wrote to you the prior year,  
 25 2018, do you know if that is accurate, or do you have

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1 any information to dispute that testimony?  
 2 **A. Conversation would have taken place**  
 3 **before the rescinding of the discipline.**  
 4 Q. And you're certain of that?  
 5 **A. I think the dates reflect it, I**  
 6 **assume.**  
 7 Q. Well, I mean your rescinding of her  
 8 discipline was a year later, right?  
 9 **A. Right.**  
 10 Q. Did you at any point in this  
 11 discussion with Jana about Exhibit 4 say words to the  
 12 effect that because of this memo you thought she was  
 13 a liar?  
 14 **A. No. I don't think it was phrased that**  
 15 **way.**  
 16 Q. Did you say words to the effect that  
 17 you felt that she lied in Exhibit 4?  
 18 **A. The way I phrased it, because when I**  
 19 **went in there I also went in with the intention of it**  
 20 **being kind of a mentoring session because there were**  
 21 **some issues that had -- that we had been trying to**  
 22 **work through. I also took a third party with me that**  
 23 **wasn't in the chain of command, wasn't even a sworn**  
 24 **officer, was an administrative assistant to the**  
 25 **Chief, and that was to have somebody in there to be a**

<p style="text-align: right;">Page 97</p> <p>1 Harden causing Officer Hanika to be placed on leave?</p> <p>2 MR. GRAGSON: Object to form,</p> <p>3 misstates testimony. Go ahead and answer.</p> <p>4 A. It doesn't say that that was the sole</p> <p>5 thing. What I'm saying is she owns part of it, and</p> <p>6 that as a commander you've got to make sure you got</p> <p>7 the facts straight before you make statements to your</p> <p>8 supervisor. And, again, that's why I said it was</p> <p>9 trying to be a mentoring conversation in the aspect</p> <p>10 of, hey, going forward we need to be more on the same</p> <p>11 sheet of music. We need to understand better.</p> <p>12 Q. So what exactly was your problem with</p> <p>13 what Jana Harden wrote in Exhibit 4?</p> <p>14 A. I don't think it was a specific</p> <p>15 problem with the memo. It's just overall</p> <p>16 conversation and mentoring, how do we get -- how do</p> <p>17 we do this better in the future.</p> <p>18 Q. So --</p> <p>19 A. Because Hanika was placed on</p> <p>20 administrative leave -- Hanika was placed on</p> <p>21 administrative leave because Purney has requested it.</p> <p>22 Purney had requested it because of his conversation</p> <p>23 with Captain Harden.</p> <p>24 Q. Did Major Purney send you a memo</p> <p>25 detailing what Jana Harden said and what he said in</p>	<p style="text-align: right;">Page 99</p> <p>1 day as this memo, May 24th, 2018?</p> <p>2 A. It could have been, but all I know is</p> <p>3 the Major came to me, requested administrative leave</p> <p>4 based upon the conversation that he had with her, and</p> <p>5 that's why she was placed on administrative leave.</p> <p>6 Q. Did you discipline Jana Harden in any</p> <p>7 way for what you say she did wrong in this Exhibit 4?</p> <p>8 A. No.</p> <p>9 Q. Would you agree she didn't do anything</p> <p>10 wrong in Exhibit 4?</p> <p>11 A. I don't know if she did anything wrong</p> <p>12 or not. What my point was, it's a conversation of</p> <p>13 hey, we got to do better.</p> <p>14 Q. What was she supposed to do better,</p> <p>15 specifically as it relates to what she wrote in</p> <p>16 Exhibit 4?</p> <p>17 A. You have an officer saying that they</p> <p>18 had a conversation with an AUSA, pretty high attorney</p> <p>19 wouldn't you say, and I had a conversation with it,</p> <p>20 and the AUSA tells me it's different, we have an</p> <p>21 issue.</p> <p>22 Q. Even though she says in the same memo</p> <p>23 that she had no idea whether Officer Hanika was</p> <p>24 telling the truth?</p> <p>25 A. I would speculate that you should</p>
<p style="text-align: right;">Page 98</p> <p>1 this meeting you say they had?</p> <p>2 A. I don't recall one.</p> <p>3 Q. So you don't know whether he asked</p> <p>4 Jana Harden to relate to him what she recalled</p> <p>5 Officer Hanika telling her in this phone</p> <p>6 conversation, right?</p> <p>7 A. Correct.</p> <p>8 Q. And so if she explained to Major</p> <p>9 Purney what she recalled Officer Hanika saying, then</p> <p>10 she didn't do anything wrong, did she?</p> <p>11 A. No.</p> <p>12 Q. All right. I'm not still</p> <p>13 understanding if she accurately recorded what she</p> <p>14 recalled Officer Hanika stating, how she has to own a</p> <p>15 part of Officer Hanika being placed on leave. Could</p> <p>16 you please explain that to me?</p> <p>17 MR. GRAGSON: Object to form, asked</p> <p>18 and answered. Go ahead.</p> <p>19 A. Because I didn't have this information</p> <p>20 when Hanika was put on leave.</p> <p>21 Q. (By Mr. Jess) When was she put on</p> <p>22 leave?</p> <p>23 A. I don't know the date. I mean like</p> <p>24 it's five years ago.</p> <p>25 Q. Is it possible that it was the same</p>	<p style="text-align: right;">Page 100</p> <p>1 probably do a little more follow-up.</p> <p>2 Q. Jana Harden should have done more</p> <p>3 follow-up is what you're saying, correct?</p> <p>4 A. With Hanika as to what really took</p> <p>5 place.</p> <p>6 Q. Even if she was placed on</p> <p>7 administrative leave by Steve Purney that same day?</p> <p>8 A. Yes, because she's in the chain of</p> <p>9 command.</p> <p>10 Q. How is she going to be talking with an</p> <p>11 officer that has just been placed on administrative</p> <p>12 leave?</p> <p>13 A. Phone.</p> <p>14 Q. So under the policies at that time in</p> <p>15 the police department, Captain Harden could have</p> <p>16 called Officer Hanika and followed up with her, as</p> <p>17 you suggest she should have, even if Officer Hanika</p> <p>18 was on administrative leave?</p> <p>19 A. She could have, yes.</p> <p>20 Q. Would Officer Hanika be required to</p> <p>21 talk with her on this issue?</p> <p>22 A. I would hope that she would because,</p> <p>23 you know, that's -- your job is dependent on it.</p> <p>24 Q. Major Purney was also in Officer</p> <p>25 Hanika's chain of command, right?</p>

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1 dinner you dropped your plate prior to filling it and  
 2 then leaned over to Jennifer and whispered, I only  
 3 did that so I could look up Gretchen's skirt. Is  
 4 that accurate?  
 5 **A. I would say no.**  
 6 Q. Are you saying no way, no how you  
 7 didn't say that?  
 8 **A. I would say that.**  
 9 Q. So if Jennifer so testifies, she would  
 10 be lying under oath?  
 11 **A. I'm not saying that. I'm saying I**  
 12 **didn't do that.**  
 13 Q. You've never made any such comment to  
 14 Jennifer about Gretchen Spiker, correct?  
 15 **A. Not that I know of. That's not me.**  
 16 **That's what I'm saying. I don't do that.**  
 17 Q. Do you know if you dropped your plate  
 18 at this event in February of 2020?  
 19 **A. I don't recall. I might have. I**  
 20 **don't recall that.**  
 21 Q. You would agree that that was  
 22 three-and-a-half years ago now, right?  
 23 **A. Yes.**  
 24 Q. Is it possible you don't recall what  
 25 you said to her in that instance?

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1 **A. I don't make statements like that to**  
 2 **people.**  
 3 Q. So is it possible you don't recall?  
 4 **A. No.**  
 5 Q. No, it's not possible, right?  
 6 **A. Right.**  
 7 Q. So you would agree that if you made  
 8 that statement, that would be a violation of city and  
 9 department policy?  
 10 **A. Yes.**  
 11 Q. Because it's inappropriate, right?  
 12 **A. Yes.**  
 13 Q. It's making sexual comments about  
 14 Gretchen Spiker to another female who was your  
 15 subordinate?  
 16 **A. Yes.**  
 17 Q. During your time in the military, were  
 18 you ever subordinate to a woman?  
 19 **A. No.**  
 20 Q. During your time in the police  
 21 department, were you ever subordinate to a woman?  
 22 **A. Yes.**  
 23 Q. Who was that?  
 24 **A. Peggy Fox.**  
 25 Q. What was her rank at the time?

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1 **A. Major. And she got Major over me.**  
 2 Q. You had nothing whatsoever to do with  
 3 the decision to promote her to Major, correct?  
 4 **A. No.**  
 5 Q. Likewise, to your knowledge, Bryan  
 6 Wheelles had nothing whatsoever to do with the  
 7 decision to make Peggy Fox Major, correct?  
 8 **A. No.**  
 9 Q. No, he did not?  
 10 **A. No, he did not.**  
 11 Q. Okay. That memo which was Exhibit 49,  
 12 the May 24, 2018 memo that Jana will testify Major  
 13 Purney told her to write to you about this incident  
 14 involving her conversation with Officer Hanika, in  
 15 that memo she indicated that she didn't know whether  
 16 or not Officer Hanika had a veracity issue, correct?  
 17 **A. That's what it says.**  
 18 Q. Right. And that's what you would have  
 19 read when you received it?  
 20 **A. Yes.**  
 21 Q. Okay. And in response to questions  
 22 from Mr. Gragson, you said that the reason she was  
 23 placed on administrative leave was a veracity issue,  
 24 correct?  
 25 **A. Correct.**

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1 MR. JESS: No further questions at  
 2 this time.  
 3 MR. GRAGSON: No questions. Read and  
 4 sign.  
 5 (WHEREIN, the deposition was concluded at  
 6 5:10 p.m.)  
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1 CERTIFICATE OF REPORTER

2 STATE OF KANSAS )

) ss.

3 CITY OF TOPEKA )

4 I, Mary Lynn Cushing, a Certified

5 Shorthand Reporter (KS), do hereby certify that the

6 witness whose testimony appears in the foregoing

7 deposition was duly sworn by me; that the testimony

8 of said witness was taken by me to the best of my

9 ability and thereafter reduced to typewriting under

10 my direction; that I am neither counsel for, related

11 to, nor employed by any of the parties to the action


12 in which this deposition was taken, and further that

13 I am not a relative or employee of any attorney or

14 counsel employed by the parties thereto, nor

15 financially or otherwise interested in the outcome of

16 the action.



Mary Lynn Cushing, CSR #0667

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1 LEXITAS LEGAL

2

3 September 27, 2023

4

5 J. Phillip Gragson

Henson, Hutton, Mudrick Gragson & Vogelsberg LLP

6 3649 Burlingame Road, Suite 200

Topeka, Kansas 66611

7

8 In Re: COLLEEN STUART, ET AL. VS. CITY OF TOPEKA,

KANSAS, ET AL.

9

Dear Mr. Gragson:

10

Please find enclosed a copy of the deposition of

11 WILLIAM COCHRAN taken on SEPTEMBER 6TH, 2023, in the

above-referenced case. Also enclosed is the original

12 signature page and errata sheets.

13 Please have the witness read your copy of the

transcript, indicate any changes and/or corrections

14 desired on the errata sheets, and sign the signature

page before a notary public.

15

Please return the errata sheets and notarized

16 signature page to Lexitas Legal, Production

Department, 1608 Locust, Kansas City, Missouri,

17 64108, for filing prior to trial date.

18 Thank you for your attention to this matter.

19 Sincerely,

20

21 Mary Lynn Cushing, CCR(MO)

Enclosures

22 cc: Christie Jess

23

24

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1 WITNESS ERRATA SHEET

2 Witness Name: WILLIAM COCHRAN

Case Name: COLLEEN STUART, ET AL. VS. CITY OF TOPEKA,

3 KANSAS, ET AL.

Date Taken: SEPTEMBER 6TH, 2023

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Witness Signature: \_\_\_\_\_

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1 STATE OF )

)

2 COUNTY OF )

3

I, WILLIAM COCHRAN, do hereby certify:

4 That I have read the foregoing deposition;

That I have made such changes in form and/or

5 substance to the within deposition as might be

necessary to render the same true and correct;

6 That having made such changes thereon, I

hereby subscribe my name to the deposition.

7 I declare under penalty of perjury that the

foregoing is true and correct.

8

9

WILLIAM COCHRAN

10

Executed this \_\_\_\_\_ day of \_\_\_\_\_

11

2023 at \_\_\_\_\_

12

13

14

15 Notary Public:

16 My Commission Expires: \_\_\_\_\_

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