

No. 22-193

IN THE
Supreme Court of the United States

JATONYA CLAYBORN MULDROW,
Petitioner,

v.

CITY OF ST. LOUIS, MISSOURI, ET AL.,
Respondents.

On Writ of Certiorari
to the United States Court of Appeals
for the Eighth Circuit

JOINT APPENDIX

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Petition for Writ of Certiorari Filed: August 29, 2022
Certiorari Granted: June 30, 2023

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U.S. District Court Eastern District
of Missouri (St. Louis)

CIVIL DOCKET FOR
CASE #: 4:18-CV-02150-AGF

Date Filed	#	Docket Text
12/27/2018	1	NOTICE OF REMOVAL from 22nd Judicial Circuit-City of St. Louis State of Missouri, case number 1822-CC11085, with receipt number 0865-6946514, in the amount of \$400 Jury Demand,, filed by City of St. Louis, Michael A. Deeba. (Attachments: # 1 State Court File, # 2 Civil Cover Sheet Civil Cover Sheet, # 3 Original Filing Form Original Filing form)(Silsbe, Alexis) (Entered: 12/27/2018)
12/27/2018	3	Petition (Removal/Transfer) Received From: St. Louis City Circuit Court, filed by Jatonya Clayborn-Muldrow. (Attachments: # 1 MCHR Right to Sue Charging Letter)(JWD) (Entered: 12/28/2018)

12/27/2018	4	First Amended Petition (Removal/Transfer) Received From: St. Louis City Circuit Court, filed by Jatonya Clayborn Muldrow. (Attachments: # 1 MCHR Right to Sue Charging Letter)(JWD) (Entered: 12/28/2018)
12/28/2018	2	ANSWER to Complaint by City of St. Louis, Michael A. Deeba.(Silsbe, Alexis) (Entered: 12/28/2018)
06/02/2020	37	MOTION for Summary Judgment by Defendants City of St. Louis, State of Missouri, Michael Deeba. (Lewis, Korey) (Entered: 06/02/2020)
06/29/2020	50	MEMORANDUM in Opposition of Sealed Motion re 37 MOTION for Summary Judgment filed by Plaintiff Jatonya Clayborn Muldrow. (Hoffman, Megen) (Entered: 06/29/2020)
06/29/2020	51	SEALED DOCUMENT re 37 MOTION for Summary Judgment Plaintiff's Response to Defendants' Statement of Uncontroverted Material Facts by Plaintiff Jatonya Clayborn Muldrow. (Attachments: # 1 Exhibit One, # 2 Exhibit Two, # 3 Exhibit Three, # 4 Exhibit

Four, # 5 Exhibit Five, # 6
 Exhibit Six, # 7 Exhibit Seven, #
 8 Exhibit Eight, # 9 Exhibit
 Nine, # 10 Exhibit Ten, # 11
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 Four)(Hoffman, Megen)
 (Entered: 06/29/2020)

06/29/2020 52 SEALED DOCUMENT re 37
 MOTION for Summary
 Judgment Plaintiff's Statement
 of Material Facts in Support of
 Memorandum in Opposition to
 Defendants' Motion for
 Summary Judgment by Plaintiff
 Jatonya Clayborn Muldrow.

(Attachments: # 1 Exhibit One, # 2 Exhibit Two, # 3 Exhibit Three, # 4 Exhibit Four, # 5 Exhibit Five, # 6 Exhibit Six, # 7 Exhibit Seven, # 8 Exhibit Eight, # 9 Exhibit Nine, # 10 Exhibit Ten, # 11 Exhibit Eleven, # 12 Exhibit Twelve, # 13 Exhibit Thirteen)(Hoffman, Megen) (Entered: 06/29/2020)

07/13/2020 55 MOTION to Seal Document Defendants Reply to Plaintiffs Additional Facts (Doc 52) by Defendants City of St. Louis, State of Missouri, Michael Deeba. (Attachments: # 1 Exhibit Exhibit BB, # 2 Exhibit Exhibit CC, # 3 Exhibit Exhibit DD, # 4 Exhibit Exhibit FF, # 5 Exhibit Exhibit HH, # 6 Exhibit Exhibit II, # 7 Exhibit Exhibit JJ)(Lewis, Korey) (Entered: 07/13/2020)

09/11/2020 57 MEMORANDUM AND ORDER: IT IS HEREBY ORDERED that Defendants' motion for Summary Judgment is GRANTED as to Plaintiff's Title VII Claims. (Doc. No. 38). IT IS FURTHER ORDERED that Plaintiff's remaining state law claims are DISMISSED without prejudice. A separate

Judgment will accompany this Memorandum and Order. Signed by District Judge Audrey G. Fleissig on 9/11/2020. (AFC) (Entered: 09/11/2020)

- 09/11/2020 58 JUDGMENT: IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Judgment is entered on behalf of Defendant City of St. Louis and against Plaintiff on Plaintiff's federal claims in Counts III and IV. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Court declines to exercise supplemental jurisdiction over Plaintiff's state-law claims, and those claims are DISMISSED without prejudice. Signed by District Judge Audrey G. Fleissig on 9/11/2020. (AFC) (Entered: 09/11/2020)
- 09/22/2020 59 NOTICE OF APPEAL as to 58 Judgment - (Case), 57 Memorandum & Order, by Plaintiff Jatonya Clayborn Muldrow. Filing fee \$ 505, receipt number AMOEDC-8160153. (Entered: 09/22/2020)

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
DOCKET # 20-2975

Date Filed	Docket Text
09/23/2020	Civil case docketed. [4958599] [20-2975] (AEV) [Entered: 09/23/2020 11:02 AM]
12/03/2020	SEALED BRIEF FILED - SEALED APPELLANT BRIEF filed by Jatonya Clayborn Muldrow w/service 12/03/2020. Length: 14,965 words. THIS BRIEF IS FILED UNDER SEAL AND IS NOT AVAILABLE ON PACER. 10 COPIES OF PAPER BRIEFS (WITHOUT THE APPELLATE PDF FOOTER) FROM Jatonya Clayborn Muldrow due 12/08/2020 WITH certificate of service for paper briefs. The appellee's brief deadline will be set, based on the Certificate of Service in the paper copies of the appellant's brief. [4981611] [20-2975] (BNW) [Entered: 12/03/2020 12:29 PM]
12/03/2020	SEALED ADDENDUM of APPELLANT FILED by Appellant Jatonya Clayborn Muldrow w/service 12/03/2020. THIS ADDENDUM IS FILED

UNDER SEAL AND IS NOT
AVAILABLE ON PACER.
[4981612] [20-2975] (BNW)
[Entered: 12/03/2020 12:31 PM]

12/10/2020

BRIEF FILED - AMICUS
BRIEF filed by United States
w/service 12/10/2020 , Length:
1,302 words 10 COPIES OF
PAPER BRIEFS WITH GREEN
COVERS (WITHOUT THE
APPELLATE PDF FOOTER)
FROM United States due
12/15/2020 WITH certificate of
service for paper briefs
[4984015] [20-2975] (CRJ)
[Entered: 12/10/2020 01:28 PM]

03/09/2021

BRIEF FILED - APPELLEE
BRIEF filed by City of St. Louis
and Michael A. Deeba, w/service
03/09/2021 , Length: 9,110
words 10 COPIES OF PAPER
BRIEFS (WITHOUT THE
APPELLATE PDF FOOTER)
FROM City of St. Louis and
Michael A. Deeba due
03/15/2021 WITH certificate of
service for paper briefs. Reply
brief of Jatonya Clayborn
Muldrow due on 03/30/2021.
[5012345] [20-2975] (ALK)
[Entered: 03/09/2021 09:57 AM]

04/13/2021

BRIEF FILED - APPELLANT
REPLY BRIEF filed by Jatonya

Clayborn Muldrow. w/service
04/13/2021 , Length: 4,093
words 10 COPIES OF PAPER
BRIEFS (WITHOUT THE
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FROM Jatonya Clayborn
Muldrow due 04/19/2021 WITH
certificate of service for paper
briefs [5024945] [20-2975] (CRJ)
[Entered: 04/13/2021 11:48 AM]

12/16/2021

ARGUED & SUBMITTED in St.
Louis to Judges James B. Loken,
Bobby E. Shepherd
(participating via
videoconference), David R. Stras
on 12/16/2021. Ms. Megen
Hoffman for Appellant Jatonya
Clayborn Muldrow. Ms. Sheena
Hamilton for Appellees Michael
A. Deeba and City of St. Louis.
Rebuttal by Ms. Megen Hoffman
for Jatonya Clayborn Muldrow.
RECORDED. [Click Here To
Listen to Oral Argument](#)
[5108857] [20-2975] (MR)
[Entered: 12/16/2021 12:06 PM]

04/04/2022

OPINION FILED - THE
COURT: James B. Loken, Bobby
E. Shepherd and David R. Stras
AUTHORING JUDGE: Bobby
E. Shepherd (PUBLISHED)
[5143248] [20-2975] (CMD)
[Entered: 04/04/2022 08:44 AM]

04/04/2022

JUDGMENT FILED - The judgment of the Originating Court is AFFIRMED in accordance with the opinion JAMES B. LOKEN, BOBBY E. SHEPHERD and DAVID R. STRAS Hrg Dec 2021 [5143284] [20-2975] (CMD) [Entered: 04/04/2022 09:10 AM]

the rank of Sergeant. Plaintiff's First Amended Complaint, ¶ 7.

2. Plaintiff is a female. Plaintiff's First Amended Complaint, ¶ 8.

3. Defendant Deeba ("Captain Deeba") is and was at all times relevant employed by Defendant City as a SLMPD Police Officer holding the rank of Captain. Plaintiff's First Amended Complaint, ¶ 3.

4. It is normal for SLMPD employees to be detached, transferred and reassigned between different departments and divisions. Ex. B, Deposition of Jatonya Clayborn Muldrow, 10-30-19, Page 17:2 to 17:5.

5. The Commissioner of the SLMPD decides where each police officer is assigned. Ex. B, Page 16:24 to 17:1; Ex. B, Page 57:24 to 58:4.

6. Only the Commissioner of the SLMPD has the authority to fill positions within the SLMPD. Ex. B, Page 58:5 to 58:8; Ex. B, Page 140:15 to 140:25.

7. Plaintiff filed her Charge of Discrimination against the City of St. Louis and Captain Deeba on June 22, 2017. Plaintiff's First Amended Complaint, ¶ 23.

8. Captain Deeba and Commissioner O'Toole did not discuss the details of Plaintiff's Charge of discrimination with each other nor with any employees. Ex. C, Deposition of Michael Deeba, 11-14-19, Page 66:16 to 67:6; Ex. D, Deposition of Lawrence O'Toole, 12-11-19, Page 75:22 to 76:10.

9. A copy of Plaintiff's Charge of Discrimination was emailed to Commissioner O'Toole on June 27, 2017. Ex. D, Page 73:15 to 74:12; Ex. A, 6-27-17 letter,

enclosure and email from Rick Barry, Bate Stamp 000111 – 000114.

I. Plaintiff's transfer from the Intelligence Division to the Fifth District was not discriminatory, retaliatory, or adverse.

10. Interim Police Commissioner Lawrence O'Toole ("Commissioner O'Toole") moved Captain Deeba to be the Commander of SLMPD's Intelligence Division ("Intelligence") in April, 2017. Ex. C, Page 14:21 to 15:3.

11. Prior to placing Captain Deeba as the Commander of Intelligence, he and Commissioner O'Toole did not have a personal or social relationship. Ex. C, Page 16:15 to 17:6.

12. Captain Deeba replaced (then) Captain Angela Coonce ("Captain Coonce") as the commander of Intelligence. Ex. F, Deposition of Angela Coonce, 1-23-20, Page 12:1 to 13:1.

13. Captain Coonce described her relationship with Captain Deeba at the time he took over Intelligence as a "good working relationship". Ex. F, Page 15:1 to 15:10.

14. Upon giving Captain Deeba command of Intelligence, Commissioner O'Toole immediately instructed Captain Deeba to move Intelligence towards combatting violent crime. Ex. D, Page 24:7 to 25:23; Ex. C, Page 19:16 to 20:14.

15. Commissioner O'Toole and Captain Deeba had conversations about changing Intelligence to be a more progressive unit focused on proactive work in the

streets. Ex. G, Deposition of Thomas Bottini, 1-14-20, Page 21:6 to 22:17.

16. Intelligence reports up directly to the SLMPD Commissioner. Ex. D, Page 16:3 to 16:14.

17. Sergeant Tom Bottini (“Sergeant Bottini”), who served as an aide to Commissioner O’Toole during his tenure, had been moved into and out of Intelligence by different commanders during his career with the SLMPD. Ex. G, Page 23:6 to 23:15.

18. Upon taking over command of Intelligence, Captain Deeba conducted a command audit and inventory. Ex. C, Page 21:5 to 21:17.

19. Captain Deeba’s audit and inventory encompassed the financial and property assets of Intelligence as well as the personnel. Ex. C, Page 21:18 to 22:22.

20. After completing his audit and inventory, Captain Deeba submitted a recommendation for transfers and to re-focus the different disciplines within Intelligence. Ex. C, Page 25:24 to 26:5.

21. Captain Deeba recommended that Plaintiff be transferred so that he could bring in a sergeant with experience in street operations that he had personal knowledge of in furtherance of his plan to re-focus Intelligence on violent crime. Ex. C, Page 30:5 to 31:9.

22. Plaintiff and Captain Deeba had not worked together or had any meaningful interactions prior to Captain Deeba’s command over Intelligence. Ex. B, Page 58:23 to 59:8.

23. Captain Deeba understood Plaintiff’s duties in Intelligence prior to his arrival to include administrative work for the Gun Crime Information

Center, human trafficking, and public corruption. Ex. C, Page 31:22 to 32:8.

24. Commissioner O'Toole approved Captain Deeba's request to transfer Plaintiff from Intelligence to District Five (5) effective June 12, 2017. Ex. D, Page 38:13 to 38:25; Ex. L, Transfers, Detachments, End of Detachments and End of Internships Effective – Monday, June 12, 2017, Bate Stamp 000010 - 000011.

25. There was no particular reason in Commissioner O'Toole's choice to place Plaintiff in the Fifth District beyond looking at the SLMPD manning tables and seeing where sergeants were needed. Ex. D, Page 39:15 to 41:7.

26. Prior to Plaintiff's transfer, Commissioner O'Toole did not have personal knowledge of her or experience working with her, but had heard positive things about Plaintiff from one of her former commanders, Colonel Caruso. Ex. D, Page 45:12 to 45:23.

27. Captain Deeba requested that Sergeant [REDACTED] ("Sergeant [REDACTED]") and Officer [REDACTED] be detached to work under his command in Intelligence. Ex. C, Page 34:13 to 34:23.

28. Captain Deeba in particular wanted Sergeant [REDACTED] to oversee street operations as he reorganized Intelligence to focus on violent crime. Ex. C, Page 34:24 to 35:11.

29. Prior to requesting Sergeant [REDACTED] transfer to Intelligence, Captain Deeba had known him for 20 years. Ex. C, Page 37:12 to 37:16.

30. It's not uncommon for a captain to request a particular officer who they have experience working

with be assigned to them. Ex. D, Page 41:22 to 42:17; Ex. G, Page 23:6 to 23:15.

31. As a sergeant in the Fifth District, Plaintiff was on a rotating schedule, assigned to the Fifth District's patrol area, was required to wear the SLMPD uniform and drive a marked police car. Ex. B, Page 79:19 to 80:5.

32. ██████████, a male officer, was moved out of Intelligence at the same time as Plaintiff. Ex. L

33. ██████████, a female officer, was moved out of Intelligence at the same time as Plaintiff. Ex. L.

34. ██████████, a male officer, was transferred out of Intelligence at the same time as Plaintiff. Ex. L.

35. Department wide, 17 men and 5 women of varying ranks were also transferred or detached at the same time as Plaintiff. Ex. L.

36. At the time of Plaintiff's transfer, Captain Deeba retained Sergeant ██████████, a female supervisor in Intelligence. Ex. C, Page 32:17 to 32:25.

37. At the time of Plaintiff's transfer, Captain Deeba retained Detective ██████████ a female officer in Intelligence. Ex. C, Page 33:1 to 33:14.

38. Plaintiff's June 12, 2017 transfer to the Fifth District did not change her salary. Ex. B, Page 149:18 to 151:7

39. Plaintiff was assigned to the Fifth District from June 12, 2017 until February 5, 2018. Ex. B, Page 151:15 to 151:21.

40. Manning tables are used by the SLMPD to show a detailed view of the entire department, including the

authorized number of people for each unit and the actual number of people in that unit. Ex. D, Page 125:7 to 125:20.

41. On the effective date of Plaintiff's transfer to the Fifth District (June 12, 2017), with Plaintiff's addition to the Fifth District the manning tables showed the Fifth District was authorized for 22 sergeants and actually had 21 sergeants - short by 1 sergeant. Ex. M, SLMPD Manning Tables, DFT – 007766 to 007767.

42. For every week from the effective date of Plaintiff's transfer to the Fifth District until August 28, 2017, the manning tables showed that the Fifth District was still short 1 sergeant and the Second District was not over or under any sergeants. Ex. M.

43. Between June 12 and August 28, 2017, the Bureau of Community Policing as a whole ranged from being short 10 – 15 sergeants. Ex. D, Page 129:6 to 136:15; Ex. M.

44. On the effective date of Plaintiff's transfer to the Fifth District (June 12, 2017), the manning tables showed that the Second District was authorized for 22 sergeants and actually had 22 sergeants – neither over or under, while at the same time the Fifth District was authorized for 22 sergeants and actually had 21 sergeants, meaning they were down one sergeant. Ex. D, Page 128:18 to 129:5; Ex. M, DFT – 007766 - 007767.

45. In addition to personnel changes, Captain Deeba reorganized Intelligence by moving the Human Trafficking Unit to the Sex Crimes/Child Abuse Unit. Ex. C, Page 33:15 to 34:12.

46. Captain Warnecke suggested that Human Trafficking would be better under the purview of the Sex Crimes/Child Abuse Unit, and Captain Deeba agreed. Commissioner O'Toole approved the transfer of Human Trafficking to the Sex Crimes/Child Abuse Unit. Ex. D, Page 46:25 to 47:20.

47. Captain Deeba requested that Lieutenant Morici provide him with an inventory in furtherance of putting all task force officers ("TFOs") under the umbrella of Intelligence. Ex. C, Page 70:18 to 71:10; Ex. Y, July 13, 2017 Intra-Department Report and Correspondence Sheet, DFT – 004422 to 004424.

48. Moving all TFOs under one umbrella, in this case Intelligence, was a directive that came from Commissioner O'Toole to Captain Deeba, for the purpose of accountability. Ex. C, Page 70:22 to 71:10; Ex. D, Page 113:18 to 114:11.

49. Commissioner O'Toole's interest in accountability and oversight of TFOs was in part because of four TFOs who were accused of falsifying their overtime. Ex. D, Page 138:10 to 139:7; Ex. G, Page 54:15 to 55:2.

50. After all TFOs were identified, a new assignment code was created which fell under the supervision of Lieutenant Morici. Ex. C, Page 78:5 to 78:25.

51. Captain Deeba did not discriminate against Plaintiff on the basis of her gender. Ex. C, Page 88:13 to 88:16.

II. Plaintiff's loss of Task Force credentials was legitimate and not discriminatory, retaliatory, or adverse.

52. At some time in 2016, Plaintiff was deputized as a TFO for the Human Trafficking Unit of the Federal

Bureau of Investigations (“FBI”). Ex. B, Page 49:12 to 49:21.

53. The FBI provided Plaintiff with an identification badge and an unmarked FBI owned vehicle to assist Plaintiff in performing duties related to Human Trafficking investigations. Ex. B, Page 53:17 to 54:13.

54. Plaintiff informed the ATF supervisor and her Human Trafficking contacts that effective June 12, 2017, the jobs she had worked on with them would no longer be her responsibility and that they should reach out to Intelligence to find out who the new point of contact would be. Ex. B, Page 72:1 to 72:17.

55. Once Plaintiff was transferred to the Fifth District she no longer performed any job duties as a task force officer with the FBI. Ex. B, Page 81:9 to 81:12.

56. After her transfer from Intelligence to the Fifth District, Plaintiff never requested approval to continue working overtime with the FBI. Ex. B, Page 102:9 to 102:17.

57. When someone is transferred out of a specialized unit, it is expected that they turn in all of their equipment. Ex. C, Page 46:12 to 46:16; Ex. N, June 14, 2017 email from Captain Michael Deeba to Special Agent Lynch, DFT – 005788 to 005789; Ex. I, Deposition of Gerald Leyshock, 1-24-20, Page 30:18 to 33:2.

58. 6 days after being transferred from Intelligence to the Fifth District, Plaintiff still had not returned her FBI-issued vehicle. Ex. B, Page 82:15 to 82:18 ; Ex. O, June 14, 2017 to June 15, 2017 emails between Plaintiff and Sergeant Stanley Mierzejewski, Bate Stamp 000016 to 000017.

59. After Plaintiff's transfer from Intelligence, Captain Deeba became aware that Plaintiff had not returned the FBI-issued vehicle. Ex. C, Page 45:22 to 47:11; Ex. P, June 14, 2017 email from Detective Brian Naeger to Captain Michael Deeba, DFT – 005785.

60. Captain Deeba called the FBI to find out if Plaintiff's FBI-issued vehicle had been returned and ended up speaking with FBI Special Agent Lynch ("Agent Lynch"). Ex. C, Page 47:2 to 47:13.

61. Captain Deeba did not request that Agent Lynch revoke Plaintiff's FBI credentials. Ex. C, Page 85:16 to 86:10; Ex. N.

62. Captain Deeba did not receive any request from the FBI for Plaintiff to continue working on investigations as a task force officer. Ex. C, Page 48:12 to 49:1 and Page 84:2 to 84:11.

63. After concluding his call with Agent Lynch, Captain Deeba put the contents of their phone call into an email. Ex. C, Page 49:10 to 49:24; Ex. N.

64. Captain Deeba provided Agent Lynch with the name and contact for Plaintiff's new commander, urging her to communicate with that commander regarding any ongoing "investigative needs". Ex. N.

65. Captain Deeba advised Agent Lynch that she could collect her equipment from Plaintiff and asked to be informed when that was done. Ex. N.

66. There is an understanding between agencies that if there is a need for an individual to stay somewhere, that a person from the requesting agency will ask. Ex. D, Page 55:24 to 56:15, 58:8 to 59:18.

67. No one from the FBI contacted Commissioner O'Toole regarding Plaintiff. Ex. D, Page 64:3 to 64:6.

68. FBI Special Agent William Woods ("Agent Woods"), the special agent in charge of the St. Louis office at this time, was copied on Captain Deeba's email to Agent Lynch regarding Plaintiff. Ex. D, Page 65:16 to 65:22; Ex. N.

69. Commissioner O'Toole and Agent Woods know each other well and communicate with each other frequently. Ex. D, Page 68:10 to 68:20.

70. Officer ██████████ was in the process of receiving his federal credentials as a TFO for the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") when he was transferred from Intelligence to the Sixth District. Ex. J, Deposition of ██████████, 11-20-19, Page 11:7 to 12:3.

71. Officer ██████████ had received his government "PIV" card but not a badge, ID, laptop or other credentials at the time he was transferred from Intelligence. Ex. J, Page 11:13 to 12:3.

72. Officer ██████████ had not yet began any cases or otherwise started working with the ATF as a TFO before his transfer from Intelligence. Ex. J, Page 13:5 to 14:2.

73. Officer ██████████ was informed by his ATF supervisor, Chris Rogers, that he could retain whatever credentials he had after his transfer in case Officer ██████████ could use them in the future. Ex. J, Page 16:10 to 16:24.

74. Officer ██████████'s TFO credentials were revoked within a month or two of his transfer out of Intelligence. Ex. J, Page 17:23 to 18:8.

75. Captain Deeba was informed by Officer [REDACTED] supervisors after his transfer from the Intelligence Division that he “turned all his stuff in.” Ex. C, Page 87:13 to 88:12.

76. Lieutenant Morici emailed Captain Deeba on July 29, 2017 that an Officer [REDACTED] transferred out of Intelligence and turned in all of his FBI equipment when he left. Ex. C, Page 74:18 to 75:5; Ex. Q, July 29, 2017 email from Lieutenant Joseph Morici, DFT – 005284.

77. Lieutenant Morici made Captain Deeba aware on July 29, 2017 that an Officer [REDACTED] transferred out of Intelligence and turned in all of his FBI equipment when he left. Ex. C, Page 76:4 to 76:9; Ex. R, July 29, 2017 email from Lieutenant Joseph Morici, DFT – 005286.

78. Sergeant Bottini served as a task force officer (“TFO”) with the Drug Enforcement Administration (“DEA”) from 1997 until approximately 2003. Ex. G, Page 35:20 to 35:25.

79. During Sergeant Bottini’s tenure as a TFO the SLMPD’s assignment code for his position changed at least three times. Ex. G, Page 36:1 to 36:19.

80. When Sergeant Bottini was transferred out of Intelligence he had to return all DEA items. Ex. G, Page 39:4 to 39:16.

III. Plaintiff not being transferred from the Fifth District to the Second District was legitimate and not discriminatory, retaliatory, or adverse.

81. Captain Coonce had two informal conversations up her chain of command regarding requesting Plaintiff’s

transfer to the Second District to be her aide: one with Major Dan Howard (“Major Howard”) and one with Colonel Jerry Leyshock (“Colonel Leyshock”). Ex. F, Page 19:14 to 19:24 and 20:20 to 21:7.

82. Captain Coonce did not ever put a request to have Plaintiff transferred to the Second District as her aide on paper. Ex. F, Page 20:4 to 20:10.

83. Major Howard does not recall a specific request from Captain Coonce to have an aide, but if she had requested one he would have passed Captain Coonce’s request up the chain to Major Kenny Kegel and Colonel Leyshock. Ex. H, Deposition of Daniel Howard, 1-24-20, Page 16:5 to 17:8.

84. Captain Coonce informed Plaintiff that she would not be able to transfer to the Second District as the Captain’s aid sometime within a week after Plaintiff’s transfer to the Fifth District. Ex. B, Page 76:7 to 76:14.

85. Commissioner O’Toole was not aware that Captain Coonce requested Plaintiff to become her administrative aid in the Second District. Ex. D, Page 71:14 to 71:22.

86. Sergeant Bottini does not recall any request related to a transfer from the Fifth District to the Second District in order for Plaintiff to serve as Captain Coonce’s aide ever reaching Commissioner O’Toole’s office. Ex. G, Page 42:1 to 43:2.

87. Captains in different districts, such as Captain Coonce in the Second and Captain Larson in the Fifth, could have worked out a trade of sergeants that would not have arisen to the Commissioner’s level. Ex. D, Page 139:13 to 140:15.

88. Captain Coonce did not ever have a conversation with Plaintiff's commander in the Fifth District, Captain Larson, about trading Plaintiff for another sergeant. Ex. F, Page 84:21 to 85:3.

89. Plaintiff submitted an electronic transfer request to move from the Fifth District to the Second District on July 5, 2017. Ex. B, Page 117:7 to 117:9; Ex. S, 7-5-17 Transfer Request, DFT – 000925.

90. Plaintiff's electronic transfer request populated in a software management system called "PeopleSoft". Ex. F, Page 32:19 to 32:25.

91. Plaintiff submitting an electronic transfer request to PeopleSoft added her to a list that command staff can check by running a report. Ex. F, Page 33:1 to 33:7.

92. Captain Coonce was made aware of Plaintiff's electronic transfer request by Plaintiff, but does not recall advising anyone in SLMPD of Plaintiff's electronic transfer request. Ex. F, Page 34:25 to 36:4.

93. In July 2017, the manning tables show that the Second District was fully staffed on sergeants. Ex. M., DFT – 007779, 007783, 007787, 007791, 007795.

94. Captain Deeba was not made aware of Plaintiff's electronic request to transfer to District 2. Ex. C, Page 67:23 to 68:6.

95. Commissioner O'Toole was not made aware of Plaintiff's electronic request to transfer to the Second District. Ex. D, Page 79: 19 to 79:22.

96. Captain Deeba never discussed any shortage of sergeants specific to the Second District in 2017 with other command staff. Ex. C, Page 68:19 to 68:22.

97. Commissioner O'Toole approved detachments of sergeants from specialized units to the Second District for three to four weeks at a time as a strategic choice to assist with the Second District shortage of sergeants from July to October 2017. Ex. D, Page 81:18 to 83:13; Ex. T, Transfer and Detachment emails effective Monday, July 10, 2017 to Monday, October 2, 2017, Bate Stamp 000023, 000027, 000029, 000034 and 000036.

98. In 2017 the Second District had a significant shortage of sergeants, in part due to a number of sergeants out on long-term medical leave at the same time. Ex. F, Page 18:24 to 19:5 and 25:20 to 26:10; Ex. H, Page 18:25 to 19:3.

99. In an email on June 23, 2017, Captain Coonce requested to transfer Sergeant Isbell, who was to be out on sick leave until January, out of his position in order to post his detective sergeant position. Ex. U, Angela Coonce's 6-23-17 email to Dan Howard, DFT – 000164.

100. Major Howard thought Captain Coonce's request to transfer Sergeant Isbell out of his position while out on leave was reasonable and forwarded her request up his chain of command to Major Kegel. Ex. H, Page 20:19 to 21:10, Ex. U.

101. People occupying positions cannot be transferred out of those positions because they are sick. Ex. D, Page 94:3 to 95:9; Ex. G, Page 44:15 to 45:2.

102. On July 13, 2017, an email was sent from Major Howard to Colonel Leyshock requesting a sergeant position be posted for the Second District. Ex. V, 7-13-17 emails re: Second District Detective Sergeant Position, DFT – 007895 to 007896.

103. Colonel Leyshock then requested that human resources post a detective sergeant position for the Second District. Ex. V.

104. There was a posting for a detective sergeant position in the Second District on July 14, 2017. Ex. W, Commissioned Posting: Sergeant – Detective District 2, Bate Stamp 000056.

105. Sergeant Bottini never received a request or was otherwise made aware of this posting until after it was done. Ex. G, Page 60:8 to 60:13; 62:15 to 62:18.

106. The July 14, 2017 posting for a detective sergeant position in the Second District was made in error, as there was no opening for a detective sergeant at that time. Ex. D, Page 92:15 to 97:6; Ex. G, Page 60:8 to 61:4.

107. Plaintiff applied for a detective sergeant position in District Two on July 26, 2017. Ex. B, Page 125:14 to 126:9.

108. Proper chain of command would have been for Major Howard to forward Captain Coonce's selection of Plaintiff to Major Kegel and Colonel Leyshock, but he does not recall if that was done. Ex. H, Page 35:12 to 36:2.

109. No recommendations to fill the position for a detective sergeant in the Second District were made to Commissioner O'Toole. Ex. D, Page 95:19 to 95:25 and Page 100:25 to 102:2.

110. Any recommendation to fill a position in the SLMPD would go up the chain to be approved by the Commissioner. Ex. D, Page 99:6 to 100:12.

111. Sergeant Bottini initially received an incomplete packet of information regarding the applicants for the Second District detective sergeant position. Ex. G, Page 67:25 to 68:10.

112. Sergeant Bottini subsequently received the missing interview sheets and had all of the information regarding the applicants for the Second District detective sergeant position. Ex. G, Page 70:13 to 70:20.

113. No one was selected to fill the July 14, 2017 posting for detective sergeant in the Second District. Ex. B, Page 130:19 to 130:24.

114. Captain Deeba did not have any conversations with Commissioner O'Toole or any person in an administrative position within the SLMPD regarding a July 2017 posting for a detective sergeant position in the Second District. Ex. C, Page 72:1 to 72:16.

115. No one having anything to do with the detective sergeant position in the Second District that Plaintiff applied for asked Captain Deeba for his input or told him what happened with the posting. Ex. C, Page 74:7 to 74:17.

116. SLMPD Sergeant Susan McClain was transferred from the Fourth District to the Second District effective October 2, 2017. Ex. E, Deposition of Lawrence O'Toole, 1- 23-20, Page 9:2 to 9:5; Ex. T, Bate Stamp 000036.

117. Commissioner O'Toole transferred Sergeant McClain from the Fourth District to the Second District after he became aware that she wanted to return to duty following some medical leave but could not return to the Fourth District due to the only

available Sergeant position in the Fourth District being night duty. He also believed transferring Sergeant McClain would help the Second District with their dire shortage of sergeants. Ex. E, Page 9:11 to 11:5.

118. Due to the sergeants out on leave creating shortages in the Second District, Sergeant McClain was allowed to transfer to the Second District with the approval of the Second District commander Captain Counce and the Fourth District commander Captain Renee Kriesmann. Ex. G, Page 92:5 to 92:12; Ex. F, Page 38:7 to 40:1.

119. Had Plaintiff been transferred to the Second District, her salary would not have changed. Ex. B, Page 151:8 – 151:13.

IV. Plaintiff not being selected to fill an IAD position was legitimate and not discriminatory, retaliatory, or adverse.

120. Plaintiff submitted an application for a sergeant investigator position in Internal Affairs on August 3, 2017. Ex. B, Page 131:15 to 132:11.

121. Commissioner O'Toole was not aware that Plaintiff applied for the sergeant investigator position in Internal Affairs. Ex. D, Page 105:7 to 105:17.

122. All of the applicants for the sergeant position in Internal Affairs were advised in an August 25, 2017 email that the positions would not be filled due to the districts' manpower shortage and urged to reapply. Ex. X, Lieutenant Adam Koeln's email re: IAD positions, Bate Stamp 000033.

123. In August 2017, Internal Affairs had four sergeant vacancies while the Bureau of Community

Policing had fifteen sergeant vacancies. Ex. D, Page 146:3 to 146:24; Ex. M, DFT – 007810 to 007813.

124. Commissioner O'Toole's priority in August 2017 was in keeping sergeants in the Bureau of Community Policing because those are the sergeants who work the streets. Ex. D, Page 146:25 to 147:14.

125. August is a particularly busy time for the SLMPD due to a combination of more activity on the streets and personnel wanting to take vacations. Ex. D, Page 147:15 to 148:25.

126. Plaintiff submitted a second application for a sergeant investigator position in Internal Affairs on October 27, 2017. Ex. B, Page 136:1 to 136:8; ex 29

127. Plaintiff withdrew her candidacy for the sergeant investigator position because she was reassigned to the Intelligence Division. Ex. B, Page 136:15 to 136:18.

128. Commissioner O'Toole was not aware that Plaintiff applied a second time or that she was recommended for a sergeant investigator position in Internal Affairs. Ex. D, Page 108:22 to 110:14.

129. None of the sergeant investigator positions were filled prior to March 7, 2018, by which time Plaintiff had withdrawn her application. Ex. K, Lieutenant Adam Koeln's 3-7-18 Memorandum re: Vacant IAD Positions, DFT – 000283 – 000284.

130. During Commissioner O'Toole's tenure as the acting Commissioner of Police, personnel matters would have gone through Sergeant Bottini or Lieutenant McAteer. Ex. D, Page 144:17 to 144:21.

131. Captain Deeba was not aware of either time the sergeant position was posted in Internal Affairs. He

was never made aware the Plaintiff had applied nor asked either time for his input by Commissioner O'Toole or anyone on the hiring committee. Ex. C, Page 76:16 to 78:4.

132. Throughout the time Plaintiff worked as a sergeant in the Fifth District, she chose to not submit any overtime that she worked. Ex. B, Page 142:1 to 143:16.

133. No one ever told Plaintiff that she could not or should not submit the overtime that she worked as a sergeant in the Fifth District. Ex. B, Page 142:1 to 143:16.

134. During Plaintiff's time working as a sergeant in the Fifth District she had secondary employment with a private security company called "The City's Finest". Ex. B, Page 144:1 to 144:9.

135. Plaintiff's secondary employment work was approved, as is required for all City employees. Ex. B, Page 146:5 to 146:10.

136. Had Plaintiff gotten any of the positions she applied for in 2017 her salary would not have changed. Ex. B, Page 151:8 – 151:13.

137. Plaintiff's time as a sergeant assigned to the Fifth District lasted approximately eight months and did not cause any long-term harm to her career prospects. Ex. B, Page 151:8 to 152:2.

138. After returning to the Intelligence Division in 2018, Plaintiff's FBI credentials were restored. Ex. B, Page 160:8 to 160:11.

139. Plaintiff never filed a complaint regarding these allegations with the Department of Personnel. Ex. B, Page 170:19 to 171:7.

140. Plaintiff never complained to Internal Affairs about any alleged harassment, discrimination or retaliation by Captain Deeba or anyone else. Ex. B, Page 186:4 to 186:7.

Respectfully submitted,

JULIAN BUSH,

CITY COUNSELOR

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ATTORNEY FOR

DEFENDANTS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JATONYA MULDROW,) [Docket Entry 51]
) [filed June 29, 2020]
PLAINTIFF,)
) Case No.: 4:18-cv-
) 02150AGF
V.)
)
CITY OF ST. LOUIS,)
et al.)
)
DEFENDANTS.)

**PLAINTIFF’S RESPONSE TO DEFENDANTS’
STATEMENT OF UNCONTROVERTED
MATERIAL FACTS**

COMES NOW Plaintiff, by and through counsel, and for her Response to Defendants’ Statement of Uncontroverted Material Facts, states as follows.

1. Jatonya Clayborn Muldrow (“Plaintiff”) is and was at all times relevant employed by Defendant City, a municipality, as a Police Officer in the St. Louis Metropolitan Police Department (“SLMPD”) holding the rank of Sergeant. Plaintiff’s First Amended Complaint, ¶7.

RESPONSE: Admit.

2. Plaintiff is a female. Plaintiff's First Amended Complaint, ¶8.

RESPONSE: Admit.

3. Defendant Deeba ("Captain Deeba") is and was at all times relevant employed by Defendant City as a SLMPD Police Officer holding the rank of Captain. Plaintiff's First Amended Complaint, ¶3.

RESPONSE: Admit.

4. It is normal for SLMPD employees to be detached, transferred and reassigned between different departments and divisions. Ex. B, Deposition of Jatonya Clayborn Muldrow, 10-30-19, Page 17:2 to 17:5.

RESPONSE: Admit.

5. The Commissioner of the SLMPD decides where each police officer is assigned. Ex. B, Page 16:24 to 17:1; Ex. B, Page 57:24 to 58:4.

RESPONSE: Admit.

6. Only the Commissioner of the SLMPD has the authority to fill positions within the SLMPD. Ex. B, Page 58:5 to 58:8; Ex. B, Page 140:15 to 140:25.

RESPONSE: Admit.

7. Plaintiff filed her Charge of Discrimination against the City of St. Louis and Captain Deeba on June 22, 2017. Plaintiff's First Amended Complaint, ¶23.

RESPONSE: Admit.

8. Captain Deeba and Commissioner O'Toole did not discuss the details of Plaintiff's Charge of

Discrimination with each other nor with any employees. Ex. C, Deposition of Michael Deeba, 11-14-19, Page 66:16 to 67:6; Ex. D, Deposition of Lawrence O'Toole, 12-11-19, Page 75:22 to 76:10.

RESPONSE:

Admit.

9. A copy of Plaintiff's Charge of Discrimination was emailed to Commissioner O'Toole on June 27, 2017. Ex. D, Page 73:15 to 74:12; Ex. A, 6-27-17 letter, enclosure and email from Rick Barry, Bate Stamp 000111 - 000114.

RESPONSE: Admit.

I. Plaintiff's transfer from the Intelligence Division to the Fifth District was not discriminatory, retaliatory, or adverse.

10. Interim Police Commissioner Lawrence O'Toole ("Commissioner O'Toole") moved Captain Deeba to be the Commander of SLMPD's Intelligence Division ("Intelligence") in April, 2017. Ex. C, Page 14:21 to 15:3.

RESPONSE: Admit.

11. Prior to placing Captain Deeba as the Commander of Intelligence, he and Commissioner O'Toole did not have a personal or social relationship. Ex. C, Page 16:15 to 17:6.

RESPONSE: Deny. It was common knowledge in the Department that Captain Deeba and Commissioner O'Toole were friends and "hunting" buddies (Ex. 1, pgs. 122-123).

12. Captain Deeba replaced (then) Captain Angela Coonce (“Captain Coonce”) as the commander of Intelligence. Ex. F, Deposition of Angela Coonce, 1-23-20, Page 12:1 to 13:1.

RESPONSE: Admit.

13. Captain Coonce described her relationship with Captain Deeba at the time he took over Intelligence as a “good working relationship”. Ex. F, Page 15:1 to 15:10.

RESPONSE: Admit.

14. Upon giving Captain Deeba command of Intelligence, Commissioner O’Toole immediately instructed Captain Deeba to move Intelligence towards combatting violent crime. Ex. D, Page 24:7 to 25:23; Ex. C, Page 19:16 to 20:14.

RESPONSE: Admit.

15. Commissioner O’Toole and Captain Deeba had conversations about changing Intelligence to be a more progressive unit focused on proactive work in the streets. Ex. G, Deposition of Thomas Bottini, 1-14-20, Page 21:6 to 22:17.

RESPONSE: Admit.

16. Intelligence reports up directly to the SLMPD Commissioner. Ex. D, Page 16:3 to 16:14.

RESPONSE: Admit.

17. Sergeant Tom Bottini (“Sergeant Bottini”), who served as an aide to Commissioner O’Toole during his tenure, had been moved into and out of Intelligence by different commanders during his career with the SLMPD. Ex. G, Page 23:6 to 23:15.

RESPONSE: Admit.

18. Upon taking over command of intelligence, Captain Deeba conducted a command audit and inventory. Ex. C, Page 21:5 to 21:17.

RESPONSE: Admit.

19. Captain Deeba's audit and inventory encompassed the financial and property assets of Intelligence as well as the personnel. Ex. C, Page 21:18 to 22:22.

RESPONSE: Admit.

20. After completing his audit and inventory, Captain Deeba submitted a recommendation for transfers and to re-focus the different disciplines within Intelligence. Ex. C, Page 25:24 to 26:5.

RESPONSE: Deny. Captain Deeba did not complete the first Phase of his audit and inventory until August 6, 2017, several months after recommending Plaintiffs transfer out of Intelligence. (Ex. 9 and 11).

21. Captain Deeba recommended that Plaintiff be transferred so that he could bring in a sergeant with experience in street operations that he had personal knowledge of in furtherance of his plan to re-focus Intelligence on violent crime. Ex. C, Page 30:5 to 31:9.

RESPONSE: Deny. Upon Captain Deeba arriving in the Intelligence Division, he would refer to Plaintiff as "Mrs. Clayborn" instead of by her rank of "Sergeant". (Ex. 1, pgs. 60-61). However, Captain Deeba would refer to the male employees in the Intelligence Division by their rank, including the male Sergeants. (Ex. 1, pg. 61). At the time of her transfer out of the Intelligence Division, Plaintiff was the only female Sergeant in the Division. (Ex.

1, pg. 102). Captain Deeba ultimately had all females transferred out of the Intelligence Division, with the exception of Sergeant [REDACTED] and Detective [REDACTED] who he kept in the Real Time Crime Center, which is under the umbrella of the Intelligence Division, as administrative employees, performing primarily administrative duties. (Ex. 1, pgs. 102-104 and 179 and Ex. 8, pgs. 82-83). Captain Deeba testified that he transferred Plaintiff because he was looking for someone who was “extremely efficient with street operations and supervising those tasks,” which he stated was a “very dangerous job.” (Ex. 8, pg. 30).

Plaintiff had the most experience in the Intelligence Division in violent crime, as she was the head of the Gun Crimes Intelligence Unit. (Ex. 1, pgs. 102-103 and pg. 139). As a Sergeant in the Intelligence Division at the time Captain Deeba took over command, while she did have some administrative duties, Plaintiff was also working violent crime, serving warrants, and performing investigations. (Ex.1, pgs. 102-103 and 178). When Captain Coonce was her supervisor in the Intelligence Division, prior to Captain Deeba, Plaintiff was also in charge of the gang unit, which are some of the most violent offenders in the City, and Captain Coonce trusted Plaintiff to perform street work. (Ex. 2, pg. 65). Before her transfer, Captain Deeba did not ask Plaintiff if she was performing any work on the street. (Ex. 8, pg. 83). Further, on May 31, 2017, Captain Deeba met with the Sergeants in the Intelligence Division and told them he did not believe in “blind transfers” because he felt it was cowardly, and vowed that if he had

plans to move anyone out of Intelligence, he would let them know, because he was not a coward. (Ex. 1, pgs. 70-71 and Ex. 10). Despite this promise, Captain Deeba did not alert Plaintiff prior to the email received by the entire Department on June 9, 2017 that she was going to be transferred. (Ex. 1, pgs. 70-71).

22. Plaintiff and Captain Deeba had not worked together or had any meaningful interactions prior to Captain Deeba's command over Intelligence. Ex. B, Page 58:23 to 59:8.

RESPONSE: Admit.

23. Captain Deeba understood Plaintiff's duties in Intelligence prior to his arrival to include administrative work for the Gun Crime Information Center, human trafficking, and public corruption. Ex. C, Page 31:22 to 32:8.

RESPONSE: Deny. Captain Deeba could not have understood what Plaintiff's duties were in the Intelligence Division, because when Plaintiff asked him, upon his arrival to Intelligence, how he wanted to handle Public Corruption, Human Trafficking, and the Gun Crime Intelligence Center, he told her would check on that and "let her know." (Ex. 1, pg. 63). Captain Deeba also did not perform any research into Plaintiff's experience with the Department before deciding to request her transfer her out of Intelligence. (Ex. 8, pg. 30). Before her transfer, Captain Deeba did not ask Plaintiff if she was performing any work on the street. (Ex. 8, pg. 83).

24. Commissioner O'Toole approved Captain Deeba's request to transfer Plaintiff from Intelligence to

District Five (5) effective June 12, 2017. Ex. D, Page 38:13 to 38:25; Ex. L, Transfers, Detachments, End of Detachments and End of Internships Effective-Monday, June 12, 2017, Bate Stamp 000010 - 000011.

RESPONSE: Admit.

25. There was no particular reason in Commissioner O'Toole's choice to place Plaintiff in the Fifth District beyond looking at the SLMPD manning tables and seeing where sergeants were needed. Ex. D, Page 39:15 to 41:7.

RESPONSE: Admit.

26. Prior to Plaintiff's transfer, Commissioner O'Toole did not have personal knowledge of her or experience working with her, but had heard positive things about Plaintiff from one of her former commanders, Colonel Caruso. Ex. D, Page 45:12 to 45:23.

RESPONSE: Admit.

27. Captain Deeba requested that Sergeant [REDACTED] ("Sergeant [REDACTED]") and Officer [REDACTED] be detached to work under his command in Intelligence. Ex. C, Page 34:13 to 34:23.

RESPONSE: Admit.

28. Captain Deeba in particular wanted Sergeant [REDACTED] to oversee street operations as he reorganized Intelligence to focus on violent crime. Ex. C, Page 34:24 to 35:11.

RESPONSE: Admit.

29. Prior to requesting Sergeant [REDACTED] transfer to Intelligence, Captain Deeba had known him for 20 years. Ex. C, Page 37:12 to 37:16.

RESPONSE: Admit.

30. It's not uncommon for a captain to request a particular officer who they have experience working with be assigned to them. Ex. D, Page 41:22 to 42:17; Ex. G, Page 23:6 to 23:15.

RESPONSE: Admit.

31. As a sergeant in the Fifth District, Plaintiff was on a rotating schedule, assigned to the Fifth District's patrol area, was required to wear the SLMPD uniform and drive a marked police car. Ex. B, Page 79:19 to 80:5.

RESPONSE: Admit.

32. ██████████, a male officer, was moved out of Intelligence at the same time as Plaintiff. Ex. L

RESPONSE: Admit.

33. ██████████, a female officer, was moved out of Intelligence at the same time as Plaintiff. Ex. L.

RESPONSE: Admit.

34. ██████████, a male officer, was transferred out of intelligence at the same time as Plaintiff. Ex. L.

RESPONSE: Admit.

35. Department wide, 17 men and 5 women of varying ranks were also transferred or detached at the same time as Plaintiff. Ex. L.

RESPONSE: Admit.

36. At the time of Plaintiff's transfer, Captain Deeba retained Sergeant ██████████, a female supervisor in Intelligence. Ex. C, Page 32:17 to 32:25.

RESPONSE: Admit.

37. At the time of Plaintiff's transfer, Captain Deeba retained Detective [REDACTED], a female officer in Intelligence. Ex. C, Page 33:1 to 33:14.

RESPONSE: Admit.

38. Plaintiff's June 12, 2017 transfer to the Fifth District did not change her salary. Ex. B, Page 149:18 to 151:7

RESPONSE: Admit.

39. Plaintiff was assigned to the Fifth District from June 12, 2017 until February 5, 2018. Ex. B, Page 151:15 to 151:21.

RESPONSE: Admit.

40. Manning tables are used by the SLMPD to show a detailed view of the entire department, including the authorized number of people for each unit and the actual number of people in that unit. Ex. D, Page 125:7 to 125:20.

RESPONSE: Deny. The Chief of Police has the ultimate authority to disregard the manning tables if circumstances require additional personnel. (Ex. 7, pg. 7). Further, the manning tables do not show the "actual" number of people working in a unit, because the manning tables do not account for employees who may be out on extended sick leave or injury leave and who are not physically at work. (Ex. 4, pgs. 127-128 and Ex. 19)

41. On the effective date of Plaintiff's transfer to the Fifth District (June 12, 2017), with Plaintiff's addition to the Fifth District the manning tables showed the Fifth District was authorized for 22 sergeants and actually

had 21 sergeants - short by 1 sergeant. Ex. M, SLMPD Manning Tables, DFT - 007766 to 007767.

RESPONSE: Admit.

42. For every week from the effective date of Plaintiff's transfer to the Fifth District until August 28, 2017, the manning tables showed that the Fifth District was still short 1 sergeant and the Second District was not over or under any sergeants. Ex. M.

RESPONSE: Deny to the extent this assumes that the manning tables accurately reflect the number of officers actually working in a unit. The manning tables do not show the "actual" number of people working in a unit, because the manning tables do not account for employees who may be out on extended sick leave or injury leave and who are not physically at work. (Ex. 4, pgs. 127-128, Ex. 19).

43. Between June 12 and August 28, 2017, the Bureau of Community Policing as a whole ranged from being short 10-15 sergeants. Ex. D, Page 129:6 to 136:15; Ex. M.

RESPONSE: Admit.

44. On the effective date of Plaintiff's transfer to the Fifth District (June 12, 2017), the manning tables showed that the Second District was authorized for 22 sergeants and actually had 22 sergeants - neither over or under, while at the same time the Fifth District was authorized for 22 sergeants and actually had 21 sergeants, meaning they were down one sergeant. Ex. D, Page 128:18 to 129:5; Ex. M, DFT - 007766 - 007767.

RESPONSE: Deny to the extent this assumes that the manning tables accurately reflect the number of officers actually working in a unit. The manning

tables do not show the “actual” number of people working in a unit, because the manning tables do not account for employees who may be out on extended sick leave or injury leave and who are not physically at work. (Ex. 19)

45. In addition to personnel changes, Captain Deeba reorganized Intelligence by moving the Human Trafficking Unit to the Sex Crimes/Child Abuse Unit. Ex. C, Page 33:15 to 34:12.

RESPONSE: Admit.

46. Captain Warnecke suggested that Human Trafficking would be better under the purview of the Sex Crimes/Child Abuse Unit, and Captain Deeba agreed. Commissioner O’Toole approved the transfer of Human Trafficking to the Sex Crimes/Child Abuse Unit. Ex. D, Page 46:25 to 47:20.

RESPONSE: Admit.

47. Captain Deeba requested that Lieutenant Morici provide him with an inventory in furtherance of putting all task force officers (“TFOs”) under the umbrella of intelligence. Ex. C, Page 70:18 to 71:10; Ex. Y, July 13, 2017 Intra-Department Report and Correspondence Sheet, DPT - 004422 to 004424.

RESPONSE: Admit.

48. Moving all TFOs under one umbrella, in this case Intelligence, was a directive that came from Commissioner O’Toole to Captain Deeba, for the purpose of accountability. Ex. C, Page 70:22 to 71:10; Ex. D, Page 113:18 to 114:11.

RESPONSE: Deny. Captain Deeba had previously informed Plaintiff’s Task Force Officer Supervisor

with the FBI, Special Agent Lynch, on or about June 14, 2017, that only employees under the Intelligence Division could maintain Task Force Officer status. (Ex. 1, pgs. 81-82 and Ex.13). However, at the time of Plaintiff's transfer out of Intelligence, there were male employees who were permitted to act as Task Force officers with federal agencies and were not assigned to the Intelligence Division. (Ex. 1, pgs. 82-86). When Captain Deeba learned that upon being transferred to District 5, Plaintiff had not turned in her FBI vehicle, he tasked his administrative aide with getting a list together of all detectives who had FBI vehicles. (Ex. 8, pgs. 54-55). The memorandum listing the identity and assignment of all Task Force Officers was not submitted to the Chief until July 13, 2017, almost a month after Plaintiff's transfer out of Intelligence. (Ex. 11 and 29). At that time, July 13, 2017, some were assigned to Intel, others were spread out through several divisions. (Ex. 5, pg. 55). Sgt. Bottini and Commissioner O'Toole did not discuss the idea of TFOs all being assigned to Intelligence until around July 13, 2017, which was after Plaintiff filed her Charge of Discrimination. (Ex. 5, pg. 55 and Ex. 33). A new assignment code was eventually issued which placed all TFOs, regardless of their home assignment, under the Intelligence Division, but this did not occur until well after Plaintiff filed her Charge of Discrimination. (Ex. 1, pgs. 111-112). Notably, the Department has always sent out information regarding employee transfers, detachments, and movement of personnel via email to the entire Department. (Ex. 1, pgs. 111-112). No such notification was sent Department wide to employees when this new assignment code was created. (Ex. 1,

pgs. 111-112). The new assignment code transferring all TFOs to the Intelligence Division occurred in or around September of 2017. (Ex. 4, pgs. 115-116).

49. Commissioner O'Toole's interest in accountability and oversight of TFOs was in part because of four TFOs who were accused of falsifying their overtime. Ex. D, Page 138:10 to 139:7; Ex. G, Page 54:15 to 55:2.

RESPONSE: Deny. The discussions regarding all TFOs being under the umbrella of Intelligence did not take place until shortly before July 13, 2017, which was after Plaintiff's transfer. (Ex. 5, pgs. 55-57 and Ex. 11).

50. After all TFOs were identified, a new assignment code was created which fell under the supervision of Lieutenant Morici. Ex. C, Page 78:5 to 78:25.

RESPONSE: Admit.

51. Captain Deeba did not discriminate against Plaintiff on the basis of her gender. Ex. C, Page 88:13 to 88:16.

RESPONSE: Plaintiff objects to this "Statement of Uncontroverted Material Fact" as it states a legal conclusion and not a fact, and therefore a response is not required. Subject to and not waiving said objection, Plaintiff denies Paragraph 51. Upon Captain Deeba arriving in the Intelligence Division, he would refer to Plaintiff as "Mrs. Clayborn" instead of by her rank of "Sergeant". (Ex. 1, pgs. 60-61). However, Captain Deeba would refer to the male employees in the Intelligence Division by their rank, including the male Sergeants. (Ex. 1, pg. 61). At the time of her transfer out of the Intelligence

Division, Plaintiff was the only female supervising Sergeant in the Division. (Ex. 1, pg. 102). Captain Deeba ultimately had all females transferred out of the Intelligence Division, with the exception of Sergeant [REDACTED], who he kept in the Real Time Crime Center, which is under the umbrella of the Intelligence Division, as an administrative Sergeant, performing primarily administrative duties, as well as Detective [REDACTED], who performed administrative duties in the Real Time Crime Center. (Ex. 1, pgs. 102-104 and 179 and Ex. 8, pgs. 82-83). Plaintiff had the most experience in the Intelligence Division in violent crime, as she was the head of the Gun Crimes Intelligence Unit. (Ex. 1, pgs. 102-103 and pg. 139). As a Sergeant in the Intelligence Division at the time Captain Deeba took over command, while she did have some administrative duties, Plaintiff was also working violent crime, serving warrants, and performing investigations. (Ex. 1, pgs. 102-103 and 178). Plaintiff was also in charge of the gang unit, which were some of the most violent offenders in the City, and the prior commander of the Intelligence Department, Captain Coonce, had trusted her to do street work as well. (Ex. 2, pgs. 64-65). Before recommending her transfer, Captain Deeba did not ask Plaintiff if she was performing any work on the street. (Ex. 8, pg. 83). On May 31, 2017, Captain Deeba met with the Sergeants in the Intelligence Division and told them he did not believe in "blind transfers" because he felt it was cowardly, and vowed that if he had plans to move anyone out of Intelligence, he would let them know, because he was not a coward. (Ex. 1, pgs. 70-71)

Captain Deeba took actions against Plaintiff after transferring her out of the Intelligence Division that he did not take with similarly situated males. (Ex. 1, pgs. 82-100 and 109-110). Specifically, Captain Deeba made direct contact with Plaintiff's FBI supervisor, Special Agent Lynch, to demand her FBI credentials be returned along with all FBI property, immediately, and mislead her by telling her that only officers with the Intelligence Division could have TFO status. (Ex. 1, pgs. 81-82). Captain Deeba also deceived Agent Lynch by telling her that there were no exceptions which would allow Plaintiff to continue working as a TFO for the FBI in her current assignment to the Fifth District, which statement was not accurate. (Ex. 4, pgs. 66-67 and Ex. 11). It was not common for an officer's TFO status to be revoked, as was requested by Captain Deeba, unless there was an allegation that the officer had engaged in misconduct. (Ex 1, pgs. 99-100). Prior commanders of the Intelligence Division have transferred employees with FBI clearance out of the Division, but did not demand the employee's FBI credentials or clearance be revoked. (Ex. 2, pgs. 24-25). If an officer is in good standing, and that officer has FBI clearance, there is no reason to seek to revoke that clearance or credentials. (Ex. 2, pgs. 24-25). When Captain Deeba demanded the return of Plaintiff's FBI credentials and the FBI vehicle, Agent Lynch informed him she would get back to him. (Ex. 1, pgs. 82). Captain Deeba did not wait for an answer from Agent Lynch, but instead went to her supervisor with the same demands. (Ex. 1, pgs. 87-88, 99). Agent Lynch's supervisor only agreed to Captain Deeba's request to revoke Plaintiff's FBI credentials in order to "play

nice” with the Department. (Ex. 1, pg. 100). Thereafter, Captain Deeba contacted Plaintiff directly and demanded she return the FBI vehicle that same day, despite the fact that she was on duty and the FBI vehicle was at her home. (Ex. 1, pgs. 87-88). Captain Deeba then made direct contact with Plaintiff’s new supervisor in the Fifth District, informing him that Plaintiff had failed to return her FBI vehicle upon her transfer to the Fifth District, without having given Plaintiff a reasonable time to return the vehicle. (Ex. 1, pgs. 87-89). A male employee, Detective ██████ was transferred out of Intelligence to a District, on the same day as Plaintiff. (Ex. 11). Detective ██████ was a Task Force Officer with the ATF at the time of his transfer. (Ex. 3, pgs. 11-13). Detective ██████ was never contacted by anyone in the Intelligence Division, including Captain Deeba, and ordered to return his ATF credentials after he was transferred. (Ex. 3, pgs. 15-16). Detective ██████ ATF supervisor was not contacted by Captain Deeba, or anyone else with the Police Department, after he was transferred. (Ex. 3, pgs. 15-16). In fact, Detective ██████ ATF supervisor told him to hold onto his ATF credentials for the time being, in case he was able to resume his duties with the ATF. (Ex. 3, pg. 16). If Detective ██████ had been able, with this work schedule, to work overtime to perform his ATF duties, his ATF supervisor was willing to allow him to do so. (Ex. 3, pgs. 24-25). A month or so after his transfer, Detective ██████ ATF supervisor contacted him and it was mutually decided that Detective ██████ would turn in his ATF credentials, because he was not going to be able to continue his work with the ATF due to his schedule

in the Sixth District. (Ex. 3, pgs. 18, 24-25). Detective [REDACTED] would not had to have sought additional approval to perform Task Force Officer duties for the ATF while in the Sixth District, provided the overtime did not conflict with his police department schedule. (Ex. 3, pg. 27).

II. Plaintiff's loss of Task Force credentials was legitimate and not discriminatory, retaliatory, or adverse.

52. At some time in 2016, Plaintiff was deputized as a TFO for the Human Trafficking Unit of the Federal Bureau of Investigations ("FBI"). Ex. B, Page 49:12 to 49:21.

RESPONSE: Admit.

53. The FBI provided Plaintiff with an identification badge and an unmarked FBI owned vehicle to assist Plaintiff in performing duties related to Human Trafficking investigations. Ex. B, Page 53:17 to 54:13.

RESPONSE: Admit.

54. Plaintiff informed the ATF supervisor and her Human Trafficking contacts that effective June 12, 2017, the jobs she had worked on with them would no longer be her responsibility and that they should reach out to Intelligence to find out who the new point of contact would be. Ex. B, Page 72:1 to 72:17.

RESPONSE: Admit.

55. Once Plaintiff was transferred to the Fifth District she no longer performed any job duties as a task force officer with the FBI. Ex. B, Page 81:9 to 81:12.

RESPONSE: Admit.

56. After her transfer from Intelligence to the Fifth District, Plaintiff never requested approval to continue working overtime with the FBI. Ex. B, Page 102:9 to 102:17.

RESPONSE: Admit.

57. When someone is transferred out of a specialized unit, it is expected that they turn in all of their equipment. Ex. C, Page 46:12 to 46:16; Ex. N, June 14, 2017 email from Captain Michael Deeba to Special Agent Lynch, DFT - 005788 to 005789; Ex. I, Deposition of Gerald Leyshock, 1-24-20, Page 30:18 to 33:2.

RESPONSE: Deny. Plaintiff's FBI supervisor, Special Agent Lynch, told Plaintiff it was highly unusual for a TFOs credentials to be revoked and required to be turned in, and the only time she had ever seen it happen was when an officer was in trouble. (Ex. 1, pgs. 99-100). Plaintiff did not initially return her FBI vehicle because there was no expectation that it be returned upon her transfer, since she was aware of other male employees transferring out of the Intelligence Division to a District and being permitted to keep their TFO status and their federal issued vehicles. (Ex. 1, pgs. 82-86). Specifically, Officer [REDACTED] and Lt [REDACTED] were transferred to Districts and permitted to keep their TFO status. (Ex. 1, pgs. 82-86). Prior commanders of the Intelligence Division have transferred employees with FBI clearance out of the Division but did not demand the employee's FBI credentials or clearance be revoked. (Ex. 2, pgs. 24-25). If an officer is in good standing, and that officer has FBI clearance, there is no reason to seek

to revoke that clearance or credentials. (Ex. 2, pgs. 24-25). Further, Detective ██████ the male employee with TFO status with the ATF was transferred out of the Intelligence Division at the same time as Plaintiff, but it was not demanded that he turn in his TFO credentials. (Ex. 3, pgs. 11-16).

58. 6 days after being transferred from Intelligence to the Fifth District, Plaintiff still had not returned her FBI-issued vehicle. Ex. B, Page 82:15 to 82:18; Ex. 0, June 14, 2017 to June 15, 2017 emails between Plaintiff and Sergeant Stanley Mierzejewski, Bate Stamp 000016 to 000017.

RESPONSE: Admit.

59. After Plaintiff's transfer from Intelligence, Captain Deeba became aware that Plaintiff had not returned the FBI-issued vehicle. Ex. C, Page 45:22 to 47:11; Ex. P, June 14, 2017 email from Detective Brian Naeger to Captain Michael Deeba, DFT - 005785.

RESPONSE: Admit.

60. Captain Deeba called the FBI to find out if Plaintiff's FBI-issued vehicle had been returned and ended up speaking with FBI Special Agent Lynch ("Agent Lynch"). Ex. C, Page 47:2 to 47:13.

RESPONSE: Admit.

61. Captain Deeba did not request that Agent Lynch revoke Plaintiff's FBI credentials. Ex. C, Page 85:16 to 86:10; Ex. N.

RESPONSE: Deny. Captain Deeba specifically stated to Plaintiff's supervisor, Agent Lynch, that he wanted Plaintiff's FBI credentials revoked. (Ex. 1, pg. 81-82).

62. Captain Deeba did not receive any request from the FBI for Plaintiff to continue working on investigations as a task force officer. Ex. C, Page 48:12 to 49:1 and Page 84:2 to 84:11.

RESPONSE: Deny. Special Agent Lynch specifically inquired of Captain Deeba why he was insisting Plaintiff could no longer perform TFO tasks for the FBI, and he responded it was because she was no longer in the Intelligence Unit. (Ex. 1, pg. 82). When Special Agent Lynch told Captain Deeba that there were several cases she would like Plaintiff to continue to work on after her transfer, he told her that he wanted Plaintiff's credentials taken. (Ex. 1, pg. 82).

63. After concluding his call with Agent Lynch, Captain Deeba put the contents of their phone call into an email. Ex. C, Page 49:10 to 49:24; Ex. N.

RESPONSE: Deny that the contents of the email fully encompass the contents of the conversation between Agent Lynch and Captain Deeba. Specifically, the email does not include mention of Captain Deeba demanding of Agent Lynch that Plaintiff turn in her credentials nor does it include mention of Captain Deeba misleading Agent Lynch to believe that only officers assigned to the Intelligence Unit are permitted to act as TFOs. (Ex. 1, pg. 82).

64. Captain Deeba provided Agent Lynch with the name and contact for Plaintiff's new commander, urging her to communicate with that commander regarding any ongoing "investigative needs". Ex. N.

RESPONSE: Admit.

65. Captain Deeba advised Agent Lynch that she could collect her equipment from Plaintiff and asked to be informed when that was done. Ex. N.

RESPONSE: Admit.

66. There is an understanding between agencies that if there is a need for an individual to stay somewhere, that a person from the requesting agency will ask. Ex. D, Page 55:24 to 56:15, 58:8 to 59:18.

RESPONSE: Admit.

67. No one from the FBI contacted Commissioner O'Toole regarding Plaintiff. Ex. D, Page 64:3 to 64:6.

RESPONSE: Admit.

68. FBI Special Agent William Woods ("Agent Woods"), the special agent in charge of the St. Louis office at this time, was copied on Captain Deeba's email to Agent Lynch regarding Plaintiff. Ex. D, Page 65:16 to 65:22; Ex. N.

RESPONSE: Admit.

69. Commissioner O'Toole and Agent Woods know each other well and communicate with each other frequently. Ex. D, Page 68:10 to 68:20.

RESPONSE: Admit.

70. Officer [REDACTED] was in the process of receiving his federal credentials as a TFO for the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") when he was transferred from Intelligence to the Sixth District. Ex. J, Deposition of [REDACTED], 11-20-19, Page 11:7 to 12:3.

RESPONSE: Admit.

71. Officer [REDACTED] had received his government “PIV” card but not a badge, ID, laptop or other credentials at the time he was transferred from Intelligence. Ex. J, Page 11:13 to 12:3.

RESPONSE: Admit.

72. Officer [REDACTED] had not yet began any cases or otherwise started working with the ATF as a TFO before his transfer from Intelligence. Ex. J, Page 13:5 to 14:2.

RESPONSE: Deny. Detective [REDACTED] had been working with his ATF supervisor, Chris Rogers, performing TFO tasks since late 2016. (Ex. 3, pg. 13).

73. Officer [REDACTED] was informed by his ATF supervisor, Chris Rogers, that he could retain whatever credentials he had after his transfer in case Officer [REDACTED] could use them in the future. Ex. J, Page 16:10 to 16:24.

RESPONSE: Admit.

74. Officer [REDACTED] TFO credentials were revoked within a month or two of his transfer out of intelligence. Ex. J, Page 17:23 to 18:8.

RESPONSE: Deny. Detective [REDACTED] and his TFO supervisor with the ATF, mutually agreed that he would “turn in” his credentials since he was not going to be able to perform any duties with the ATF while assigned to the Sixth District, because he was too tired as a result of the schedule he was working. (Ex. 3, pgs. 18 and 24-25).

75. Captain Deeba was informed by Officer [REDACTED] supervisors after his transfer from the Intelligence

Division that he “turned all his stuff in.” Ex. C, Page 87:13 to 88:12.

RESPONSE: Deny. Captain Deeba testified that his supervisors told him that Detective [REDACTED] had “turned all his stuff in.” (Ex. 8, pg. 88).

76. Lieutenant Morici emailed Captain Deeba on July 29, 2017 that an Officer [REDACTED] transferred out of Intelligence and turned in all of his FBI equipment when he left. Ex. C, Page 74:18 to 75:5; Ex. Q, July 29, 2017 email from Lieutenant Joseph Morici, DFT - 005284.

RESPONSE: Admit.

77. Lieutenant Morici made Captain Deeba aware on July 29, 2017 that an Officer [REDACTED] transferred out of Intelligence and turned in all of his FBI equipment when he left. Ex. C, Page 76:4 to 76:9; Ex. R, July 29, 2017 email from Lieutenant Joseph Morici, DFT-005286.

RESPONSE: Admit.

78. Sergeant Bottini served as a task force officer (“TFO”) with the Drug Enforcement Administration (“DEA”) from 1997 until approximately 2003. Ex. G, Page 35:20 to 35:25.

RESPONSE: Admit.

79. During Sergeant Bottini’s tenure as a TFO the SLMPD’s assignment code for his position changed at least three times. Ex. G, Page 36:1 to 36:19.

RESPONSE: Admit.

80. When Sergeant Bottini was transferred out of Intelligence he had to return all DEA items. Ex. G, Page 39:4 to 39:16.

RESPONSE: Admit.

III. Plaintiff not being transferred from the Fifth District to the Second District was legitimate and not discriminatory, retaliatory and adverse

81. Captain Coonce had two informal conversations up her chain of command regarding requesting Plaintiff's transfer to the Second District to be her aide: one with Major Dan Howard ("Major Howard") and one with Colonel Jerry Leyshock ("Colonel Leyshock"). Ex. F, Page 19:14 to 19:24 and 20:20 to 21:7.

RESPONSE: Admit.

82. Captain Coonce did not ever put a request to have Plaintiff transferred to the Second District as her aide on paper. Ex. F, Page 20:4 to 20:10.

RESPONSE: Admit.

83. Major Howard does not recall a specific request from Captain Coonce to have an aide, but if she had requested one he would have passed Captain Coonce's request up the chain to Major Kenny Kegel and Colonel Leyshock. Ex. H, Deposition of Daniel Howard, 1-24-20, Page 16:5 to 17:8.

RESPONSE: Admit.

84. Captain Coonce informed Plaintiff that she would not be able to transfer to the Second District as the Captain's aid sometime within a week after Plaintiff's transfer to the Fifth District. Ex. B, Page 76:7 to 76:14.

RESPONSE: Admit.

85. Commissioner O'Toole was not aware that Captain Coonce requested Plaintiff to become her administrative aid in the Second District. Ex. D, Page 71:14 to 71:22.

RESPONSE: Deny. Major Howard and Colonel Leyshock both informed Captain Coonce that she would not get Plaintiff as an administrative aide in the Second District, and therefore an inference can be made that there was some discussion with the Chief. (Ex. 2, pgs. 19-20).

86. Sergeant Bottini does not recall any request related to a transfer from the Fifth District to the Second District in order for Plaintiff to serve as Captain Coonce's aide ever reaching Commissioner O'Toole's office. Ex. G, Page 42:1 to 43:2.

RESPONSE: Admit.

87. Captains in different districts, such as Captain Coonce in the Second and Captain Larson in the Fifth, could have worked out a trade of sergeants that would not have arisen to the Commissioner's level. Ex. D, Page 139:13 to 140:15.

RESPONSE: Deny. All transfer requests have to be approved by the Chief of Police. (Ex. 6, pg. 15).

88. Captain Coonce did not ever have a conversation with Plaintiff's commander in the Fifth District, Captain Larson, about trading Plaintiff for another sergeant. Ex. F, Page 84:21 to 85:3.

RESPONSE: Admit.

89. Plaintiff submitted an electronic transfer request to move from the Fifth District to the Second District

on July 5, 2017. Ex. B, Page 117:7 to 117:9; Ex. S, 7-5-17 Transfer Request, DFT - 000925.

RESPONSE: Admit.

90. Plaintiff's electronic transfer request populated in a software management system called "PeopleSoft". Ex. F, Page 32:19 to 32:25.

RESPONSE: Admit.

91. Plaintiff submitting an electronic transfer request to PeopleSoft added her to a list that command staff can check by running a report. Ex. F, Page 33:1 to 33:7.

RESPONSE: Admit.

92. Captain Coonce was made aware of Plaintiff's electronic transfer request by Plaintiff, but does not recall advising anyone in SLMPD of Plaintiff's electronic transfer request. Ex. F, Page 34:25 to 36:4.

RESPONSE: Admit.

93. In July 2017, the manning tables show that the Second District was fully staffed on sergeants. Ex. M., DFT- 007779, 007783, 007787, 007791, 007795.

RESPONSE: Deny. The manning tables do not account for employees who are not physically present at work due to illness or injury. (See attached Exhibits 16 and 19). From July 2017 until at least the end of October 2017, there was a critical shortage of Sergeants in the Second District (Ex. 2, pgs. 24-25 and 55-57). The Chief's office was notified of the shortage of line platoons in District 2 in June of 2017. (Ex. 5, pg. 44). While the Department tries to comply with the manning tables, if there is a critical issue, it is within the Commissioner's

discretion to “go over” the number of positions listed on the manning table. (Ex. 5, pg. 75).

94. Captain Deeba was not made aware of Plaintiff's electronic request to transfer to District 2. Ex. C, Page 67:23 to 68:6.

RESPONSE: Deny. All commanders are provided and/or have access to a copy of a weekly report that includes documentation of transfer requests made in Peoplesoft. (Exhibit 2, pgs. 32-33).

95. Commissioner O'Toole was not made aware of Plaintiff's electronic request to transfer to the Second District. Ex. D, Page 79: 19 to 79:22. **Deny. All commanders are provided and/or have access to a copy of a weekly report that includes documentation of transfer requests made in Peoplesoft. (Exhibit 2, pgs. 32-33).**

96. Captain Deeba never discussed any shortage of sergeants specific to the Second District in 2017 with other command staff. Ex. C, Page 68:19 to 68:22.

RESPONSE: Admit.

97. Commissioner O'Toole approved detachments of sergeants from specialized units to the Second District for three to four weeks at a time as a strategic choice to assist with the Second District shortage of sergeants from July to October 2017. Ex. D, Page 81:18 to 83:13; Ex. T, Transfer and Detachment emails effective Monday, July 10, 2017 to Monday, October 2, 2017, Bate Stamp 000023, 000027, 000029, 000034 and 000036.

RESPONSE: Deny. Plaintiff had properly requested a transfer from the Fifth District to the Second District, during a period of time where there was a

critical shortage of Sergeants in the Second District. (Ex. 1, pgs. 116-120 and Exhibits 14 and 16). Command staff look at the weekly reports from Peoplesoft, which would have included Plaintiff's request for transfer to the Second District, when making decisions on assignment of employees to the Districts. (Ex. 2, pgs. 32-34). The Fifth District, where Plaintiff was assigned, had an abundance of Sergeants, at times more than necessary to complete the job. (Ex. 1, pgs. 119-120). On some of Plaintiff's shifts in the Fifth District there were four (4) Sergeants on shift—and there are only three (3) Sergeant spots available on any given shift. (Ex. 1, pgs. 119-120). The decision not to act on Plaintiff's request for a transfer occurred after Plaintiff filed her Charge of Discrimination and had made the City aware of the filing. (Ex. 34). Commissioner O'Toole could have detached Plaintiff to the Second District. (Ex. 4, pgs. 151-152). None of the Sergeants that the Commissioner detached to the Second District during that timeframe had requested to be sent to the Second District. (Ex. 4, pgs. 81-83).

98. In 2017 the Second District had a significant shortage of sergeants, in part due to a number of sergeants out on long-term medical leave at the same time. Ex. F, Page 18:24 to 19:5 and 25:20 to 26:10; Ex. H, Page 18:25 to 19:3.

RESPONSE: Admit.

99. In an email on June 23, 2017, Captain Coonce requested to transfer Sergeant Isbell, who was to be out on sick leave until January, out of his position in order to post his detective sergeant position. Ex. U,

Angela Coonce's 6-23-17 email to Dan Howard, DFT - 000164.

RESPONSE: Admit.

100. Major Howard thought Captain Coonce's request to transfer Sergeant Isbell out of his position while out on leave was reasonable and forwarded her request up his chain of command to Major Kegel. Ex. H, Page 20:19 to 21:10, Ex. U.

RESPONSE: Admit.

101. People occupying positions cannot be transferred out of those positions because they are sick. Ex. D, Page 94:3 to 95:9; Ex. G, Page 44:15 to 45:2.

RESPONSE: Admit.

102. On July 13, 2017, an email was sent from Major Howard to Colonel Leyshock requesting a sergeant position be posted for the Second District. Ex. V, 7-13-17 emails re: Second District Detective Sergeant Position, DFT - 007895 to 007896.

RESPONSE: Admit.

103. Colonel Leyshock then requested that human resources post a detective sergeant position for the Second District. Ex. V.

RESPONSE: Admit.

104. There was a posting for a detective sergeant position in the Second District on July 14, 2017. Ex. W, Commissioned Posting: Sergeant- Detective District 2, Bate Stamp 000056.

RESPONSE: Admit.

105. Sergeant Bottini never received a request or was otherwise made aware of this posting until after it was done. Ex. G, Page 60:8 to 60:13; 62:15 to 62:18.

RESPONSE: Admit.

106. The July 14, 2017 posting for a detective sergeant position in the Second District was made in error, as there was no opening for a detective sergeant at that time. Ex. D, Page 92:15 to 97:6; Ex. G, Page 60:8 to 61:4.

RESPONSE: Deny. Sgt. Bottini, the Police Commissioner's aide, saw the posting for the detective sergeant position in the Second District on or about July 14, 2017, and he asked the commissioner whether he had approved the posting. (Ex. 5, pgs. 62-64.) The Commissioner told Sgt. Bottini that he had not approved the posting and would speak to Colonel Leyshock about the posting—however Sgt. Bottini was never told by the Commissioner to retract the posting. (Ex. 5, pgs. 62-64). In the past, the Commissioner's office has retracted job postings which had not previously been approved by the Commissioner's office, so if the posting of the detective sergeant position has not been approved, the Commissioner's office would have immediately retracted the posting. (Ex. 2, pgs. 44-45). Further, Colonel Leyshock told Captain Counce that he had spoken to the Commissioner regarding the posting of the detective sergeant position. (Ex. 2, pgs. 42-44). The proper chain of command was followed to post the position, as Captain Counce sent an email to her supervisor, Major Howard, requesting the posting, Major Howard sent the request up to Lt. Col. Gerald

Leyshock, and Lt. Col. Leyshock sent the request for the posting to Human Resources, and Human Resources posted it. (Ex. 19, 20, 21). It is a big deal in the Department when there is a job posting, and the job posting went out Department wide. (Ex. 2, pg 45). When Captain Coonce, using the chain of command, provided her recommendation of Plaintiff to fill the detective sergeant position, both Col. Leyshock and Major Howard asked her whether she was certain she wanted to pick Plaintiff for the position, since by choosing her, the position may not get filled. (Ex. 2, pgs. 49-52). Captain Coonce was also encouraged by her superiors to include a second recommendation, in case her first recommendation was not accepted. (Ex. 2, pgs. 52). Prior to recommending Plaintiff for the detective sergeant position, Captain Coonce had never been told to include a second recommendation, nor had she ever done so on her own. (Ex. 2, pg. 52).

Further, the Commissioner has the ultimate discretion to assign personnel, even if that assignment causes the manning table numbers to be exceeded. (Ex. 5, pg. 75).

107. Plaintiff applied for a detective sergeant position in District Two on July 26, 2017. Ex. B, Page 125:14 to 126:9.

RESPONSE: Admit.

108. Proper chain of command would have been for Major Howard to forward Captain Coonce's selection of Plaintiff to Major Kegel and Colonel Leyshock, but he does not recall if that was done. Ex. H, Page 35:12 to 36:2.

RESPONSE: Admit.

109. No recommendations to fill the position for a detective sergeant in the Second District were made to Commissioner O'Toole. Ex. D, Page 95:19 to 95:25 and Page 100:25 to 102:2.

RESPONSE: Deny. Col. Leysnock hand delivered Captain Coonce's memo and recommendation of Plaintiff for the detective sergeant position to the Commissioner's office twice. (Ex. 2, pgs. 45-46). Sgt. Bottini received all documents necessary from Captain Coonce which were needed to be provided to the Commissioner, and Sgt Bottini provided the documents, including Captain Coonce's recommendation that Plaintiff receive the detective sergeant position in District 2, to the Commissioner. (Ex. 5, pgs. 69-72 and 94).

110. Any recommendation to fill a position in the SLMPD would go up the chain to be approved by the Commissioner. Ex. D, Page 99:6 to 100:12.

RESPONSE: Admit.

111. Sergeant Bottini initially received an incomplete packet of information regarding the applicants for the Second District detective sergeant position. Ex. G, Page 67:25 to 68:10.

RESPONSE: Deny. Captain Coonce provided all the necessary documentation which had previously been required to make a recommendation for a posted position, on two separate occasions. (Ex. 2, pgs. 47-48, Ex. 23, 24, and 25).

112. Sergeant Bottini subsequently received the missing interview sheets and had all of the information regarding the applicants for the Second

District detective sergeant position. Ex. G, Page 70:13 to 70:20.

RESPONSE: Deny. Captain Coonce provided all the necessary documentation which had previously been required to make a recommendation for a posted position, twice. (Ex. 2, pgs. 47-48). Sgt. Bottini did send out an email after Captain Coonce provided the interview sheets, confirming he had everything for submission of the recommendation to the Chief. (Ex. 26).

113. No one was selected to fill the July 14, 2017 posting for detective sergeant in the Second District. Ex. B, Page 130:19 to 130:24.

RESPONSE: Admit.

114. Captain Deeba did not have any conversations with Commissioner O'Toole or any person in an administrative position within the SLMPD regarding a July 2017 posting for a detective sergeant position in the Second District. Ex. C, Page 72:1 to 72:16.

RESPONSE: Deny. The posting of a position is a big deal in the Department, and everyone in the Department receives them and pays attention to them. (Ex. 2, pg. 45).

115. No one having anything to do with the detective sergeant position in the Second District that Plaintiff applied for asked Captain Deeba for his input or told him what happened with the posting. Ex. C, Page 74:7 to 74:17.

RESPONSE: Admit.

116. SLMPD Sergeant Susan McClain was transferred from the Fourth District to the Second

District effective October 2, 2017. Ex. E, Deposition of Lawrence O'Toole, 1-23-20, Page 9:2 to 9:5; Ex. T, Bate Stamp 000036.

RESPONSE: Admit.

117. Commissioner O'Toole transferred Sergeant McClain from the Fourth District to the Second District after he became aware that she wanted to return to duty following some medical leave but could not return to the Fourth District due to the only available Sergeant position in the Fourth District being night duty. He also believed transferring Sergeant McClain would help the Second District with their dire shortage of sergeants. Ex. E, Page 9:11 to 11:5.

RESPONSE: Admit.

118. Due to the sergeants out on leave creating shortages in the Second District, Sergeant McClain was allowed to transfer to the Second District with the approval of the Second District commander Captain Coonce and the Fourth District commander Captain Renee Kriesmann. Ex. G, Page 92:5 to 92:12; Ex. F, Page 38:7 to 40:1.

RESPONSE: Admit.

119. Had Plaintiff been transferred to the Second District, her salary would not have changed. Ex. B, Page 151:8-151:13.

RESPONSE: Admit.

IV. Plaintiff not being selected to fill an IAD position was legitimate and not discriminatory, retaliatory, or adverse.

120. Plaintiff submitted an application for a sergeant investigator position in Internal Affairs on August 3, 2017. Ex. B, Page 131:15 to 132:11.

RESPONSE: Admit.

121. Commissioner O'Toole was not aware that Plaintiff applied for the sergeant investigator position in Internal Affairs. Ex. D, Page 105:7 to 105:17.

RESPONSE: Deny. The Commissioner's office received Lt. Koeln's recommendation for Plaintiff to be assigned to one (1) of the sergeant investigator positions in Internal Affairs on November 21, 2017, and Sgt. Bottini, the Commissioner's aide, presented it to the Commissioner for approval. (Ex. 5, pgs. 78-80 and Exhibit 32).

122. All of the applicants for the sergeant position in Internal Affairs were advised in an August 25, 2017 email that the positions would not be filled due to the districts' manpower shortage and urged to reapply. Ex. X, Lieutenant Adam Koel's email re: IAD positions, Bate Stamp 000033.

RESPONSE: Admit.

123. In August 2017, Internal Affairs had four sergeant vacancies while the Bureau of Community Policing had fifteen sergeant vacancies. Ex. D, Page 146:3 to 146:24; Ex. M, DFT- 007810 to 007813.

RESPONSE: Admit.

124. Commissioner O'Toole's priority in August 2017 was in keeping sergeants in the Bureau of Community Policing because those are the sergeants who work the streets. Ex. D, Page 146:25 to 147:14.

RESPONSE: Deny. The Commissioner approved the posting for the sergeant investigator position in IAD. (Ex. 5, pg. 76).

125. August is a particularly busy time for the SLMPD due to a combination of more activity on the streets and personnel wanting to take vacations. Ex. D, Page 147:15 to 148:25.

RESPONSE: Admit.

126. Plaintiff submitted a second application for a sergeant investigator position in Internal Affairs on October 27, 2017. Ex. B, Page 136:1 to 136:8; ex 29

RESPONSE: Admit.

127. Plaintiff withdrew her candidacy for the sergeant investigator position because she was reassigned to the Intelligence Division. Ex. B, Page 136:15 to 136:18.

RESPONSE: Admit.

128. Commissioner O'Toole was not aware that Plaintiff applied a second time or that she was recommended for a sergeant investigator position in Internal Affairs. Ex. D, Page 108:22 to 110:14.

RESPONSE: Deny. The Commissioner's office received Lt. Koeln's recommendation for Plaintiff to be assigned to one (1) of the sergeant investigator positions in Internal Affairs on November 21, 2017, and Sgt. Bottini, the Commissioner's aide, presented it to the Commissioner for approval. (Ex. 5, pgs. 78-80 and Exhibit 32).

129. None of the sergeant investigator positions were filled prior to March 7, 2018, by which time Plaintiff had withdrawn her application. Ex. K,

Lieutenant Adam Koeln's 3-7-18 Memorandum re: Vacant IAD Positions, DFT- 000283 - 000284.

RESPONSE: Admit.

130. During Commissioner O'Toole's tenure as the acting Commissioner of Police, personnel matters would have gone through Sergeant Bottini or Lieutenant McAteer. Ex. D, Page 144:17 to 144:21.

RESPONSE: Admit.

131. Captain Deeba was not aware of either time the sergeant position was posted in Internal Affairs. He was never made aware the Plaintiff had applied nor asked either time for his input by Commissioner O'Toole or anyone on the hiring committee. Ex. C, Page 76:16 to 78:4.

RESPONSE: Deny. The posting of a position is a big deal in the Department, and everyone in the Department receives them and pays attention to them. (Ex. 2, pg. 45).

132. Throughout the time Plaintiff worked as a sergeant in the Fifth District, she chose to not submit any overtime that she worked. Ex. B, Page 142:I to 143:16.

RESPONSE: Admit.

133. No one ever told Plaintiff that she could not or should not submit the overtime that she worked as a sergeant in the Fifth District. Ex. B, Page 142:1 to 143:16.

RESPONSE: Admit.

134. During Plaintiff's time working as a sergeant in the Fifth District she had secondary employment

with a private security company called “The City’s Finest”. Ex. B, Page 144:1 to 144:9.

RESPONSE: Admit.

135. Plaintiff’s secondary employment work was approved, as is required for all City employees. Ex. B, Page 146:5 to 146:10.

RESPONSE: Admit.

136. Had Plaintiff gotten any of the positions she applied for in 2017 her salary would not have changed. Ex. B, Page 151:8-151:13.

RESPONSE: Admit.

137. Plaintiff’s time as a sergeant assigned to the Fifth District lasted approximately eight months and did not cause any long-term harm to her career prospects. Ex. B, Page 151:8 to 152:2.

RESPONSE: Deny. Had Plaintiff been permitted to remain in the Intelligence Department, she would have had more opportunities to network, including meeting with members of the US Attorney’s office, as well as supervisors in the ATF and FBI. (Ex. 1, pgs. 24-30). The networking opportunities in the Intelligence Division help with placement in other positions in the Department, since you have had the opportunity to work with more command staff in the Department that you would not have been exposed to working a District assignment. (Ex. 1, pgs. 28-30). As a result of the exposure available in the Intelligence Division, you are much more likely to be recruited for highly sought out positions in the Department, since you will have worked with other command staff who will now know your job performance due to having worked with you in the

Intelligence Division. (Ex. 1, pgs. 28-30). Networking available only in the Intelligence Department also helps with promotions. (Ex. 1, pg. 30).

Working in the Fifth District, Plaintiff's job responsibilities were limited to administrative upkeep of the personnel assigned to her and supervising officers on patrol. (Ex. 1, pg. 79- 80).

Denial of Captain Coonce's request for Plaintiff to be transferred to District Two to work as Captain Coonce's administrative aid caused damage to Plaintiff's career, since being an administrative aid would have allowed her access to more contacts and networking opportunities than she was getting in the Fifth District, as being an administrative aid is a high profile position. (Ex. 1, pg. 121 and Ex. 2, pgs. 66). An Administrative aide is relied upon to be the liaison with City Hall, as well as federal and state agencies—which leads to more networking exposure. (Ex. 2, pg. 66).

The City's refusal to give Plaintiff the District Sgt. position also damaged Plaintiff's career prospects, in that the District Sgt. position had more prestige, and would have resulted in her being exposed to command staff on a regular basis, all of which would go a long way when applying for promotion. (Ex. 2, pg. 67).

The City's refusal to give Plaintiff the Sergeant Investigator position also damaged Plaintiff's career prospects, since the position would have allowed her more responsibilities and duties as a supervisor, including working on sensitive investigations. (Ex. 1, pg. 133).

138. After returning to the Intelligence Division in 2018, Plaintiff's FBI credentials were restored. Ex. B, Page 160:8 to 160:11.

RESPONSE: Admit.

139. Plaintiff never filed a complaint regarding these allegations with the Department of Personnel. Ex. B, Page 170:19 to 171:7.

RESPONSE: Admit.

140. Plaintiff never complained to Internal Affairs about any alleged harassment, discrimination or retaliation by Captain Deeba or anyone else. Ex. B, Page 186:4 to 186:7.

RESPONSE: Admit.

Respectfully Submitted,

LAW OFFICES OF RICK
BARRY, P.C.

By: /s/Megen I. Hoffman

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JATONYA MULDROW,) [Docket Entry 52]
) [filed June 29, 2020]
)
 PLAINTIFF)
) Case No.: 4:18-cv-
 v.) 02150AGF
)
)
 CITY OF ST. LOUIS, et al.)
)
)
 DEFENDANTS.)

**PLAINTIFF'S STATEMENT OF MATERIAL
FACTS IN SUPPORT OF MOTION IN
OPPOSITION TO DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

COMES NOW Plaintiff, pursuant to United States Eastern District Court Local Rule 7-4.01 and Federal Rule of Civil Procedure 56, and for her Statement of Material Facts, state as follows:

Prior to Transfer out of Intelligence

1. Plaintiff was assigned to the Intelligence Division from January 14, 2008 until March 24, 2014, when she was promoted to Sergeant. (Ex. 9).

2. After her promotion, Plaintiff was transferred for a brief time to District Four, from March 31, 2014 through September 22, 2014. (Ex. 9).

3. On September 22, 2014, Plaintiff was transferred back to the Intelligence Division, and remained there until June 12, 2017, when she was transferred to District Five. (Ex. 9)

4. When Plaintiff worked in the Intelligence Division, she worked “straight days” (i.e. 8-4 or 9-5, Monday through Friday), weekends off, and had a take home car. (Ex. 1, pg. 25-27).

5. Having a take home car is an important benefit because it allows you the freedom and flexibility to work in an undercover capacity because you do not have to wear a uniform and are not driving a marked car. (Ex. 1, pg. 25).

6. Having a take home car also saved Plaintiff on gas and mileage in her personal car. (Ex. 1, pg. 26).

7. As a Task Force Officer (“TFO”), Plaintiff was federally deputized to have the same rights and privileges as a Federal Bureau of Investigation (FBI) agent, including unlimited access to the FBI field office and computers/databases. (Ex. 1, pgs. 49 and 54).

8. As a TFO, Plaintiff was not confined to investigating crimes that occurred in St. Louis City, she could travel wherever the crime investigation took her and did not have to wear a uniform. (Ex. 1, pgs. 55-57).

9. Having TFO status is very good for your resume, particularly when it comes time to seek promotion. (Ex. 1, pgs. 55-56).

10. Unfortunately, the culture in the Police Department is that women are viewed as having slept with someone if they are in a specialized unit, or receive a promotion, or make upward movement in the Department, and are assumed not to have reached those positions due to being capable, smart, and able to do the job. (Ex. 1, pgs. 166-167).

11. Due to Plaintiff's hard work, she did not have that reputation. (Ex. 1, pgs. 166-167).

12. Plaintiff worked very hard to maintain her reputation in the Department as a hard worker. (Ex. 1, pgs. 166-167).

13. As a female in the Department, you do not want to be in a position where you break down and cry in front of a supervisor. (Ex. 1, 164-165).

Plaintiff Job Performance/Qualifications

14. When Captain Angela Coonce ("Captain Coonce") was replaced by Defendant Captain Michael Deeba ("Captain Deeba") as the commander of the Intelligence Division, she told him that the Division had some really good Sergeants, specifically Plaintiff, who Captain Coonce described as a "workhorse". (Ex. 2, pg. 14).

15. Captain Coonce told Captain Deeba that if there was one (1) Sergeant he could count on in the Division, it would be Plaintiff, because of her experience. (Ex 2, pg. 14).

16. After Captain Deeba became the commander of the Intelligence Division, Plaintiff saw Captain Coonce at a social event, and Captain Coonce asked her how things were going. (Ex. 1, pg. 77).

17. Plaintiff informed her things were fine, other than Captain Deeba always referring to her as “Mrs” instead of by her rank of Sergeant. (Ex. 1, pg. 77).

Transfer out of Intelligence to District Five

18. While transfers and detachments do happen in the Police Department, someone with Plaintiff's experience and history with the Department would normally be informed of a pending transfer in advance. (Ex. 2, pgs. 16-18).

19. Captain Coonce was surprised that Plaintiff was transferred out of the Intelligence Division by Captain Deeba, since Plaintiff was one of the most valuable Sergeants in the Intelligence Division, because of her experience. (Ex. 2, pgs. 18-19 and 13).

20. As a Sergeant in the Fifth District, Plaintiff's responsibilities were limited to administrative upkeep of the personnel assigned to her and supervising officers on patrol. (Ex. 1, pgs. 79-80).

21. As a Sergeant in the Fifth District, there were no opportunities for Plaintiff to travel or to receive additional training. (Ex. 1, pgs. 80-81).

22. As a Sergeant in the Fifth District, Plaintiff lost benefits of employment, specifically she was required in the Fifth District to work a rotating schedule, assigned to a contained patrol area and uniformed patrol with a marked police car. (Ex. 1, pgs. 79-80).

23. Plaintiff was embarrassed when her new supervisor in District 5 was contacted by Captain Deeba, because it made her appear as though she was not able to follow orders, since Captain Deeba had

informed her supervisor that she had failed to return equipment. (Ex. 1, pg. 89).

24. Captain Deeba requested that Detective Brian Naeger, with the Intelligence Division, get him a listing of the assignment of all FBI TFO vehicles, which was provided to Captain Deeba on June 14, 2017. (Defendants' Ex. P).

25. Captain Deeba did not personally take any action with respect to the list of officers having FBI vehicles, other than with the vehicle that Plaintiff was assigned by the FBI, which he demanded be returned. (Ex. 3, pgs. 54-57 and Ex. 1, pgs. 87-89).

Task Force Status

26. After Plaintiff was contacted by Captain Deeba and ordered to return the FBI vehicle, she contacted her FBI supervisor, Special Agent Lynch ("Agent Lynch") and told her that she would be returning all of her FBI equipment. (Ex. 1, pg. 89).

27. Agent Lynch told her she should keep all of her FBI equipment, but Plaintiff informed her that Captain Deeba had reported that he had spoken to Agent Lynch's supervisor, and Plaintiff was to turn in all FBI items. (Ex. 1, pg. 89).

28. On the Monday that her transfer to the Fifth District had become effective, Plaintiff had spoken to Agent Lynch about continuing to work on ongoing Human Trafficking investigations, which is why Agent Lynch wanted Plaintiff to keep all FBI equipment. (Ex. 1, pgs. 94).

29. Plaintiff would have been able to continue working on FBI investigations while working in the Fifth District, on overtime, and would not have had to

seek approval from her supervisor to do so. (Ex. 1, pgs. 94-95).

30. The FBI pays up to \$17,500.00 in overtime to its TFOs. (Ex. 1, pg. 56).

Administrative Aide Position in Second District

31. Typically, when a Captain is transferred to a District assignment, they are allowed to choose their administrative aide. (Ex. 2, pgs. 18-19 and 22 and Ex. 4, pgs. 71-72).

32. After Plaintiff was transferred to District Five (5), Captain Coonce asked Major Howard, the next in her chain of command, if she could have Plaintiff transferred from District Five (5) to District Two (2), to act as her administrative aide, since she would be good for the position and there were not any available Sergeants she could pull of the street because of the shortage. (Ex. 2, pg. 19).

33. Major Howard told Captain Coonce, in response to her request to transfer Plaintiff to as her administrative aide, that it “was not going to happen” and “they are not going to let you have her. (Ex. 2., pgs. 19-20).

34. Captain Coonce also spoke to Col. Leyshock and requested Plaintiff be transferred to District 2 to be her administrative aide. (Ex. 2, pg. 21).

35. Col. Leyshock told Captain Coonce that “they” were not going to let her have Plaintiff as an administrative aide. (Ex. 2, pg. 21).

36. In July of 2017, there were platoons in the Second District that had no Sergeant at all, which is problematic because there was no oversight—you

would have one (1) Sergeant trying to respond to scenes, but that same Sergeant was also responsible for reviewing an approving police reports. (Ex. 2, pgs. 26-28).

37. Plaintiff made a formal request to transfer to District Two on July 5, 2017, and that request remained active until she withdrew it after being transferred back to the Intelligence Division. (Ex. 1, pgs. 117-118)

Detective Sergeant Position

38. After sending her email to Major Howard asking to post a position for the Detective Sergeant position, Captain Coonce was under the impression that Col. Leyshock would be speaking to the Commissioner (hereinafter "Chief") in order to have the position posted. (Ex. 2, pg. 31).

39. Captain Coonce was specifically told that Sgt. Isbell would not be returning to work, and would be using his remaining sick time until retirement in January, 2018. (Ex. 2, pgs. 28-29).

40. It was common knowledge that Sgt. Isbell would not be returning to work. (Ex. 6, p. 41).

41. It was common knowledge that Sgt. Isbell was not going to return to work, but would continue to use his sick time until his retirement in January, 2018. (Ex. 2, pg. 26 and 28-29).

42. It was essential that the Second District have a Detective Sergeant, particularly since there had been a rash of crime issues in that District. (Ex. 2, pg.26).

43. Even with the permanent assignment of Sergeant Susan McClain to the Second District, there was still a shortage of Sergeants in the Second District, and a significant number of openings which could have been filled by permanent transfers and Captain Coonce continued to request additional Sergeants assignments. (Ex. 2, pg. 40 and Ex. 10).

44. As of October 30, 2017, the Second District was still operating with a critical shortage of Sergeants. (Ex. 2, pgs. 56-57 and Ex. 11).

Sergeant Investigator Position in Internal Affairs

45. The Chief approved the posting for the sergeant investigator position prior to its posting. (Ex. 5, pg. 76).

46. Despite approving the posting, after receiving the recommendation from Lt. Koeln of the candidates he had selected for the position, which included Plaintiff, the Chief declined to fill the position. (Ex. 5, pgs. 79-80).

47. Had Plaintiff been assigned to the Sergeant Investigator position, she would have had more responsibilities and duties than those she had in the Fifth District, and would have been back to working straight days, weekends off, and working on sensitive investigations. (Ex. 1, pg. 133).

Authority of Police Chief

48. If a position is posted in the Department, the Chief ultimately decides who fills the position based upon the recommendation of the Captain. (Ex. 4, pgs. 99-100).

49. Chief O'Toole, during his tenure as Interim Chief of Police, did not typically decline the recommendation of a Captain. (Ex. 4, pg. 111).

50. Chief O'Toole did not direct Captain Deeba to determine the location of all FBI vehicles. (Ex. 4, pgs. 60-61).

51. As a result of the Chief's transfer of Sgt. Susan McClain into the Second District, the manning tables for the week of October 2, 2017 and October 9, 2017, showed there were twenty-two (22) authorized Sergeants positions in District Two (2) and twenty-three (23) actual Sergeants assigned to District Two (2). (Ex. 7, pgs. 7-9).

Damages

52. As a result of Captain Deeba having directly contacted Plaintiff's new Fifth District supervisor, without having given Plaintiff sufficient time to comply with his order to return the FBI vehicle, Plaintiff suffered stress and anxiety. (Ex. 1, pgs. 162-163).

53. Plaintiff was so upset she broke down and cried in front of her new Fifth District supervisor the first time they met, since he was communicating to her that Captain Deeba claimed she had not followed orders to return the FBI vehicle. (Ex. 1, pgs. 164-165).

54. As a result of her transfer out of the Intelligence Division, Plaintiff suffered stress and anxiety, because the appearance to her colleagues was that she had done something wrong, thereby causing her transfer, and she was constantly having to answer questions about why she was transferred, and she was

unable to provide justification (Ex. 1, pgs. 163 and 165-166).

55. Plaintiff also had to work secondary to supplement her income as a result of the loss of her TFO status. (Ex. 1, pgs. 163).

56. As a result of all the stress and anxiety, Plaintiff began getting migraines. (Ex. 1, pg. 166 and Ex. 8, pgs. 27-29)

57. Prior to her transfer, Plaintiff's husband had not known her to cry, but after, he observed her crying (Ex. 8, pg. 32).

58. Plaintiff was not getting a lot of sleep after her transfer. (Ex. 8, pg. 35).

Additional Evidence of Retaliation and Gender Animus

59. When Chief Hayden took over as the Commissioner of the Department, Captain Deeba accused Plaintiff of having an intimate relationship with her prior subordinate, Detective ██████, while in Intelligence. (Ex. 1, pgs. 167-168).

60. Captain Deeba told Chief Hayden that as a result of Plaintiff having had this encounter, she should not be permitted to return to the Intelligence Division. (Ex. 1, pgs. 167-168).

61. Further evidence of Captain Deeba's discriminatory animus towards females can be seen in the way he treats other females under his supervision. Specifically, Captain Deeba sent one of his Lieutenants in the Second District an email in which he calls her out for a minor typographical error, which email was also sent to a minimum of two hundred

(200) other employees. (Ex. 1, pgs. 168-169 and Ex. 12).

Notice of Charge of Discrimination

62. Chief O'Toole and Captain Deeba were aware Plaintiff had filed a Charge of Discrimination, and reviewed the Charge. (Ex. 4, pgs. 73-74 and Exhibit 3, pgs. 65-66).

63. Most of the command staff in the Department were aware Plaintiff had filed a Complaint against Captain Deeba. (Ex. 2, pg. 60).

Respectfully Submitted,

**LAW OFFICES OF
RICK BARRY, P.C.**

By:/s/Megen I. Hoffman

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JATONYA MULDROW,) [Docket Entry 55]
) [filed July 13, 2020]
)
 PLAINTIFF,)
) Case No.: 4:18-cv-
) 02150AGF
 v.)
)
 CITY OF ST. LOUIS, et al.)
)
)
 DEFENDANTS.)

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
STATEMENT OF ADDITIONAL MATERIAL
FACTS IN OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

COME NOW City of St. Louis and Michael Deeba ("Defendants"), and in response to Plaintiff's statement of Additional Material Facts, state as follows:

Prior to Transfer out of Intelligence

1. Plaintiff was assigned to the Intelligence Division from January 14, 2008 until March 24, 2014, when she was promoted to Sergeant. (Ex. 9).

RESPONSE: Admit.

2. After her promotion, Plaintiff was transferred for a brief time to District Four, from March 31, 2014 through September 22, 2014. (Ex. 9).

RESPONSE: Admit.

3. On September 22, 2014, Plaintiff was transferred back to the Intelligence Division, and remained there until June 12, 2017, when she was transferred to District Five. (Ex. 9)

RESPONSE: Admit.

4. When Plaintiff worked in the Intelligence Division, she worked “straight days” (i.e. 8-4 or 9-5, Monday through Friday), weekends off, and had a take home car. (Ex. 1, pg. 25-27).

RESPONSE: Admit.

5. Having a take home car is an important benefit because it allows you the freedom and flexibility to work in an undercover capacity because you do not have to wear a uniform and are not driving a marked car. (Ex. 1, pg. 25).

RESPONSE: Admit that Plaintiff believed that being assigned an unmarked take home car was an “important benefit.” Objection – the cited material does not support the assertion that being assigned a take-home car necessarily results in an officer working an undercover assignment or not wearing a uniform.

6. Having a take home car also saved Plaintiff on gas and mileage in her personal car. (Ex. 1, pg. 26).

RESPONSE: Admit.

7. As a Task Force Officer (“TFO”), Plaintiff was federally deputized to have the same rights and privileges as a Federal Bureau of Investigation (FBI) agent, including unlimited access to the FBI field office and computers/databases. (Ex. 1, pgs. 49 and 54).

RESPONSE: Admit.

8. As a TFO, Plaintiff was not confined to investigating crimes that occurred in St. Louis City, she could travel wherever the crime investigation took her and did not have to wear a uniform. (Ex. 1, pgs. 55-57).

RESPONSE: Admit.

9. Having TFO status is very good for your resume, particularly when it comes time to seek promotion. (Ex. 1, pgs. 55-56).

RESPONSE: The degree to which one’s TFO status could impact a resume and/or chances of promotion is Plaintiff’s personal opinion solely supported by her own testimony, and not a material fact that precludes summary judgment in Defendants’ favor and therefore for the purposes of summary judgment only, admit.

10. Unfortunately, the culture in the Police Department is that women are viewed as having slept with someone if they are in a specialized unit, or receive a promotion, or make upward movement in the Department, and are assumed not to have reached those positions due to being capable, smart, and able to do the job. (Ex. 1, pgs. 166-167).

RESPONSE: Admit that this is Plaintiff's personal opinion on the culture of the Police Department, which is solely supported by her own testimony.

11. Due to Plaintiff's hard work, she did not have that reputation. (Ex. 1, pgs. 166-167).

RESPONSE: Admit.

12. Plaintiff worked very hard to maintain her reputation in the Department as a hard worker. (Ex. 1, pgs. 166-167).

RESPONSE: Admit.

13. As a female in the Department, you do not want to be in a position where you break down and cry in front of a supervisor. (Ex. 1, 164-165).

RESPONSE: This is Plaintiff's personal opinion, solely supported by her own testimony, and is not a material fact that precludes summary judgment in Defendants' favor and therefore for the purposes of summary judgment only, admit.

Plaintiff Job Performance/Qualifications

14. When Captain Angela Coonce ("Captain Coonce") was replaced by Defendant Captain Michael Deeba ("Captain Deeba") as the commander of the Intelligence Division, she told him that the Division had some really good Sergeants, specifically Plaintiff, who Captain Coonce described as a "workhorse". (Ex. 2, pg. 14).

RESPONSE: Admit.

15. Captain Coonce told Captain Deeba that if there was one (1) Sergeant he could count on in the

Division, it would be Plaintiff, because of her experience. (Ex 2, pg. 14).

RESPONSE: Admit.

16. After Captain Deeba became the commander of the Intelligence Division, Plaintiff saw Captain Coonce at a social event, and Captain Coonce asked her how things were going. (Ex. 1, pg. 77).

RESPONSE: Admit.

17. Plaintiff informed her things were fine, other than Captain Deeba always referring to her as “Mrs” instead of by her rank of Sergeant. (Ex. 1, pg. 77).

RESPONSE: Admit that Plaintiff complained to Capt. Coonce that Capt. Deeba referred to her as “Mrs.” Deny that this actually occurred frequently, as Plaintiff was only able to identify one specific instance when this occurred. (Ex. BB, Page 62).

Transfer out of Intelligence to District Five

18. While transfers and detachments do happen in the Police Department, someone with Plaintiff’s experience and history with the Department would normally be informed of a pending transfer in advance. (Ex. 2, pgs. 16-18).

RESPONSE: This is Captain Coonce’s personal opinion, solely supported by her own testimony, and is not a material fact that precludes summary judgment in Defendants’ favor and therefore for the purposes of summary judgment only, admit.

19. Captain Coonce was surprised that Plaintiff was transferred out of the Intelligence Division by Captain Deeba, since Plaintiff was one of the most

valuable Sergeants in the Intelligence Division, because of her experience. (Ex. 2, pgs. 18-19 and 13).

RESPONSE: Admit that Capt. Coonce was “surprised” by Plaintiff’s transfer, and that Capt. Coonce’s opinion was that Plaintiff was a valuable and experienced Sergeant.

20. As a Sergeant in the Fifth District, Plaintiff’s responsibilities were limited to administrative upkeep of the personnel assigned to her and supervising officers on patrol. (Ex. 1, pgs. 79-80).

RESPONSE: Admit that Plaintiff’s responsibilities as a Fifth District Sergeant included administrative tasks and supervising patrol officers, but deny that her responsibilities were “limited” to these tasks. Plaintiff testified that her responsibilities as a Sergeant in the Fifth District were the same as her responsibilities when she was a Sergeant in the Fourth District, which also included supervising officers physically on the street, responding to Code 1 calls for service, which include robberies, assault first, homicide, home invasions, providing advice to the officers, reviewing reports, and reviewing and approving arrests, as well as additional administrative tasks. (Ex. BB, Page 33).

21. As a Sergeant in the Fifth District, there were no opportunities for Plaintiff to travel or to receive additional training. (Ex. 1, pgs. 80-81).

RESPONSE: Admit that district Sergeants do not need to travel outside of their district to perform their job responsibilities. Deny that Sergeants do not receive training or do not have opportunities for training. All police officers, including Sergeants, receive training on a regular basis. While Plaintiff

was a Sergeant in the Fourth District from March 24, 2014 to September 22, 2014 Plaintiff received the following training: Post-Promotional Training, Compstat 2014, 2014 Non-Biased Policing, Defensive Tactics CET 2014, 2014 Human Trafficking, and Patrol Response to 7250/CDT. While Plaintiff was a Sergeant in the Fifth District from 6 June 12, 2017 to February 5, 2018, Plaintiff received the following training: two sessions of 2017 FT Firearms Training, DT-Intermed/Wellness/CIT Reg, Low-Light Firearms 17, and Crisis Intervention/Non-Biased. (Ex. 9).

22. As a Sergeant in the Fifth District, Plaintiff lost benefits of employment, specifically she was required in the Fifth District to work a rotating schedule, assigned to a contained patrol area and uniformed patrol with a marked police car. (Ex. 1, pgs. 79-80).

RESPONSE: Admit that all Sergeants, including Plaintiff, when assigned to districts typically are required to work a rotating schedule, stay within their assigned patrol area while on duty, wear a police uniform, and operate a marked police car. However, Defendant denies that these constitute “lost benefits of employment.” Plaintiff did not “lose benefits of employment” when she was reassigned to the Fifth District. For example, Plaintiff’s rate of pay did not change when she was transferred. (Ex 1, p. 151 lines 3-7). There is no evidence that Plaintiff lost any other benefits of employment such as vacation time, medical leave, retirement benefits, medical insurance, etc. Plaintiff even admitted that her transfer to the Fifth District did not cause any harm to her long-term career prospects. (Ex. 1, pp.

151-152). The fact that Plaintiff's work schedule changed, that she was required to patrol a specific area, wear a police uniform, and operate a marked police car are not "benefits of employment," they are merely minor differences in her working conditions as a result of her reassignment.

23. Plaintiff was embarrassed when her new supervisor in District 5 was contacted by Captain Deeba, because it made her appear as though she was not able to follow orders, since Captain Deeba had informed her supervisor that she had failed to return equipment. (Ex. 1, pg. 89).

RESPONSE: Admit that Plaintiff was embarrassed by this incident and that Plaintiff's failure to return equipment could potentially have given her new supervisor the impression that she failed to follow orders.

24. Captain Deeba requested that Detective Brian Naeger, with the Intelligence Division, get him a listing of the assignment of all FBI TFO vehicles, which was provided to Captain Deeba on June 14, 2017. (Defendants' Ex. P).

RESPONSE: Admit.

25. Captain Deeba did not personally take any action with respect to the list of officers having FBI vehicles, other than with the vehicle that Plaintiff was assigned by the FBI, which he demanded be returned. (Ex. 3, pgs. 54-57 and Ex. 1, pgs. 87-89).

RESPONSE: Admit that Capt. Deeba made an effort to ensure that the FBI vehicle assigned to Plaintiff was properly returned to the FBI after Plaintiff was transferred. Deny that Capt. Deeba did not take any

action with respect to the list; Capt. Deeba gave the list to his lieutenant with a directive to ensure the vehicles were properly accounted for. (Ex. CC, Page 56:6-9).

Task Force Status

26. After Plaintiff was contacted by Captain Deeba and ordered to return the FBI vehicle, she contacted her FBI supervisor, Special Agent Lynch (“Agent Lynch”) and told her that she would be returning all of her FBI equipment. (Ex. 1, pg. 89).

RESPONSE: Objection pursuant to Rule 56(c)(2)– Plaintiff’s statement of what she claims she told Agent Lynch is inadmissible hearsay pursuant to FRE 801.

27. Agent Lynch told her she should keep all of her FBI equipment, but Plaintiff informed her that Captain Deeba had reported that he had spoken to Agent Lynch’s supervisor, and Plaintiff was to turn in all FBI items. (Ex. 1, pg. 89).

RESPONSE: Objection pursuant to Rule 56(c)(2) – Plaintiff’s statement of what she claims she told Agent Lynch is inadmissible hearsay pursuant to FRE 801. Plaintiff’s statement of what she claims Agent Lynch told her is similarly inadmissible hearsay.

28. On the Monday that her transfer to the Fifth District had become effective, Plaintiff had spoken to Agent Lynch about continuing to work on ongoing Human Trafficking investigations, which is why Agent Lynch wanted Plaintiff to keep all FBI equipment. (Ex. 1, pgs. 94).

RESPONSE: Objection pursuant to Rule 56(c)(2) – Plaintiff’s statement of what she claims she told Agent Lynch is inadmissible hearsay pursuant to FRE 801. Plaintiff’s statement of what she claims Agent Lynch told her is similarly inadmissible hearsay. Agent Lynch was not deposed and therefore any of Plaintiff’s allegations of statements made by Agent Lynch or claims about what Agent Lynch “wanted” are inadmissible hearsay and speculation and therefore not supported by admissible evidence.

29. Plaintiff would have been able to continue working on FBI investigations while working in the Fifth District, on overtime, and would not have had to seek approval from her supervisor to do so. (Ex. 1, pgs. 94-95).

RESPONSE: Denied. This is contrary to facts Plaintiff has already admitted in Plaintiff’s Response to Defendants’ Statement of Uncontroverted Material Facts, specifically ¶¶ 54 – 56. (Doc. 51).

30. The FBI pays up to \$17,500.00 in overtime to its TFOs. (Ex. 1, pg. 56).

RESPONSE: Admit.

Administrative Aide Position in Second District

31. Typically, when a Captain is transferred to a District assignment, they are allowed to choose their administrative aide. (Ex. 2, pgs. 18-19 and 22 and Ex. 4, pgs. 71-72).

RESPONSE: Admit that this is typically the case, but there may be instances where a Captain or

Major's request for a specific administrative aide is denied. (Ex. HH Pages 13- 14.

32. After Plaintiff was transferred to District Five (5), Captain Coonce asked Major Howard, the next in her chain of command, if she could have Plaintiff transferred from District Five (5) to District Two (2), to act as her administrative aide, since she would be good for the position and there were not any available Sergeants she could pull of the street because of the shortage. (Ex. 2, pg. 19).

RESPONSE: Admit.

33. Major Howard told Captain Coonce, in response to her request to transfer Plaintiff to as her administrative aide, that it “was not going to happen” and “they are not going to let you have her. (Ex. 2., pgs. 19-20).

RESPONSE: Objection pursuant to Rule 56(c)(2) – Capt. Coonce's testimony regarding Major Howard's statement is inadmissible hearsay.

34. Captain Coonce also spoke to Col. Leyshock and requested Plaintiff be transferred to District 2 to be her administrative aide. (Ex. 2, pg. 21).

RESPONSE: Admit.

35. Col. Leyshock told Captain Coonce that “they” were not going to let her have Plaintiff as an administrative aide. (Ex. 2, pg. 21).

RESPONSE: Deny. Col. Leyshock told Capt. Coonce he would check with the Chief of Police to see if her request would be approved. (Ex. II Pg 15).

36. In July of 2017, there were platoons in the Second District that had no Sergeant at all, which is

problematic because there was no oversight—you would have one (1) Sergeant trying to respond to scenes, but that same Sergeant was also responsible for reviewing and approving police reports. (Ex. 2, pgs. 26-28).

RESPONSE: Admit.

37. Plaintiff made a formal request to transfer to District Two on July 5, 2017, and that request remained active until she withdrew it after being transferred back to the Intelligence Division. (Ex. 1, pgs. 117-118)

RESPONSE: Admit that on July 4, 2017, Plaintiff submitted an entry in PeopleSoft indicating her interest in being transferred to district 2. (Admitted by Plaintiff in Doc. 51, ¶¶ 89-90; Ex. S). Admit the entry remained active until Plaintiff withdrew it. Deny that this constituted a “formal” request to transfer. To submit a “formal” request to transfer, sergeants must submit a memorandum within their chain of command requesting a transfer. See Exhibit JJ, Special Order 03-06.

Detective Sergeant Position

38. After sending her email to Major Howard asking to post a position for the Detective Sergeant position, Captain Coonce was under the impression that Col. Leyshock would be speaking to the Commissioner (hereinafter “Chief”) in order to have the position posted. (Ex. 2, pg. 31).

RESPONSE: Admit.

39. Captain Coonce was specifically told that Sgt. Isbell would not be returning to work, and would be

using his remaining sick time until retirement in January, 2018. (Ex. 2, pgs. 28-29).

RESPONSE: Admit.

40. It was common knowledge that Sgt. Isbel would not be returning to work. (Ex. 6, p. 41)

RESPONSE: Admit.

41. It was common knowledge that Sgt. Isbell was not going to return to work, but would continue to use his sick time until his retirement in January, 2018. (Ex. 2, pg. 26 and 28-29).

RESPONSE: Admit.

42. It was essential that the Second District have a Detective Sergeant, particularly since there had been a rash of crime issues in that District. (Ex. 2, pg.26).

RESPONSE: Admit.

43. Even with the permanent assignment of Sergeant Susan McClain to the Second District, there was still a shortage of Sergeants in the Second District, and a significant number of openings which could have been filled by permanent transfers and Captain Coonce continued to request additional Sergeants assignments. (Ex. 2, pg. 40 and Ex. 10).

RESPONSE: Admit.

44. As of October 30, 2017, the Second District was still operating with a critical shortage of Sergeants. (Ex. 2, pgs. 56-57 and Ex. 11).

RESPONSE: Admit.

Sergeant Investigator Position in Internal Affairs

45. The Chief approved the posting for the sergeant investigator position prior to its posting. (Ex. 5, pg. 76).

RESPONSE: Admit that the Chief's office approved the posting for the position of Sergeant Investigator in the Internal Affairs Division. (Ex. 5, pg. 76).

46. Despite approving the posting, after receiving the recommendation from Lt. Koeln of the candidates he had selected for the position, which included Plaintiff, the Chief declined to fill the position. (Ex. 5, pgs. 79-80).

RESPONSE: Admit that the Chief's office approved the posting; admit that Lt. Koeln selected candidates to fill the position, and admit that one of those selections included Plaintiff. Admit that the Chief decided not to fill the position at that time because of the ongoing shortage of sergeants in the districts, and that having sergeants on the street to address violent crime was a higher priority than fully staffing IAD. (Ex. D, Pages 146:25 – 147:14). Deny that the Chief was actually aware that Plaintiff was one of the candidates Lt. Koeln selected. (Ex. D, Page 105: 7-17) (O'Toole did not recall Plaintiff being one of the candidates and had not seen Plaintiff's application for the position prior to his deposition).

47. Had Plaintiff been assigned to the Sergeant Investigator position, she would have had more responsibilities and duties than those she had in the Fifth District, and would have been back to working straight days, weekends off, and working on sensitive investigations. (Ex. 1, pg. 133).

RESPONSE: Admit that if Plaintiff had been assigned to IAD, she would have had different responsibilities and job duties and a different schedule. Objection pursuant to Rule 56(c)(2) as to Plaintiff's characterization of these differences as "more" responsibilities and duties as speculative and inadmissible opinion testimony pursuant to FRE 701. Plaintiff, never having been assigned to Internal Affairs, has no personal knowledge of the duties of an IAD investigator and therefore is not qualified to render an opinion about whether an IAD investigator's responsibilities and duties are greater or more important than the duties of a district sergeant.

Authority of Police Chief

48. If a position is posted in the Department, the Chief ultimately decides who fills the position based upon the recommendation of the Captain. (Ex. 4, pgs. 99-100).

RESPONSE: Admit.

49. Chief O'Toole, during his tenure as Interim Chief of Police, did not typically decline the recommendation of a Captain. (Ex. 4, pg. 111).

RESPONSE: Admit.

50. Chief O'Toole did not direct Captain Deeba to determine the location of all FBI vehicles. (Ex. 4, pgs. 60-61).

RESPONSE: Admit.

51. As a result of the Chief's transfer of Sgt. Susan McClain into the Second District, the manning tables for the week of October 2, 2017 and October 9, 2017,

showed there were twenty-two (22) authorized Sergeants positions in District Two (2) and twenty-three (23) actual Sergeants assigned to District Two (2). (Ex. 7, pgs. 7-9).

RESPONSE: Admit.

Damages

52. As a result of Captain Deeba having directly contacted Plaintiff's new Fifth District supervisor, without having given Plaintiff sufficient time to comply with his order to return the FBI vehicle, Plaintiff suffered stress and anxiety. (Ex. 1, pgs. 162-163).

RESPONSE: Deny. Plaintiff should have returned her FBI vehicle upon being transferred without being ordered to do so. (Ex. CC, Page 60:8 - 18). If Plaintiff suffered stress or anxiety in connection with this incident it was a result of her own actions.

53. Plaintiff was so upset she broke down and cried in front of her new Fifth District supervisor the first time they met, since he was communicating to her that Captain Deeba claimed she had not followed orders to return the FBI vehicle. (Ex. 1, pgs.164-165).

RESPONSE: Objection pursuant to Rule 56(c)(2). Plaintiff's testimony regarding what her new supervisor told her Capt. Deeba said is inadmissible hearsay.

54. As a result of her transfer out of the Intelligence Division, Plaintiff suffered stress and anxiety, because the appearance to her colleagues was that she had done something wrong, thereby causing her transfer, and she was constantly having to answer questions about why she was transferred, and she was

unable to provide justification (Ex. 1, pgs. 163 and 165-166).

RESPONSE: As to Plaintiff's suggestion that transfers out of intelligence occur because the employee has "done something wrong," deny. It is routine for employees to be transferred in and out of Intelligence upon a change in leadership in the Department. See, e.g. Ex. FF, Page 8 (Coonce was transferred out of Intelligence when O'Toole was made Interim Chief, and transferred back in when Chief Hayden assumed control of the Department). As to the remainder of this paragraph, objection pursuant to Rule 56(c)(2) – Plaintiff's testimony regarding statements made to her by unidentified persons or conversations with those persons is inadmissible hearsay. Additionally, Plaintiff's testimony regarding what other unidentified persons thought about her is inadmissible speculation.

55. Plaintiff also had to work secondary to supplement her income as a result of the loss of her TFO status. (Ex. 1, pgs. 163).

RESPONSE: Admit that Plaintiff worked secondary employment while assigned to the Fifth District and earned extra income from that secondary employment. Admit that without TFO status, Plaintiff would not be eligible to work overtime for the FBI. However, deny that Plaintiff "had" to work secondary employment "as a result" of the revocation of her FBI credentials; Plaintiff could have sought approval from the Chief of Police to continue working overtime for the FBI even after

being transferred (Ex. DD Page 67). Plaintiff did not seek such approval. (Ex. B, Page 102:9 to 102:17).

56. As a result of all the stress and anxiety, Plaintiff began getting migraines. (Ex. 1, pg. 166 and Ex. 8, pgs. 27-29)

RESPONSE: Objection pursuant to Rule 56(c)(2). Plaintiff's testimony that her migraines were "a result of" stress or anxiety is inadmissible opinion testimony under FRE 702. Plaintiff is not a medical doctor and therefore is unqualified to opine on the cause of her medical condition.

57. Prior to her transfer, Plaintiff's husband had not known her to cry, but after, he observed her crying (Ex. 8, pg. 32).

RESPONSE: Admit.

58. Plaintiff was not getting a lot of sleep after her transfer. (Ex. 8, pg. 35).

RESPONSE: Admit.

Additional Evidence of Retaliation and Gender Animus

59. When Chief Hayden took over as the Commissioner of the Department, Captain Deeba accused Plaintiff of having an intimate relationship with her prior subordinate, Detective [REDACTED], while in Intelligence. (Ex. 1, pgs. 167-168).

RESPONSE: Objection pursuant to Rule 56(c)(2)–the exhibit and pages cited specify that Plaintiff heard about this "only from Captain Coonce". Captain Coonce was deposed and did not testify to any such statements, thus these statements are

hearsay and therefore not supported by admissible evidence.

60. Captain Deeba told Chief Hayden that as a result of Plaintiff having had this encounter, she should not be permitted to return to the Intelligence Division. (Ex. 1, pgs. 167- 168).

RESPONSE: Objection pursuant to Rule 56(c)(2) – the exhibit and pages cited specify that Plaintiff heard about this “only from Captain Coonce”. Captain Coonce was deposed and did not testify to any such statements, thus these statements are hearsay and therefore not supported by admissible evidence.

61. Further evidence of Captain Deeba’s discriminatory animus towards females can be seen in the way he treats other females under his supervision. Specifically, Captain Deeba sent one of his Lieutenants in the Second District an email in which he calls her out for a minor typographical error, which email was also sent to a minimum of two hundred (200) other employees. (Ex. 1, pgs. 168-169 and Ex. 12).

RESPONSE: Admit that Capt. Deeba sent an email reprimanding a subordinate for making an error. Objection pursuant to Rule 56(c)(2) as to the remainder of this paragraph as not being a statement of material fact, but argument and legal conclusions not supported by evidence.

Notice of Charge of Discrimination

62. Chief O’Toole and Captain Deeba were aware Plaintiff had filed a Charge of Discrimination, and

reviewed the Charge. (Ex. 4, pgs. 73-74 and Exhibit 3, pgs. 65-66).

RESPONSE: Admit.

63. Most of the command staff in the Department were aware Plaintiff had filed a Complaint against Captain Deeba. (Ex. 2, pg. 60).

RESPONSE: Object that the material cited does not support the allegation. The cited part of Capt. Coonce's testimony was "I'm not going to say it's common knowledge. I don't think everybody knows. But I think a lot of the command staff knows this is going on."

Respectfully submitted,
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DEFENDANTS**

[U.S. District Court, Eastern District of Missouri]
Deposition of Jatonya Clayborn Muldrow
October 30, 2019

[17:2]

Q. Okay. So, it is normal for the chief to reassign people from one department to another or one assignment to another periodically?

A. Yes.

Q. Okay. If you look at Exhibit Ten in your pile there, that's your Personnel Profile. And if you look on page it's marked Bates Number 337, does that show your history in the Department of your various assignments?

A. 337, where are you --

Q. In the top (pointing).

A. Okay. At the top, Page 2 of 6?

Q. Yes.

A. Okay. And your question again, please?

Q. This shows your various assignments that you've been in while you've been in the Department, right?

A. Yes, ma'am.

Q. Okay. So, you started out as a new hire in 1998 as a recruit -- a civilian recruit in training, and then what was your first assignment after you got out of training?

A. I was assigned to the First District.

[24:3]

Q. Okay. So, a detachment sounds like it's a more informal process?

A. I would agree with that statement.

Q. Okay. Why did you want to transfer from South Patrol Detectives to Intelligence?

A. I was asked if I was interested in that position.

Q. Okay. Who asked you about that?

A. Lieutenant [REDACTED], who was the commander of the Intelligence Division at that time. However, prior to being Commander of Intelligence Division, he did a short stint as the Commander over the South Patrol Detective Bureau. That's where we met. He liked my work ethic and work and asked if I would be interested in the Intelligence Division when that position became available.

Q. Okay. Why were you interested in going from South Patrol Detectives to Intelligence?

A. Because the Intelligence Division is seen as the premier bureau to be in in our Department.

Q. Why is that?

A. You work more sensitive and what people deem as important investigations. You have opportunity -- [25] more opportunity for career growth because you are around more commanders. You meet -- In South Patrol Bureau, I never really met anyone. Working in the Intelligence Division, you're working out of Police Headquarters. You work directly for the chief, so your opportunities to network career-wise

improve. You also have straight days, weekends off. You have a take-home car and it is seen as the premier -- one of the premier or the premier position on the Police Department.

Q. Okay. So, you get take-home -- does everybody assigned to Intelligence get a take-home car?

A. Yes.

Q. Okay. Regardless of their rank?

A. Yes.

Q. And can you explain why is that such an important benefit?

A. Important because you are always on call in the Intelligence Division, so you have that freedom and flexibility to work in an undercover capacity and just you're not in uniform or in a suit in a marked car. You just -- Being in a covert vehicle allows you to do your job better and it's seen with more prestige in itself.

Q. Okay. So, when you were in the First District, you didn't have a take-home car?

A. No.

[26]

Q. All right. And would there have been any reason for you to need a take-home car to perform your job duties in the First District?

A. No, because my hours were set at -- well, set being once you report to work and once you go home as an officer, you're not subject to being called back in to work.

Q. Okay. So, the reason for the take-home car is so that if you are called in to work, you have a vehicle you can just drive to work?

A. Yes, and an additional perk to that, of course, would be it saves mileage on your personal car. It saves you money in the long run because you don't have to use your gas driving back and forth to work or from home straight to a scene. It saves the Department and you time.

Q. Okay. Did you ever have a take-home car while you were assigned to South Patrol Detectives?

A. No, ma'am.

Q. Okay. Other than Intelligence Division officers, does anybody else get take-home cars that you're aware of?

A. Currently, I be- -- I believe Special Operations has take-home cars. And then if certain divisions are on call, they're allowed to take their car [27] home, meaning if they're on call for that week, if a crime happens, they can take the car home when they're assigned.

Q. Okay. So, the take-home cars, are they sometimes marked vehicles, sometimes unmarked?

A. The only patrol I know that might take their vehicle home that's marked is the Traffic Division. I'm not sure if they take them home. I know many years ago when I first came on, they did take them home. I don't know if that's the status now. But outside of that, no one has a marked take-home vehicle that I'm aware of.

Q. Okay. You also talked about one of the benefits of being in Intelligence is the straight days and weekends off. When you were in South Patrol Detectives, what was your schedule like; do you remember?

A. It varied from hours being 8:00 a.m. to 4:00 p.m. or 10:00 a.m. to 6:00 p.m., and then in the evening shift, the hours would be 4:00 p.m. to 12 a.m. or 6:00p.m. to 2:00 a.m.

Q. Okay. So, by "straight days," do you mean like 9:00 to 5:00?

A. 8:00 to 4:00, 9:00 to 5:00 Monday through Friday and weekends off.

Q. Okay. And, so, that was not the schedule you had when you were in South Patrol or First District?

[28]

A. No, ma'am.

Q. Okay. Tell me more about the networking opportunities that you think you have in Intelligence.

A. Because I work and report directly to the chief, for example, in this position, I have had the opportunity to meet our Assistant U.S. Attorney Jeff Jensen, I have met the head of ATF for Kansas City, for the St. Louis region, Kansas City and St . Louis, I've met the head of the FBI. I meet a lot of local people who are, I guess, deemed important in law enforcement, opportunities that I would not have as a detective or in the district because you're away, but because of my position in Intelligence, we have to do work that puts us in touch with those people.

Q. Your current rank is a sergeant; correct?

A. Yes, ma'am.

Q. Okay. And tell me about how you were promoted from officer to sergeant.

A. I signed up and participated in a promotional exam, my name went on a list, and eventually I was selected to be promoted to sergeant.

Q. And what was the testing process like?

A. Could you restate the question?

Q. What was -- What was the process like for the testing, did you have to take a written test --

[29]

A. Oh.

Q. -- or --

A. You have to take a written test and go through an oral exam. We call them oral boards.

Q. Okay. And then you receive a score?

A. Based off of your performance, yes.

Q. Okay, and when you took the test, was the test administered by an outside testing consultant or was it internal?

A. Outside.

Q. Okay. Have you tried to take the lieutenants test yet?

A. I did.

Q. Okay. And how did you place on the lieutenants list?

A. I placed 47 or 49 out of approximately 110 candidates.

Q. Okay. Was the lieutenants test similar, a written test and then an oral exam?

A. Yes.

Q. Okay. Was that also administered by an outside testing consultant?

A. Yes.

Q. Okay. So, how does the networking opportunities help you advance in the Department, given [30] that we have this testing process in place?

A. It helps you with placement and job positions like Intelligence Division or if I was interested in Homicide. As I mentioned before, people will ask you to fill certain positions when they've had an opportunity to work with you and they can see your work performance. Without that exposure, you are limited to positions and less likely to be, for lack of a better term, recruited or sought out for those positions when you're not well-known.

Q. Okay. So, if I'm understanding you correctly, you're saying the networking opportunities help you secure more sought-after assignments within the Department but not necessarily a promotion?

A. Correct. Well, when it comes to promotion also it's helpful because your name goes on a list and they can select people from that list. And when you have networked and people know you and they know your work ethic, you're more than likely to be the person selected off a list. If they give you ten names and you don't know anyone, but you know Jatonya Clayborn, Jatonya Clayborn is more likely to be selected for promotion because people know me and know my worth and my value to the Department.

[33]

Q. Okay. And while you were a sergeant in the Fourth District, can you tell me what your job duties were?

A. To supervise the patrolmen administratively and physically on the street when they responded to calls for service and needed supervision or requested a supervisor, to respond to all Code 1 calls for service, which include robberies, assault first, homicides, home invasions, to provide advice to the officers when they needed it, to review reports, to approve and review arrests.

Q. Okay. Anything else?

A. There were other small administrative tasks that. . .

Q. Okay. This time that you spent in the Fourth District from March to September of 2014, did you feel like that was helpful to you, did you learn new skills in that time period?

A. I learned how to supervise patrolmen in that time period.

Q. Anything else?

A. Nothing of significance. I just learned how to be a supervisor in that capacity.

[49:5]

Q. Okay. So, basically, each -- other than the processing of the visas, the Gang Unit, Human

Trafficking, and the Technical Assistance Group each took up about an equal amount of time overall?

A. Yes, and that's when I first -- those were my duties when I was first reassigned to the Intelligence Division in 2014.

Q. Okay. You also talked about and alleged in your Petition you were a task force officer with the FBI. What does -- What does that mean?

A. That means that I was Federally deputized to have the same rights and privileges as a FBI agent, but I Am actually a St. Louis City police officer.

Q. Okay. And when did you first become a task force officer with the FBI?

A. In 2016. I can't remember the month or anything. 2016 for sure.

Q. So, after you were a sergeant?

A. Yes.

[54:3]

Q. Is that unmarked vehicle?

A. Yes.

Q. Okay. And what's the scope of your use of that vehicle, what are allowed to do with it?

A. To use the vehicle to perform duties related to being a task force officer, Human Trafficking investigations at that time.

Q. Do you get to take it home with you?

A. Yes.

Q. But you don't get to use it for personal use?

A. No.

Q. Do you get access to FBI e-mails or servers or anything?

A. It depends on your clearance. I -- My background did allow me to have the top clearance, so yes, I had access to their computer systems, access to come and go freely in the FBI's field office.

Q. Okay. Any other privileges or benefits or anything that you got by virtue of being a task force officer with the FBI?

A. Personal?

Q. Just anything --

A. Or --

[55]

Q. -- that was --

A. So --

Q. -- that came with that.

A. -- as it related to the job, we were involved in an investigation and, right before my transfer, myself and the agent I was working with, we were going to be flying to Atlanta to further that investigation to look for an individual.

Q. Okay. So, work-related travel?

A. Yes. And then because of the involvement in Human Trafficking and my status as a task force officer, I was not confined -- confined to investigating crimes that occurred in St. Louis City. I could go

wherever the crime took me, which is why we were going to be going to Atlanta.

Q. Okay. Okay, and other than by virtue of being a task force officer for the FBI, you wouldn't be able to investigate crimes outside the city, right?

A. Correct.

Q. Okay. Any other privileges or benefits as a task force officer that you can think of?

A. Of course it's really good for my resume, especially when it comes time for promotion and you get to talk about what you have done in your career and statuses that you've obtained. It's helpful for that [56] promotional process.

Q. Okay. You also allege in Paragraph 11 that you were eligible to receive additional salary because were a task force officer.

A. Oh.

Q. Can you tell me what that is about?

A. Yes, so, the FBI will pay an additional 17,000 17,500 -- I can't remember the exact number -- each year for overtime worked on investigations involved with a Federal agency.

Q. Okay. So, that's just for overtime pay?

A. Yes.

Q. Okay. So, you only get that if you actually work the overtime?

A. Yes.

Q. Is that reflected on your W-2s that you get from the City or do you get a separate W-2 from the FBI for the overtime money?

A. It's all paid through the City.

Q. Okay. so, the FBI gives the City the money -

A. -- Money.

Q. -- and --

A. They're reimbursed.

Q. Okay.

A. Yeah.

[57]

Q. Okay, you also allege in Paragraph 13, you talk about getting to wear plain clothing. What's the benefit of that?

A. Not having to wear the uniform every day. Especially for me, because of injuries I've had on the Department in the past, wearing the duty leather belt and vest and all of that all the time is straining on me every day.

Q. Okay. So, for you personally, it's a benefit to wear plain clothing versus the uniform?

A. Yes, and then within the Department, being in a plainclothes assignment, of course, is viewed as more prestigious.

Q. Okay. So, in -- on June 12 of 2017, you were transferred to the Fifth District; correct?

A. Yes.

Q. Okay. And who made the decision to transfer you?

A. The decision -- I don't know who made the decision. The e-mail came from the Chief's Office.

Q. Is that how you found out you were being transferred, from the e-mail?

A. Yes, the Department-wide e-mail that was sent.

[60:4]

Q. Okay. How did this conversation with you and Captain Deeba come about where he was telling you about his plans to address violent crime, was that like a meeting with everybody or was it just the two of you?

A. It was a meeting with the sergeants who were currently in Intel at the time when he was first transferred there.

Q. Okay. So, right when he first got transferred, within a few days maybe?

A. Yes.

Q. Okay. Do you remember anything else from this meeting what else he said at the meeting?

A. Outside of that, I just realized that he would call me and the other female sergeant Mrs. Clayborn and Mrs. [REDACTED] and refer to our male counterparts as Sergeant [REDACTED], Sergeant [REDACTED].

Q. All right, who was the other female sergeant?

A. [REDACTED].

Q. So, he called you Mrs.?

A. Mrs. Clayborn.

Q. Okay. Instead of sergeant?

A. Yes, and that stuck out to me because that was [61] pretty much my first time being in a room and having a conversation with him.

Q. Okay. Did you -- How did you feel about that?

A. Thought it was odd that he would address the females as Mrs. and address the males by their rank.

Q. And why is that?

A. Because we are all sergeants, we were all sergeants in the room, so why make the distinction between the females and the males?

Q. Okay. So, did you -- I guess, were you offended by that or how did you feel about it personally?

A. I felt that it was not right. I'm a sergeant, also I earned the title "sergeant" just like the males did.

Q. Did you complain to Captain Deeba or anyone else that he wasn't using your title?

A. I did not.

Q. Why not?

A. Because I just started working for him. I didn't know if this was going to be something that continued or if maybe he just did that during the meeting.

Q. Okay. Did he ever refer to you using your title of "sergeant"?

A. I cannot recall. I don't recall.

[63:4]

Q. Okay. So, other than telling you about his plan to redirect the Depart- -- the division towards addressing violent crime just in terms of job responsibilities or the objectives of Intelligence, did Deeba change anything else when he took over?

A. Not that I recall.

Q. Okay.

A. And, again, I wasn't there long enough to see these things happen.

Q. Did your individual job duties change at all from day to day after Captain Deeba took over?

A. They did not. I know that after -- or during or after the meeting -- I can't be sure -- but because he said he was moving in that direction of violent crime, I asked about how he wanted to hand- - address Public Corruption and Human Trafficking, and I also supervised the Gun Crime Intelligence Center at that time, so that fell within the scope of his vision, but I wanted to know how he would like to address the Human Trafficking aspect of my responsibilities and Public Corruptions and U-visas and he said, "I'll check on that and let you know."

[70:10]

Q. Okay. So, when you got the e-mail saying you were transferred out of Intelligence from Interim Chief O'Toole June 12 of 2017, I guess, how did you react to that e-mail?

A. I was -- I think I got the e-mail on June 9 that the transfer would be effective June 12. I was in shock because I was -- I mean, every supervisor in the unit

at the time agreed that I had the most responsibility and did the most work there. In addition, during our meeting that was held with the sergeants and Deeba, he said that he did not believe in blind transfers, meaning what happened to me, because he felt that was a cowardly thing to do, so if he had plans on transferring anyone, he would let them know because he was not a coward. And then I returned from lunch and I see the e-mail that I had been transferred.

Q. So, you and --

A. So, I was shocked.

Q. Okay. So, you and Captain Deeba never had a conversation about you being transferred before it happened?

A. No.

Q. Okay. Did anybody give you any kind of warning that that was going to happen?

A. No, I learned through reading the e-mail.

Q. Okay. Once you saw the e-mail -- Well, I guess, once you have the transfer in place and it says your transfer is going to be effective June 12, 2017, does that mean just as of June 12, 2017, you just report to your new assignment--

A. Yes, ma'am.

Q. -- as of that day?

A. I'm sorry. Yes.

Q. So, did you talk to anybody about the transfer other than your attorney -- I don't want to know anything that you said to your attorney -- did you talk

to anybody about the transfer after you got that e-mail?

A. Yes.

Q. Who all did you talk to?

A. Then-Captain Coonce, we talked via text message.

[79]

Q. Okay. Did -- Captain Coonce, how did she respond to you telling her about that?

A. I think she was in shock like, "What?" And shook her head like -- it was like an eye roll, and, "What?" And we just went on.

Q. Okay, Did you complain to anybody else about Captain Deeba other than your attorneys?

A. In general?

Q. Just in general in regard to him trans -- asking for you to be transferred or supervising you or anything related to your job.

A. Not until after he started going for my taskforce status. I know I had a conversation with my husband about why he would transfer me over the other sergeants when I had more responsibility and did more work than they did, but those weren't complaints. That was a conversation. The complaint came in when he directly started going after my task force status.

Q. Okay. So, when you were transferred out of the Intelligence Unit to the Fifth District, what were your -- how did your job duties change?

A. So, I went from straight days, weekends off with a take-home car and more visibility and responsibility within the Department to a rotating schedule with few weekends off, assigned to a contained [80] patrol area, uniformed patrol, marked police car, wearing the duty leather, vest, and that again and responsibilities being limited to that of administrative work for or administrative upkeep of the personnel assigned to me and supervising officers on patrol.

Q. Okay. While you were a sergeant in the Fifth District, were your duties the same or similar to what your duties were like when you were a sergeant in the Fourth District?

A. Yes, ma'am.

Q. Okay. Anything different than what you've already told me compared to Fourth versus Fifth District?

A. No, ma'am.

Q. Okay. So, why -- particularly why is being in the uniform -- why -- why -- You said that there were -- you had an injury that made it difficult for you to wear the belt. Can you tell about that one?

A. Just many years ago, I was, when I first came on the Department, lifting a tree branch off of a car and fell down hard and injured myself, and then a couple years after that, kicked in the face really hard and, so, I've had back and neck problems since that time that I used to have to get cortisone shots for all of the time. After being out of uniform, that extra 15 to 25 pounds that I don't have to carry helped my condition and helps [81] me work more comfortably.

Q. Okay. So, essentially, when you were in the Fifth District as a sergeant, it was more routine police work in terms of patrolling and investigating crimes?

A. Yes, that is the very basic foundation of being a police officer. There is no training, travel opportunities. It's -- It's just like the basic entry level of being a police officer or sergeant on this job.

Q. Okay. Once you were transferred out of Intelligence to the Fifth District, did you still perform job duties as a task force officer for the FBI?

A. I did not.

Q. So, after you left Intelligence, all those investigations for Human Trafficking that you were working on, you no longer did any other work on that once you were transferred out?

A. Correct.

Q. Okay. So, you said that Captain Deeba made efforts to get your credentials, your FBI credentials, revoked. How did you find out about that?

A. The first time I knew about that was I received a phone call from then-Acting Supervising Agent Jennifer Lynch with the FBI, who advised that Captain Deeba contacted her inquiring about my TFO status.

[87:19]

Q. Okay, so, how did you first find out that you were -- Well, I guess, at some point, was the FBI-issued vehicle taken away from you?

A. It was returned, yes, ma'am.

Q. Okay. And when did that happen?

A. I believe it was June 15.

Q. So, a few days after the transfer?

[88]

A. Yes, ma'am.

Q. Who told you to return it?

A. Captain Deeba.

Q. Did he call you or e-mail you?

A. He called me.

Q. Okay. And what was that conversation?

A. So, I was preparing for roll call, so the call would have come in right around 2:45-ish, 2:50 p.m. that date and he said that, "You are to return your FBI credentials and vehicle to Intelligence immediately." And I said, "Well, sir, I've spoken with Special Agent -", and he finished my sentence. He cut me off and said, "Yeah, Mrs. Lynch, well, I talked to her boss and her boss says to return the equipment, so I need you to do that immediately." And I said, "Well, I'm just reporting to work. I don't drive the FBI vehicle to work, so I will have to make arrangements to get back home to get the vehicle at some point." And he says, "Well, it needs to be done before the end of day today." And I said, "But I am at work." And he says, "Do you understand that it needs to be done before the end of today?" And I said, "Yes, sir, I'll make arrangements," and we ended the call.

Q. Okay. What -- Were you able to accomplish that?

[89]

A. Well, unfortunately, while I was in roll call, my new captain started calling me, so I called him back and he says that, "I just got off the phone with Captain Deeba, who says that you have not turned in equipment. Do I need to assist you in making arrangements to return the equipment?" So, now I'm completely embarrassed because I hadn't even had a chance to comply and my new captain is, to me, getting the impression that I do not follow instructions. So, he granted me the permission to return the vehicle, like call myself out of service and return the vehicle. I contacted Special Agent Lynch to say that I was returning the items and she said, "No, you're keeping them." And I said, "No, Captain Deeba said he's talked with your boss." And, so, she said, "Well, you cannot return the property to Deeba. You have to return it to us because it's our property." Me and her made arrangements that I would -- what ended up happening is I drove my marked police vehicle to my home, got the police -- or the FBI vehicle and credentials, met Agent Lynch at the FBI, returned those items, and she drove me back to my home so that I could get back into the marked police car and go back to work.

[103:10]

Q. Okay. Other than you, were there any other female officers of any rank assigned to Intelligence?

A. There were two females assigned to Intelligence.

Q. What was their --

A. Officers.

Q. -- rank? Officers?

A. Yes, ma'am.

Q. Okay. Did they remain in Intelligence?

A. So, he transferred one out the same day as he transferred me out and then the last one he transferred out a couple weeks later.

Q. Okay. Are you aware of any female officers being transferred into Intelligence after you were transferred out?

A. No, ma'am, I'm not.

[104]

Q. Okay. Anything else about the transfer that you think was sex discrimination, any other reasons you feel it was discrimination?

A. That is it, targeting your hardest working sergeant, who happens to be a female, gets transferred and then shortly -- well, the same day, like I said; the other female was transferred and then another. I don't think there was a female detective assigned to the Intelligence Division Assignment Code 210 while Deeba was the commander.

Q. Okay. Were male officers or sergeants also transferred out of Intelligence at the same time you were transferred out?

A. I believe I was the only sergeant transferred out of the Intelligence Division and he replaced me with a male sergeant.

Q. Okay. What about officers, were any male officers transferred out of Intelligence?

A. There was the officer who was also a TF -- task force officer who was transferred out of the unit on the same day as I was to a district and then there was another -- the Human Trafficking officer that worked for me, he was transferred out, but it was Deeba's plan, I guess, to move Human Trafficking investigations in violation of our special order to Sex Crimes.

[121:5]

Q. -- you don't know. Okay. So, you also -- So, you requested to be transferred to District 2 instead of District 5. How would a transfer to District 2 have benefitted you personally?

A. Because then once I had been transferred to that district, it would be up to that captain to decide what to do with their personnel. I would have been then assigned as Captain Counce's aide.

Q. Okay. And why was that better?

A. Than -- Better than?

Q. Where you were in District 5.

A. As an aide, I would have access to more contacts again. I would be working closely with the captain on whatever projects or anything that she had going on. Again, it would be a straight days, weekends off assignment. I would likely have been assigned a take-home car because I would be her driver. And if you're going to be in Street Patrol, being an aide is more prestigious than being on the street, answering the 911 calls for service.

[142]

Q. Did you ever work overtime while you were a sergeant in the Fifth District?

A. I did, but I did not submit overtime work because at that time it was frowned upon to do.

Q. What does that mean?

A. So, as a sergeant in the district, even though my work hours would be 11:00 p.m. to -- I'm sorry -- 3:00 p.m. to 11:00 p.m., I would have to report to work earlier, probably around 2:30, to read my Department e-mails and do preparation for roll call, reading all information that might need to be passed on to the Patrol officers during roll call, seeing if there are any crime trends that are occurring in our districts, all of that information I would gather to pass along to the officers during roll call. And then after work, it was my responsibility to remain at the station until all of my officers made relief, meaning they came into the building and I saw that they were fine and they turned in their Tasers, and some may have reports. So, I probably donated 35 minutes to an hour each shift that I work, but it was frowned upon to submit overtime for that because it was just almost like expected work preparation.

Q. Who told you that it was frowned upon to submit overtime for the time you actually worked?

A. No one told me. That was just the common [143] practice. It has been that way since even I was a Patrol officer that you don't -- Well, it's only been recently that sergeants have been able to earn overtime. I think late 2014, early 2015 is when sergeants started earning overtime compensation. But

it's just expected that that's in the normal course of duties. Since then, I hear there are some districts that the captains and commanders encourage the sergeants to put in overtime, but it is not something that was widely practiced and I was not one who was going to try to test that system and buck it. Especially being new to District 5, I didn't want to cause any more issues.

Q. Okay. Did you ever talk to Captain Larson about how you should or if you should submit overtime for that extra time you were working?

A. No, I didn't.

Q. Did -- Do you know if Captain Larson knew that you were working more than your hours --

A. I think --

Q. -- assigned hours?

A. I don't know if he knew, but I believe that it is common knowledge that every sergeant who is on Patrol reports to work before their shifts to get ready for the shift.

Q. Okay. Other than this time that you just [144] talked about, the 35 minutes to an hour per day, did you have any other opportunities to work overtime either in the Fifth District or elsewhere as a sergeant during that time you were assigned to the Fifth District?

A. I don't recall there being opportunities in District 5. There may have been in other districts, but I don't recall.

Q. Okay. Was that something that could you have gone and worked overtime in another district as a sergeant?

A. I don't – That's what I can't recall. I know that officers had that opportunity, but I don't recall if that extended to sergeants.

Q. Okay.

A. I specifically don't remember that for District 5 sergeants.

Q. Okay. So, you never worked overtime, other than this 35 minutes to an hour, you never worked other than your regularly assigned duty hours as a sergeant?

A. Correct.

Q. Either in the Fifth District or elsewhere?

A. Overtime; correct.

Q. Okay. You did work secondary during that time period, though?

A. Yes.

[151:3]

Q. Okay. So, would you agree with me that the transfer from Intelligence to the Fifth District and back again did not have any effect on your regular biweekly rate?

A. Correct.

Q. Okay. And if you had gotten the positions in either Internal Affairs or the Second District, either of the positions you wanted in the Second District,

neither of those would have affected your biweekly rate, either; correct?

A. Correct.

Q. Okay. 'Cause it's not a change in job classification, it's just a different assignment within the Department?

A. Correct.

Q. Okay. And your assignment to the Fifth District was from June 12 of 2017 until February 5 of 2018; correct?

A. February 5, 2018; correct.

Q. So, that's about eight months or so?

A. Yes.

Q. Do you think that the eight months that you spent in the Fifth District caused any long-term harm to [152] your career prospects?

A. No.

Q. Okay. Starting with Exhibit 15, there were a bunch of e-mails about transfers here, 6 through -- 15 through 25. So, Exhibit 15, is this the e-mail that you talked about earlier that notified you that you were being transferred out of Intelligence?

A. Yes.

Q. And at the same time that you were transferred out of Intelligence, this also shows Officer [REDACTED] being transferred to District 6 at the same time as you?

A. Yes.

Q. Okay. Does it also show other officers, both male and female, being transferred to various places to and from in the Department?

A. Yes.

[160]

Q. Okay. And I think that the exhibit I have, Ten, was printed before that happened. Do you happen to recall the date that you were actually transferred to Intelligence?

A. I don't.

Q. Okay.

A. I think. . .

Q. I don't know if it's anywhere in here. So, now that you're back -- transferred back to Intelligence, do you have your FBI credentials restored?

A. Yes.

Q. Okay. And you're currently -- Remind me. What were you -- what capacity were you working for the Federal Government again now?

A. Now as Public Corruption investigator.

Q. Public Corruption investigator, and that's for the FBI, right?

A. And our Police Department.

Q. Okay. And do you have a take-home car now?

A. Yes.

Q. Okay. Do you have the same overtime opportunities now that you did before you were

transferred out of Intelligence by Acting Commissioner O'Toole?

A. Yes.

[162:5]

Q. Okay. So, this is your Supplemental Responses to Defendants' First Set of Interrogatories and we asked you to describe and itemize your past and future economic losses, such as lost wages that you are claiming in this lawsuit. You identified that as being \$18,134.51 in lost wages. Other than this, are there any other lost wages that you're claiming as part of this lawsuit?

A. No.

Q. Okay. Your lawsuit also seeks damages for emotional distress. Can you please describe to me what the emotional distress was that you suffered that you're claiming damages for in this lawsuit?

A. The stress of having professionally, especially, Captain Deeba contacting the FBI and a supervisor now that I never met who will probably have a poor opinion of me because it was insisted upon that my credentials with the FBI be revoked.

The embarrassment of trying to explain the situation to Agent Lynch and not having a justification for why this would have happened to me, especially when they're of the opinion when someone's TFO credentials are [163] revoked, it's usually because they're in some type of trouble. So, to be associated or viewed like that for those who don't know about it is very stressful.

When I first transferred to District 5, having Deeba contact my captain before I was ever even able to make contact with him to say that I had not followed his orders and having my first conversation with my captain in the Fifth District be that, Hey, you're not following orders, is very stressful for me.

The overall perception in the Department when people knew that I was a hard worker being transferred out of the unit and the constant questions and asking, like, what did you do, making it appears as if I had done something wrong was very stressful to me.

And just the financial burden that it also caused because in working in the Intelligence Division, working the hours that I worked, I became used to a certain standard of living and, so, for the first time in my career, after being moved from the Intelligence Division, the stress of how to supplement that lost income and having to work a second job to supplement that income was stressful to me, also.

Q. Okay. How many hours a week, approximately, were you working in Intelligence before you were transferred by Lieutenant Colonel O'Toole?

[164]

A. Between 50 to 60 hours a week.

Q. And then after you were in the Fifth District - you worked for the Fifth District and the secondary combined, what was your approximate weekly schedule in terms of hours?

A. So, it was 40 hours for the Department, and for TCF, it's very hard to say because even though I would

submit several hours, you don't always get everything that you bid for, so it was very sporadic. There was no set schedule. I put in a bunch of days and hoped to get as many as possible, so I can't recall on a weekly basis what that would have been because it was not consistent. But as you can see for the months of June through December, when I did work, I earned less than \$6,000.

Q. Okay. So, you worked -- would you agree overall you worked fewer hours total when you were in the Fifth District and working secondary versus when you were in Intelligence?

A. Fewer hours total, yes.

Q. Okay. And you said that this combined with other things caused you stress and emotional distress. Can you tell me how that manifested for you?

A. Well, in one of the more embarrassing moments of my career was talking to Captain Larson and actually [165] breaking down and crying in front of him. As a female employee of this Department, you never want to be in that position. That was tough for me. And then not wanting him to -- my knew captain to look at me as a weak person because I'm supposed to be a sergeant, I'm supposed to be equal to my male counterparts -- excuse me -- I'm supposed to be equal to my male counterparts, so to be crying in front of your new captain as an impression, first impression, coupled with the fact that he thinks that you're not following an order is something I never wanted for my career. I worked really hard to build the reputation that I had, to not have a reputation of getting where I got because I was sleeping around but actually because I was doing hard work, so it was a very

difficult time for me. And I felt that even after Deeba had what he wanted, the FBI credentials and that, unfortunately, people were still calling me because they're not aware that I'm not in that position, so having to continuously explain, hey, I'm not there anymore and this is why, it just took a while before caught on that I was no longer in those positions doing what I had previous -- previously done for years.

Q. Okay.

A. And, so, it -- it isn't like it was a transfer that just stopped there for me. It just lingered on and [166] just constantly having to field those calls and explain that I'm no longer in that position. And then, of course, the question is, Well, why? And that was very emotional for me and distressing for me.

Q. Other than having the incident where you cried in front of your new captain, other -- was there any other physical ways that the emotional distress manifested for you?

A. Just in the form of headaches, receiving migraines, but I just took over-the-counter medication, Excedrin Migraine that I had to keep at work and at home because I would get headaches from the stress of it.

Q. Okay. Any other physical or other manifestations?

A. None that I can think of right now.

Q. Okay. You mentioned something about you got where you were by working hard, not by sleeping around. Did somebody say that about you or what were you referring to by bringing that up?

A. Because, unfortunately, in our Department, women are viewed as, oh, if they get anywhere on the job or if they're in a specialized unit, it's because they slept with someone and I was happy to say that that was not my reputation. Everyone would worked with me knew me to be a hard worker and, so, that was not something that

[170]

Q. Okay. And this is from Deeba to Marks, cc: Nightly Staff Report?

A. Yeah, so, that's every person who is in that e-mail group to receive nightly staff reports. I would say probably a minimum of 200 people.

Q. Okay. And then there was also an Exhibit 27. Can you identify this for me, please?

A. Yes, this is a screenshot of a calendar event for the meeting Captain Deeba held in his office when he told us what his vision for the Intelli- -- Intelligence Division would be moving forward.

Q. Okay. This was the meeting that you testified earlier about at length about you didn't like the way he addressed you during the meeting and all that?

A. Yes.

Q. Okay. So, that meeting happened Wednesday, May 31 of 2017?

A. Yes.

Q. Okay. I also want you to take a look at Exhibits 33 and 34. These are the City's Department of

Personnel Administrative Regulations 103 and 113. Have you ever seen these documents before?

A. I have.

Q. Okay. And these are the Equal Employment Opportunity Policy and Complaint Procedure and the Policy [171] and Complaint Procedure Against Harassment that are promulgated by the City of St. Louis?

A. Yes.

Q. Okay. Did you ever file a complaint with the Department of Personnel pursuant to either of these policies?

A. No.

Q. Also have a look at Exhibit 11. This looks to me to be a Memo from the Missouri Commission on Human Rights that was prepared by the investigators who investigated your Complaint.

A. Yes.

Q. You gave an interview or statement to Paul Nangole, N-a-n-g-o-l-e, with the Missouri Commission on Human Rights?

A. Yes.

Q. Okay. Was that -- Do you remember if that was in person?

A. It was over the phone.

Q. Over the phone, okay. The -- I guess, have you ever had an opportunity to review this before, this Memo before?

[186:2]

MS. SILSBE: Okay, great.

(Questions by Ms. Silsbe)

Q. Oh, did you ever complain to Internal Affairs about discrimination or harassment or retaliation by Captain Deeba or anyone else?

A. No.

Q. I'll just look through this really quick. And also I just wanted to clarify when I asked you if you had ever had any conversations with Kevin Ahlbrand, Albert Napier, [REDACTED] Joseph Morici regarding this lawsuit, I mean like any -- did you have any conversations with them even about the facts of this lawsuit or did you talk to them about the transfer or being denied the jobs that you applied for or anything like that?

A. The transfer talk could have happened on the date of the transfer because, like I said, everyone called to say why were you transferred, but anything related to the lawsuit, at that point I did -- I was not aware that I'd be involved in a lawsuit at that moment --

Q. Okay.

A. -- so they -- I have not talked to any of them about the lawsuit.

**[U.S. District Court, Eastern District of Missouri]
Deposition of Michael Deeba
November 14, 2019**

[26]

how, if anything, things were going to change in the Intelligence division under your command?

A I submitted a recommendation for transfers and to re-focus the different disciplines within the Intelligence division.

Q I'm going to show you a couple of exhibits. The first one, Exhibit 1 is an email dated June 2, 2017 from you to some individuals within the department, including Sergeant Muldrow and some others. I want to ask you some questions about this. But have you ever seen Exhibit 1 before?

A Well, I sent it. I don't recall. But I sent this email.

Q Okay. So you mentioned that one of the things that Sergeant Muldrow was doing in the Intelligence division was the Gun Crime Information Center, is that correct?

A Yes.

Q Is Exhibit 1 referring to that same topic but I think you refer to it as the Gun Grant; is that the same thing?

A Yes, ma'am.

[30:5]

Q So going back to your recommendation for Sergeant Muldrow and Officer [REDACTED] being transferred out of Intelligence, what was the reasoning behind your recommendation that Sergeant Muldrow be transferred?

A Again, the re-focus on violent crime, I wanted to re-focus on violent crime. I wanted a sergeant who I had knowledge of that was extremely efficient with street operations and supervising those tasks with a very dangerous job.

Q Had you done any, for lack of a better term, research into Jatonya's background or reputation in the department before you made this recommendation?

A Not that I recall.

Q Did you believe that for some reason Sergeant Muldrow was not capable of performing the duties of the position in the Intelligence division?

A I had no idea.

Q And why was that?

A But when I made the transfer, I had a sergeant attached so I knew who could go out on the [31] street and that was one thing I wouldn't have to worry about then and I could focus on the many other things.

Q Why did you think officer -- excuse me, Sergeant Muldrow couldn't go out on the street?

A Ma'am, as I said earlier, I brought down somebody that I had historical knowledge on that was efficient on street operations, officer safety being out there with those tasked with making arrests.

Q What I'm asking you is why you didn't think Sergeant Muldrow was capable of performing that task?

A Ma'am, I don't know if she was or was not.

Q Did you ever make a statement that you thought Sergeant Muldrow was only performing administrative tasks as a sergeant in the Intelligence division?

A I don't recall.

Q Did you ever feel that way as you were evaluating her duties in the Intelligence division when you first got there?

A I don't recall what I felt at the time.

Q Well, looking back and recalling what you did in terms of evaluating the department, looking at what was going on in the Intelligence division prior to you getting there, did you have a belief one way [32] or the other as to what tasks or duties Sergeant Muldrow was performing?

A Yes.

Q And what was your understanding of those duties?

A Administrative work for the gun crime -- the Gun Crime Information Center; human trafficking; and I think public corruption, if I recall correctly.

Q So you were under some belief that Sergeant Muldrow was performing administrative tasks. That's what you thought?

A Could you repeat that one more time, ma'am?

Q So you were under the impression that Sergeant Muldrow was performing administrative tasks in the Intelligence division when you arrived?

A Yes.

Q When you first arrived in the Intelligence division, was Sergeant Muldrow the only female supervisor?

A No, ma'am.

Q Who was the other, if you can remember?

A Sergeant [REDACTED].

Q And was Sergeant [REDACTED] ultimately transferred out of the Intelligence division?

A No, ma'am.

[33]

Q Are there any other female officers in the Intelligence division when you got there, because we know Officer [REDACTED] left at the same time, but do you recall whether there were any others?

A I know there is -- well, then, I'm not sure now.

Q Sure. I'm only worried about then.

A Officer or Detective [REDACTED].

Q Do you know her first name?

A No, ma'am.

Q Did she remain in the division with you, Intelligence division with you while you maintained your position?

A Yes, ma'am.

Q So if you look at the second page of Exhibit 2, there is also a detachment of an officer to sex crimes, child abuse. Do you see that?

A Yes, ma'am.

Q Was that also a change in the way the Intelligence division was being run after you took over?

A That was my recommendation.

Q So can you explain that?

A [REDACTED], with the human trafficking, and that was -- that discipline was recommended to be [34] moved over to sex crimes/child abuse.

Q And why was that your recommendation, what was your reasoning?

A Historically any other police department has their human trafficking unit under sex crimes/child abuse.

Q So that's a completely separate department in the City of St. Louis' Police Department, correct, the sex crimes?

A Than the Intelligence unit?

Q Yes, sir.

A Yes, ma'am.

Q What other changes did you make at the time that you arrived? So we've got a transfer of Sergeant Muldrow and Officer [REDACTED], a detachment of Officer [REDACTED], and a redirecting of services for human trafficking. What else did you change?

A Relative to the transfers, ma'am?

Q Relative to anything within the department.

A Well, within the Intelligence division, I noted I had -- I recommended that Officer [REDACTED] be detached to Intelligence and Sergeant [REDACTED].

Q So Sergeant [REDACTED], is that the individual that you were talking about earlier that you believed [35] had the qualifications to do street operations?

A Yes, ma'am.

Q That's the one that you wanted to take over Sergeant Muldrow's position?

A Well, not necessarily Sergeant Muldrow's, but just street operations period. And then when weapons are involved, then it's going to encompass the Gun Crime Information Center. But I wanted more focus or all the focus on violent crime and being on the street and addressing that versus the emphasis of administrative duties.

Q Other than those things that you've talked about, what else did you change?

A I don't recall, ma'am.

Q So who now would be performing any duties related to public corruption within the Intelligence division?

A Right now, ma'am?

Q No, no, I'm not worried about right now. I'm worried about at the time that you were commander of the Intelligence division.

A That recommendation, I recommended that that FTO spot be put under internal affairs.

Q So that was another change that took place?

A Another recommendation I made.

[37]

A Ma'am, I don't recall. There could have been hundreds of recommendations. I don't recall.

Q But that may be something that would be contained in that either memo or email, you're not sure, that went to the chief?

A Or with the many things going on, I think off the top of my head right now, like, the AT&T and having a one gig or five -- I'd have to refer to notes. It was a lot of moving parts.

Q Sure.

A So . . .

Q Sergeant [REDACTED], the one that you recommended come into the Intelligence division for his experience in street operations, how long had you known him?

A Twenty years.

Q Where did he come from?

A District 2.

[85:4]

Q Were you upset when you received a copy of Exhibit 12?

A No, ma'am.

Q Did you disagree with anything that was stated in Exhibit 12?

A Yes, ma'am.

Q Tell me what specifically you didn't agree with.

A That FBI Special Agent Lynch is lying. That's probably the most concerning.

Q What is she being --

A Everything she conveyed to Sergeant Muldrow.

Q So let's go through here and pick out all of the statements attributed to Special Agent Lynch that you claim were not truthful. So had instructed her to revoke my FBI credentials to take away my FBI issued vehicle and stated that I was no longer to perform any work as a task force officer.

A The word "revoked" was never used. Collect your equipment, which means everything we've talked about. According to Captain Deeba, I was not permitted to perform work according to Captain -- [86] now, I told Lynch the rules and to deal with her new captain and there is a process, the request. Nobody requested.

Next paragraph, Lynch advised Captain Deeba that she would consider his request -- she never said that. Ms. Lynch did request that I permit to finish my work on a pending case. Not accurate.

I didn't demand, again, second page, first paragraph, demand, FBI credentials. And it is not very unusual.

Q Okay. So have we talked about the remarks that are attributed to Special Agent Lynch that you disagree with?

A Yes, ma'am.

[U.S. District Court, Eastern District of Missouri]

Deposition of L____ L_____

November 20, 2019

[15]

A She was my direct supervisor. So I guess anything that we needed as far as supervisory duties was -- that's how it was. But as far as actual cases and things of that nature, not really at all.

Q After the transfer, did you have any conversations with Sergeant Muldrow about the transfer itself?

A Actually, she was the one that informed me that we had been transferred. But not really.

Q After you were transferred to District Six, did Captain Deeba contact you and ask that you turn in any of your Task Force Officer credentials, property, or anything associated with your Task Force Officer status?

A No. The only thing that I was contacted for, and I don't think he did it directly, was to actually, not even that. Because I turned in my vehicle that Sunday. I guess it was June 11th. I left it in the garage at the office at headquarters. I turned in anything associated with the Intelligence Division.

Q But that was not a federal vehicle, correct?

A No.

Q That was a department vehicle?

[16]

A It was a department vehicle. And no, so the only thing that I was contacted about actually relative to my assignment in Intelligence to do was I was sent an email demanding -- not demanding. Directing me to go and have the Intelligence channel removed from my radio. But as far as my ATF stuff, the PIV card or anything associated with that, I was never directed by anyone from Intel to turn it back in or anything regarding it.

Q Did Chris Rogers, who was the supervisor with the ATF that you were working with, did he ever tell you that anyone from the police department had contacted him in reference to your TFO status after you were transferred to District Six?

A No. He told me that he had heard that I got transferred and that for the time being to hold onto whatever credentials I had just in case I was able to go back to a specialized unit to where I would be able to resume my duties on the ATF. Because people like [REDACTED] and several other people had been transferred or detached to the Special Operations Division from Intelligence. So there was some thought that that would maybe have been the case with me eventually.

[18]

credentials were revoked in July of 2017, correct?

A I want to say that's about the time. It was a month or two after my transfer that Chris Rogers contacted me and said more or less that it doesn't look like I was going to be going back to a position where I

would be able to continue my Task Force Officer status. And so the -- I turned it back in to him.

Q Okay. And then at some point after that, you got the credentials back?

A Yes.

Q Okay. And when was that?

A I was transferred back into Intelligence in June of this year, and we were -- so going through the process, I believe that because I had just gone through the process most of my background was already completed. So I believe I started receiving all my credentials maybe August. It took a little bit to get them. But now this is what the PIV card looks like and this is the GSA card, which really is not used for anything anymore because it's all been replaced by the PIV card. My laptop, my wallet credentials that I gave and laptop, government vehicle.

[U.S. District Court, Eastern District of Missouri]
Deposition of Lawrence O'Toole
December 11, 2019

[71]

Q Okay. So you don't think it has anything having to do with a transfer or detachment out of the Intelligence Department?

A No.

Q The next sentence is talking about Jerry B. Do you know who that is?

A Being that this is from Mike McAteer, I would assume that it's probably Jerry Baumgartner in our planning section.

Q Do you know what he's talking about?

A No.

(Defendant's Deposition
Exhibit 12 marked for
identification.)

Q (By Ms. Hoffman) Next I'm going to have you look at Exhibit 12, please. First I have a question actually before you start looking at Exhibit 12. Were you aware that at the time that Sergeant Muldrow was transferred out of Intelligence into the district that she had -- excuse me, that Captain Coonce had requested that Sergeant Muldrow become her administrative aide in District Two?

A No, I'm not aware of that.

Q As a captain, are you generally permitted to choose your own administrative aide?

A Pretty much. You know, that's -- it's not [72] unusual. Most of them have a sergeant that they are comfortable with.

Q To whom do you have to make that request to get an administrative aide?

A Would have had to take it to her bureau commander.

Q Who would that have been at the time, do you know?

A At this time it would have been Colonel Caruso.

Q And Colonel Caruso, that's someone you had chosen to help in your new command structure, correct?

A Well, he was the deputy chief. He was over the Bureau of Community Policing. So that's the whole patrol division. So of course I'm dealing with whoever's in that position, and it happened to be Colonel Caruso, on a daily basis.

Q Do you have a personal relationship with Colonel Caruso?

A I've been very close to Colonel Caruso for 30 years, yes.

Q Do you guys hang out socially? And let me put it this way. Do you guys spend time together outside of work?

[73]

A Oh, sure, with a lot of different commanders.

Q Sure. And that would be true at this time as well in June of 2017?

A Yes.

Q And that's been the case for many years?

A Yes.

Q And did Colonel Caruso let you know that Captain Coonce had requested Sergeant Muldrow as her administrative aide in District Two?

A No.

Q All right. Going back to Exhibit 12, let me know when you've had a chance to look through it.

A Okay. I think I'm ready.

Q Okay. And can you tell us what Exhibit 12 is?

A It's a letter that I was copied on from the Law Offices of Rick Barry advising us that Sergeant Clayborn has filed a charge of discrimination.

Q And it's dated June 27th, 2017?

A It is dated June 27th, yes.

Q And do you recall receiving a copy of Exhibit 12 with the attached charge of discrimination on or about June 27th, 2017?

[96]

will tell you that I know -- I know as a matter of fact, when I read this Exhibit 21, it refreshed my memory when I looked down at all the sergeants who were out sick and injured, that it says right here Detective Lance Isbell out long-term sick, retiring in January. I

remember that he was out long-term sick, and I remember he retired in January. But Captain Coonce has identified it even more so down here that, hey, he's in the Second District bureau now occupying that spot. She wants to move him out. And we did not move him out of that position.

Q I get that. And I understand that that's --

A So what I'm saying is this should never have been posted.

Q I understand that. Did you -- were you aware or did you have that position at the time that this was not filled?

A I was not aware of it.

Q So you're only just now as we sit here learning about this?

A Right.

Q And believe that this should never have been posted?

[139:2]

Q And so this idea that you had about sort of consolidating supervision of the Task Force Officers, was that related to this problem that the Department had with those four officers?

A I thought that it would give better oversight of the officers, yes.

Q Okay. I think you testified earlier that when you were in Intelligence years before, that was how it was done was that the TFOs reported to somebody in Intelligence. Is that right?

A Correct.

Q Okay. You also were asked about whether you were aware that then Captain Coonce requested that the plaintiff would be assigned to be Captain Coonce's administrative aide in District Two. I think you said that generally the Captains have sort of the discretion to choose who they want for their administrative aide?

A Yes.

Q Is there any limit on that? Does it have to be somebody who's already assigned to their district?

A Well, they need to be assigned to the district where that Captain is. If the Captain [140] wants a Sergeant from another district, that would be something that that Captain would talk to that other district commander and say, hey, you've got Officer Sergeant Smith there. I'd really like to have Sergeant Smith work for me. And typically what would happen is that Captain would say, hey, fine, I don't want to hold Captain Smith back, but I can't go short either. So tell me who you're going to give me to take that spot. So they would make a trade is how that typically would work.

Q Okay. Are you aware of Captain Coonce trying to trade with anybody?

A No. But that wouldn't necessarily come up to my level. That would be something the Captains would be trying to work out.

Q Okay. As to both the Second District Detective Sergeant position that was advertised and the Internal Affairs position that was advertised, both of which the plaintiff applied for, did you approve the posting of those jobs?

A No.

Q Did anybody ask you for permission or consult you about posting those before they were posted?

A Not that I'm aware of with the Second

[U.S. District Court, Eastern District of Missouri]

Deposition of Thomas Bottini

January 14, 2020

[22:3]

Q Were the ideas they were bouncing off one another inconsistent - is that what you're saying? Or were there -

A I think they were trying to formulate how they wanted that unit to look. I would say that it would be my opinion that they wanted a more - what's the word I want to use here - progressive unit on the street, as opposed to the unit that was there that was doing more specialization and intelligence gathering. They - I think their idea was that they wanted a proactive work out of there. They wanted, like, to see - I don't know, for lack of better terms, some arrests. If that makes sense. Instead of just gathering information, they wanted guys on the street doing things.

Q Had that historically been the way that unit had been run? I know you'd been at the department a long time.

A I was in the Intelligence Unit twice. It's been run that way the two times I was there. However, I've seen it run the other way under different commanders, so - it goes both ways.

Q During - let me ask you this. When you [23] were - when you had been in and out of this meeting where Colonel O'Toole was talking to Captain Deeba, was this after Captain Deeba had taken over the command of the Intelligence Division?

A Absolutely.

Q Did you hear any conversation about movement of any of the employees within that unit?

A I didn't hear any names, but I would say that under my experience and knowledge of an intelligence unit, and being a person that was in an intelligence unit that was moved, it's kind of a given that when a new commander comes in, he places - he wants to put the people in there that he, you know, wants for his unit, for his ideas of what he wants to do.

Q But you didn't hear any specific mention of -

A Names? No.

Q At any point after Captain Deeba took over the Intelligence Unit, did you hear him make any mention of specific employees he was moving out of the Intelligence Division?

A No.

[72]

Q And anyone else present for -

A I guess that would depend on what supervisor had other things needed to be reviewed that day, so this particularly one I don't know who would have been there. I don't even know what day I would have submitted it on.

Q Okay. Do you independently remember presenting the interview sheets and the memo from Captain Coonce to the chief for his review?

A I would have submitted it and his answer was that the position's not available.

Q And what did he tell you that was based upon.

A That it was filled by someone else.

Q Do you remember a specific conversation with the Chief about who was filling that position.

A Sergeant Isbell was filling that position.

Q And I know your basing that on what we've been looking at but did you have a specific conversation with the Chief at that point about Sergeant Isbell filling that position?

A I'm not sure what your asking because it was Sergeant Isbell's position.

Q Okay.

A It wasn't open.

[U.S. District Court, Eastern District of Missouri]
Deposition of Angela Coonce
January 23, 2020

[14:10]

Q Did Captain Deeba mention to you that he had plans to transfer out any of the current employees in the Intelligence department?

A He didn't mention it specifically. I do remember specifically, you know, talking about some of the people. You know, I said, you've got some really good Sergeants. I actually specifically mentioned Sergeant Clayborn as -- I said, she's I think I described her as a workhorse. And I said that if there was one Sergeant that you could really rely on it would be her because of her experience. So I specifically highlighted Jatonya as a pretty outstanding Sergeant in the unit. And I do remember saying that during that meeting with him personally.

Q Did he have any response to that?

A No.

[16:2]

Q And this particular email is dated June 9th, 2017, and the effective date of any transfers or detachments is June 12th, 2017.

A That's correct.

Q And it indicates that Sergeant, among other things, that Sergeant Clayborn Muldrow is being

transferred out of Intelligence to District Five. Do you see that?

A Yes.

Q And upon you receiving a copy of Exhibit 2, because it goes out to everybody, what, if anything, did you do when you saw it?

A I remember being really surprised to see this because I think of all the Sergeants in Intel, Jatonya had the most experience. So I was just seeing some of the names on the list. I just remember being surprised about it. I may have -- I don't remember, to be honest, if I called her or sent Jatonya messages. But I do remember that this was not something I would have expected, so I just remember thinking this was surprising.

(Plaintiff's Deposition Exhibit 3
marked for identification.)

Q (By Ms. Hoffman) and I'll show you -- I'm [17] not trying to trip you up. I'll show you an exhibit of a text messages exchange and ask if you recall this now.

A This sounds like me, yes. I don't remember specifically this, but yeah. This is not surprising because I remember that was kind of how I felt when I saw the transfer.

Q Okay. So Exhibit 3, I'll submit to you, is a text message exchange that we have produced in discovery in this case between yourself and Jatonya. Do you have any reason to dispute that that is, in fact --

A No. This is exactly how I felt, so I don't dispute that I sent this.

Q Okay. So it looks like the first text message comes from you and says, "WTF."

And then Jatonya says, "Didn't know it was coming or I would have called you do that you could get me."

Do you see that?

A Yes.

Q And then you say, "I'm so pissed. I'll call Leyshock and see if I can get you. I'm short 5 sergeants and don't have an aide. I cannot believe them. Call me when you can talk."

[18]

Did I read that right?

A Yes.

Q "I'll call Leyshock and see if I can get you," what did you mean by that?

A So I certainly didn't expect Jatonya to be transferred out of where she was because I thought she was and still is probably one of, if not the most valuable, Sergeant in the Intelligence Division just based on her experience. So we typically don't -- I will say I would typically not transfer someone out of a unit without letting them know they were being transferred. To get transferred and not know you are going is pretty insulting, especially someone with her history.

So that's why I was -- when I read the transfer and I hadn't -- you know, she hadn't called me, I think it was probably my "WTF" reaction, like what happened, did you know you were being transferred?

So she obviously didn't know. So I had been transferred to the Second District. Typically when Captains go to districts they can pick their aide from wherever. So I didn't have an aide that I had selected in the Second District.

We had several officers that were out that weren't going to be returning to work that were out [19] with long-term injuries or people that were using sick time and that I knew were retiring that weren't coming back to work. So we had a significant shortage of Sergeants when I arrived in the Second District.

So I mean, I can't think of a better aide than Jatonya, so I said I will try to get you as my aide in that Sergeant position. And by Collective Bargaining Agreement, only Sergeants can serve in aide positions. Police officers cannot do that. So I certainly didn't have enough Sergeants working the streets in the Second District to pull one off the street to be my aide.

Q So did you, in fact, attempt to have Jatonya serve as your aide in the Second District?

A I had two conversations. I had a conversation with my direct boss. I didn't -- you know, at the time, my initial reaction was I'll call Leyshock. There is a chain of command. So I think my initial conversation was with Major Dan Howard at the time because he was the commander of South Patrol, so he was my direct boss. And I -- you know, I asked if we could get Jatonya transferred. I was pretty much told that wasn't going to happen.

Q And when did this conversation take place?

[20]

A It was shortly after these transfers occurred.

Q And where were you guys at?

A Just in the hallway at South Patrol. It wasn't during a formal meeting. And I didn't put anything on paper specifically requesting it, which I should have. It was mostly a conversation. And a lot of times these things happen in conversations. So the Captains will say, I would like this aide, and then that's typically how it happens.

Q And did Major Howard tell you why that wasn't going to happen?

A Not specifically. It was kind of a there's no way we're getting her here. And I knew what that meant. I didn't have to ask what that meant. There was no can you explain why. That would have been an odd question for me to ask. He said basically, you know they are not going to let you have her, I think is what he alluded to.

[38:2]

A Yeah. There are multiple detachments to the Second District and end of detachments and detachments and end of detachments. These are kind of short-term solutions to our supervisor problem that we were having in the Second District.

Q And then if you look at the last page of Exhibit 7, there is an actual transfer that takes place of a Sergeant Susan McClain from District Four to District Two. Do you see that?

A Yes.

Q Can you --

MS. HOFFMAN: And before we start talking about her, I know that the City will want anything that has to do with Sergeant McClain's medical condition to be subject to the protective order that we have in place. So that's perfectly fine.

MS. SILSBE: Great.

MS. HOFFMAN: But go ahead.

MS. SILSBE: And same for Isbell too, I assume.

MS. HOFFMAN: Yes.

A So Sue had been assigned to the Fourth District and was on the night watch. And her -- I had had a conversation with her captain, Captain [39] Renee Kriesmann. She was not wanting to work the night watch. So she had had several attempts to get off the night watch and then at some point was using sick time for a medical reason. I don't know what that was. And so she had called in -- she had also been using sick time for what I believe was a fairly long time. I don't know off the top of my head what that was.

But I actually saw Colonel O'Toole at a Second District parade. It was -- it was around the time of the -- when she came off sick time. And he said that he had seen Sue, you know, I think at a park, like off-duty. And she said, you know, she was ready to come back to work. And so he -- Colonel O'Toole saw me at this parade and said, hey, I'm going to put Sue McClain on the Second District, and she doesn't want to work nights.

So he was the interim Chief at the time. So, of course, I was like, yes, sir. And I knew Sue. We had

worked as patrol officers in the Fifth District pretty early in my career. And Sue is a good Sergeant. She's very intelligent. So at the time, I was happy to have any Sergeant. So I just said, yes, sir, basically. It was shortly after that when Sue's transfer came from the Fourth [40] District to the Second District.

Q (By Ms. Hoffman) So did you, in fact, make sure she didn't work nights?

A Yes. And we have so many shortages --

Q It wasn't a problem?

A -- it wasn't a problem. I would have put her anywhere at that point. So we had openings on a -- basically we have A, B and C platoon. C platoon is the night watch. So that's a permanent 11:00 p.m. to 7:00 a.m. The A and B platoons rotate back and forth from 7:00 to 3:00 and 3:00 to 11:00. So we had enough openings on A and B that that wasn't -- you know, that didn't cause me a significant amount of problems. But I knew that the C platoon was not an option.

Q And even with placing Sergeant McClain -- even with her permanent transfer to District Two, you still had lots of openings in the Second District --

A Yes.

Q -- that could have been filled --

A Yes.

Q -- by permanent transfers?

A We had a lot of people, a lot of Sergeants, that were still not coming to work.

[65:2]

So my aide now last week was supervising a street team that is looking for violent offenders in the city. So I don't really use them just for a paperwork type of job. I expect them to be the most, you know I guess the most qualified person in all of -- a 360 realm. So I expect them to be good administrators, but I also want them to have the best tactical skills and I want to be able to trust them over really the detectives that are doing some of the most dangerous work. So just last week my aide was supervising a street team that was looking for people that were wanted for homicide cases.

So the detectives in Intel, there's a myriad of things that they do. At one time, Jatonya was in charge of our gang unit, which obviously is dealing with the most violent offenders in the city. I put her over that because I implicitly trust her on the street. So her skill set is multifaceted. So although she was hands down the best administrative Sergeant, she also -- I trusted her with our most active Intel Detectives to do street work.

Q Would there have been benefits available [66] to Sergeant Muldrow as your aide in District Two that may not have been available to her as a District Five Patrol Sergeant, which is the position she was holding when she was seeking transfer to you?

A Yeah.

Q What would those have been?

A I mean, as a Captain's aide, it's a more high profile position. So you certainly get to go to more meetings with the command staff. You kind of have the inside track of what's going on. You're relied upon to be the liaison with, you know, City Hall and federal

agencies and state agencies more. So there's a lot more exposure. You know, there's more flexibility, I would say, in hours and things like that. Most of the aides, you know, will get some extra bonuses, maybe a laptop or an iPad. Just stuff like that, just stuff we need the aides to have in order to help us do our jobs better.

Q What about the District Sergeant position in the Second District? What benefits would have been available to Sergeant Muldrow had she gotten that position over the street position in District Five that she is currently holding?

A The Detective sergeant spot? Is that what [67] you referred to?

Q Yes, I'm sorry.

A Okay. The Detective Sergeants, again, although it's a lateral move, it's not a pay raise, there's a lot more prestige in those positions. And again, you're with the command staff a lot more. My Detective Sergeants, even now as a Major, are in my office about every day. So I will take them to meetings and they will represent me at different meetings. And so it's certainly a more prestigious position and something that -- you know, Sergeants strive to be a Detective Sergeant. so even though it's -- you know, there's maybe not money involved, a pay raise, there's certainly a lot of other internal benefits, I think, that go along with that.

Q And would that certainly go a long way in helping someone in getting promotions in the future?

A Oh, absolutely, yeah.

[84]

Q Okay. So in this context, I guess I'm just trying to understand whether burning sick time means that they are improperly using it or if it just means they are just using it up.

A It's just using it, yeah. It's not improper or proper. That's just the term that we say internally.

Q So as far as you knew, Lance Isbell had followed the Department's procedures and had provided a doctor's note to justify --

A Yes.

Q -- his use of sick time?

A Yes. I had never been told anything otherwise. So it's not an improper or proper term. It's just something that we internally say, burning sick time.

Q Okay.

A So if I got hit by a car today and my leg was ripped off, I would be burning sick time, like I'm not coming to work.

Q Okay. And then did you ever have any conversations with the plaintiff's supervisor in District Five about trading her for one of his Sergeants?

A I did not.

[85]

Q And that would have been Major Larson, right, at the time?

A I believe it was.

Q Okay. And then if you would just take a look at Exhibit 8, which is an email from Major Howard to

Colonel Leyschok, and you're cc'd on the email, where it refers to the opening -- it says, "I would like to post the opening vacated by Sergeant Isbell, who is taking extended sick leave before retiring."

So this email was sent in July of 2017, right?

A Yes.

Q And Isbell didn't actually retire until January of 2018?

A That's correct.

Q So at the time that Howard sent this email, was that position that Sergeant Isbell was in, was that actually vacant or was it going to be vacated?

A Yeah, no, this isn't -- it wasn't vacated. I mean, obviously it says he was taking extended sick leave. So it wasn't a vacated position, which is why in the email prior to this I had asked to move him onto a line platoon.

[U.S. District Court, Eastern District of Missouri]
Deposition of Lawrence O'Toole
January 23, 2020

[10]

on. And he did. I believe it was Sergeant Bottini that talked to her and said she couldn't come back to a night watch position. I spoke with Captain Renee Kriesmann, and I asked her regarding the situation with Sergeant McClain. Captain Kriesmann told me, yes, that she didn't -- the only position she had available was a night watch position. And so I knew that the Second District was in need of a sergeant. And so we made a medical accommodation to allow her to come back and transfer her to the Second District.

MS. SILSBE: And just for the purposes of our protective order, I'd like to designate that last answer as confidential under the protective order.

MS. HOFFMAN: Yeah, that's fine.

Q (By Ms. Hoffman) Who is Captain Kriesmann?

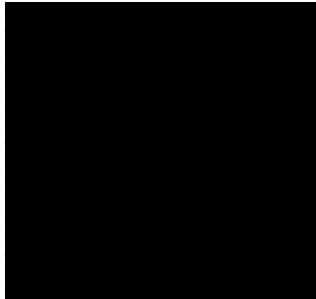
A Commander of the Fourth District.

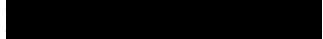
Q And what led you to believe that the position in the Second District would allow for Sergeant McClain not to work night watch?


A From the emails that had been sent to me, memos from Captain Coonce down there, how short she was with people being sick and injured down there, that they were in dire need of additional Sergeants.



**METROPOLITAN POLICE DEPARTMENT –
CITY OF ST. LOUIS**

**Intra-Department Report
and Correspondence Sheet**


 e of Appointment: 10/15/98
 ate of Appointment: 2/24/99
 – Date of Appointment: 7/8/99
 of Appointment: 7/22/02
 Date of Appointment: 2/2/06
 Date of Appointment: 3/21/06
 – Date of Appointment: 8/29/06
 te of Appointment: 1122/07

Upon completion of the interview process, it was my recommendation that the final open position be awarded to Sergeant . Please see the original memorandum for specific details outlining the qualifications of the above-mentioned candidates.

Prior to filling any of the vacancies in the Internal Affairs Division due to manpower shortages, Sergeants  and Clayborn-Muldrow indicated that they would like to withdraw their names from consideration for the open positions.

As both candidates were originally selected to fill two of the open positions posted on July 28, 2017, it is my recommendation that the two candidates with the next highest scores from the first round of interviews be transferred to the Internal Affairs Division in their place. These candidates are Police Sergeants  and . Please refer to my original memorandum for further specifics detailing each candidate's qualifications.

Respectfully,

/s/ Lt. Adam Koeln, DSN, 6001
Lt. Adam Koeln, DSN, 6001
Commander, Internal Affairs Division

[Approved Maj [Illegible] 4367/600 3-7-18]

Transfers, Detachments, End of Detachments and
End of Internships Effective – Monday, June 12, 2017

O'Toole, Lawrence (Colonel)

Fri 6/9/2017 2:30 PM

To:SLMPD <SLMPD@SLMPD.ORG>;

The following transfers, detachments, end of detachments and end of internships are effective Monday, June 12, 2017. Commanders are reminded to complete a Performance Appraisal Form and forward it to Human Resources and forward the District/Division Personnel File to the new Commander.

From Intelligence (210)

Sergeant Jatonya Clayborn-Muldrow, DSN 5542 to
District Five (305)

Police Officer [REDACTED] to District Six
(306)

From District One (301)

Lieutenant Edward Benoist, DSN 4340 to Warrant/
Fugitive (606)

From District Three (303)

Lieutenant Kimberly Haley, DSN 2264 to District One
(301)

Sergeant Damon Willis, DSN 6960 to Sex Crimes/Child
Abuse (373)

Sergeant Joseph Niemira, DSN 4987 to District Two
(302)

Police Officer Amber Gottschall, DSN 8117 to Opera-
tional Planning (220)

From District Four (304)

Lieutenant Demetrios Biston, DSN 4670 to District Two (302)

From Traffic Safety/Mounted (378)

Lieutenant Sean Reape DSN 3603 to Bureau of Operations (600)

Police Officer Jerry Griffin, DSN 3029 to District Three (303)

From Internal Affairs (601)

Lieutenant Kirk Deeken, DSN 4396 to District Four (304)

From Police Trainees (603)

Probationary Police Officer Ryan Lynch, DSN 14407 to District Five (305)

Probationary Police Officer Kyle Matlock, DSN 14423 to District Five (305)

Probationary Police Officer Corey Stayton, DSN 11620 to District Four (304)

Probationary Police Officer Mary Edmond, DSN 10040 to District Four (304)

Probationary Police Officer Bryan Barton, DSN 14412 to District Three (303)

Detachments

Sergeant [REDACTED] who is currently assigned to District Two (302) will be detached to Intelligence (210)

Sergeant [REDACTED] who is currently assigned to District Five (305) will be detached to District Four (304)

Police Officer [REDACTED] DSN [REDACTED] who is currently assigned to District Six (306) will be detached to Intelligence (210)

Police Officer [REDACTED] DSN [REDACTED] who is currently assigned to Intelligence (210) will be detached to Sex Crimes/Child Abuse (373)

End of Detachment and Related Transfer

Lieutenant [REDACTED] DSN [REDACTED] currently detached to Special Operations (340) will return to his home assignment Intelligence (210) and be transferred to District Three (303)

End of Detachments

Police Officer [REDACTED] DSN [REDACTED] who is currently detached to Intelligence (210) will return to her home assignment District Four (304)

End of Internship

Police Officer Sherdon Douglas, DSN 7114 who is currently participating in an Internship in the Academy (602) will return to her home assignment District Three (303)

Not Adjusted for Detached/Detailed Officers

Unit	Colonel			Lt. Col.			Major			Captain			Lieut.			Sergeant			PLO -PPO -TRN			Total		
	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-
OFFICE OF THE CHIEF																								
200 Office of the Chief	1		-1									1	1		2	2					4	3	-1	
210 Intelligence Division									1	1		1	1		6	4	-2	28	23	-5	36	29	-7	
212 Real Time Crime Center														1	1		9	8	-1	10	9	-1		
214 Gun Crime Intelligence Center																		1	1			1	1	
252 Crime Analysis																		1	1		1	1		
220 Operational Planning																		2	2		2	2		
SUBTOTAL FOR OFFICE OF THE CHIEF	1		-1						1	1		2	2		9	7	-2	40	35	-5	53	45	-8	
OFFICE OF THE ASSISTANT CHIEF																								
500 Office of the Assistant Chief				2	1	-1									1	1					3	2	-1	
515 CALEA												1		-1							1		-1	
520 Special Projects											1	1									1	1		
530 Emergency Management															1	1		1	1		2	2		
540 Asset Removal															1	1		1	1		2	2		
SUBTOTAL FOR OFFICE OF THE ASSISTANT CHIEF				2	1	-1						2	1	-1	3	3		2	2		9	7	-2	
COMMUNITY OUTREACH & ORG. DEV.																								
560 Community Outreach & Org. Dev.					1	1						1	1		1	1		3	4	1	5	7	2	
561 Intervention & Compliance Unit															1	1		6	6		7	7		
955 Public Transportation Grant													1	1				7	7		8	9	1	
360 Juvenile												1	1		2	2		12	11	-1	15	14	-1	
SUBTOTAL FOR COMMUNITY OUTREACH & ORG. DEV.					1	1						2	3	1	5	5		28	28		35	37	2	
BUREAU OF OPERATIONS																								
600 Bureau of Operations				1		-1	2	2				1	2	1			1	1			4	5	1	
601 Internal Affairs												1	1		10	9	-1				11	10	-1	
604 Force Investigation												1	1					4	4		5	5		
605 Evid Mgmt & Prof Stds Aux Svcs									1	1		1		-1							2	1	-1	
377 Circuit Attorney Investigators																		3	3		3	3		
606 Warrant/Fugitive												1	1		1	1		14	11	-3	16	13	-3	

607 Prisoner Processing						1	1			1	1									
608 Marshals						1	1		2	2		3	3							
690 Communication						1	1					1	1							
Subtotal		1	-1	2	2	1	1		6	6		13	13	23	20	-3	46	42	-4	
Evidence Mgt. and Prof. Standards																				
660 Property Custody Section									1	1		1	1	4	4		6	6		
670 Laboratory/Identification Divi									1	1		1	1	18	17	-1	20	19	-1	
602 Academy									1	1		4	5	1	12	11	-1	17	17	
SUBTOTAL FOR BUREAU OF OPERATIONS		1	-1	2	2	1	1		9	9		19	20	1	57	52	-5	89	84	-5
BUREAU OF ENFORCEMENT																				
300 Bureau of Enforcement		1	1	1	1							2	3	1				4	5	1
Subtotal		1	1	1	1							2	3	1				4	5	1
Community Policing																				
310 South Patrol Division				1	1							1		-1				2	1	-1
312 South Patrol Desk / Holdover															7	6	-1	7	6	-1
301 First District						1	1		6	6		23	21	-2	104	96	-8	134	124	-10
302 Second District						1	1		7	7	1	22	22		109	97	-12	138	127	-11
SUBTOTAL FOR SOUTH PATROL DIVISION				1	1	2	2		12	13	1	46	43	-3	220	199	-21	281	258	-23
320 Central Patrol Division				1	1							1	1					2	2	
322 Central Patrol Desk/Holdover															6	6		6	6	
303 Third District						1	1		6	6		22	18	-4	104	89	-15	133	114	-19
304 Fourth District						1	1		7	7		25	25		124	111	-13	157	144	-13
SUBTOTAL FOR CENTRAL PATROL DIVISION				1	1	2	2		13	13		48	44	-4	234	206	-28	298	266	-32
330 North Patrol Division				1	1							1	1					2	2	
332 North Patrol Desk/Holdover															7	7		7	7	
305 Fifth District						1	1		6	6		22	21	-1	104	94	-10	133	122	-11
306 Sixth District						1		-1	6	6		22	20	-2	104	93	-11	133	119	-14
SUBTOTAL FOR NORTH PATROL DIVISION				1	1	2	1	-1	12	12		45	42	-3	215	194	-21	275	250	-25
** Subtotal – Community Policing				3	3	6	5	-1	37	38	1	139	129	-10	669	599	-70	854	774	-80

Not Adjusted for Detached/Detailed Officers

* * *

Bureau	Colonel			Lt. Col.			Major			Captain			Lieut.			Sergeant			PLO -PPO -TRN			Total		
	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-
OFFICE OF THE CHIEF	1		-1							1	1		2	2		9	7	-2	40	32	-8	53	42	-11
OFFICE OF THE ASSISTANT CHIEF				1	1								2	1	-1	3	3		2	2		8	7	-1
BUREAU OF COMMUNITY AFFAIRS				1	1						1	1	2	3	1	5	5		28	29	1	36	39	3
BUREAU OF OPERATIONS				1	1		2	1	-1	1	1		9	7	-2	19	17	-2	57	55	-2	89	82	-7
BUREAU OF ENFORCEMENT				1	2	1	4	4		8	7	-1	46	48	2	177	160	-17	878	812	-55	1,114	1,033	-81
GRAND TOTAL	1		-1	4	5	1	6	5	-1	10	10		61	61		213	192	-21	1,012	930	-82	1,307	1,203	-104
POLICE OFFICER TRAINERS																			55	57	2	55	57	2

Totals by Bureau + Police Trainees

End of Report

Not Adjusted for Detached/Detailed Officers

Unit	Colonel			Lt. Col.			Major			Captain			Lieut.			Sergeant			PLO -PPO -TRN			Total				
	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-		
BUREAU OF NEIGHBOR. POLICING																										
300 Bureau of Neighbor. Policing				1	1										2	2						3	3			
398 Officer Wellness CIT Coord															1	1						1	1			
399 Nuisance Problem Prop Beh Unit															1	1			11	11		12	12			
955 Public Transportation Grant												1	1		1	1			7	7		8	9	1		
956 COPS Hiring Grant 2013																			7	7		7	7			
Subtotal				1	1									1	1			5	5		25	25		31	32	1
District Policing																										
310 South Patrol Division							1	1							1		-1					2	1	-1		
312 South Patrol Desk / Holdover																			7	7		7	7			
301 First District									1	1		6	6		23	20	-3	104	92	-12	134	119	-15			
302 Second District									1	1		6	6		22	23	1	109	96	-13	138	126	-12			
SUBTOTAL FOR SOUTH PATROL DIVISION							1	1			2	2		12	12		46	43	-3	220	195	-25	281	253	-28	
320 Central Patrol Division							1	1							1	1						2	2			
350 Housing Authority												1	1		4	4		11	15	4	16	20	4			
351 Housing Authority Supplement																		15	6	-9	15	6	-9			
322 Central Patrol Desk/Holdover																		6	6		6	6				
303 Third District									1	1		6	6		22	18	-4	104	90	-14	133	115	-18			
304 Fourth District									1	1		7	6	-1	25	21	-4	124	113	-11	157	141	-16			
SUBTOTAL FOR CENTRAL PATROL DIVISION							1	1			2	2		14	13	-1	52	44	-8	260	230	-30	329	290	-39	
330 North Patrol Division							1	1							1		-1					2	1	-1		
332 North Patrol Desk/Holdover																		7	7		7	7				
305 Fifth District									1	1		6	6		22	21	-1	104	96	-8	133	124	-9			
306 Sixth District									1	1		6	6		22	18	-4	104	97	-7	133	122	-11			
SUBTOTAL FOR NORTH PATROL DIVISION							1	1			2	2		12	12		45	39	-6	215	200	-15	275	254	-21	
** Subtotal – Community Policing							3	3			6	6		38	37	-1	143	126	-17	695	625	-70	885	797	-88	
SUBTOTAL FOR BUREAU OF NEIGHBOR. POLICING				1	1		3	3			6	6		38	38		148	131	-17	720	650	-70	916	829	-87	

* * *

Not Adjusted for Detached/Detailed Officers

Unit	Colonel			Lt. Col.			Major			Captain			Lieut.			Sergeant			PLO -PPO -TRN			Total		
	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-	Ath	Act	+/-
BUREAU OF NEIGHBOR. POLICING																								
300 Bureau of Neighbor. Policing				1	1										2	2						3	3	
398 Officer Wellness CIT Coord															1	1						1	1	
399 Nuisance Problem Prop Beh Unit															1	1	11	11				12	12	
955 Public Transportation Grant											1	1			1	1	7	7				8	9	1
956 COPS Hiring Grant 2013																	7	7				7	7	
Subtotal				1	1						1	1			5	5	25	25				31	32	1
District Policing																								
310 South Patrol Division							1	1							1		-1					2	1	-1
312 South Patrol Desk / Holdover																	7	7				7	7	
301 First District									1	1	6	6			23	20	-3	104	92	-12	134	119	-15	
302 Second District									1	1	6	6			22	23	1	109	96	-13	138	126	-12	
SUBTOTAL FOR SOUTH PATROL DIVISION							1	1	2	2	12	12			46	43	-3	220	195	-25	281	253	-28	
320 Central Patrol Division							1	1							1	1						2	2	
350 Housing Authority											1	1			4	4		11	15	4	16	20	4	
351 Housing Authority Supplement																	15	6	-9		15	6	-9	
322 Central Patrol Desk/Holdover																	6	6			6	6		
303 Third District									1	1	6	6			22	18	-4	104	90	-14	133	115	-18	
304 Fourth District									1	1	7	6	-1		25	21	-4	124	113	-11	157	141	-16	
SUBTOTAL FOR CENTRAL PATROL DIVISION							1	1	2	2	14	13	-1		52	44	-8	260	230	-30	329	290	-39	
330 North Patrol Division							1	1							1		-1					2	1	-1
332 North Patrol Desk/Holdover																	7	7			7	7		
305 Fifth District									1	1	6	6			22	21	-1	104	96	-8	133	124	-9	
306 Sixth District									1	1	6	6			22	18	-4	104	97	-7	133	122	-11	
SUBTOTAL FOR NORTH PATROL DIVISION							1	1	2	2	12	12			45	39	-6	215	200	-15	275	254	-21	
** Subtotal – Community Policing							3	3	6	6	38	37	-1		143	126	-17	695	625	-70	885	797	-88	
SUBTOTAL FOR BUREAU OF NEIGHBOR. POLICING				1	1		3	3	6	6	38	38			148	131	-17	720	650	-70	916	829	-87	

* * *

Transfer Request

Current Information

Empl ID 05542 Clayborn-Muldrow,Jatonya S
Rank Police Sergeant
Status Active
Department 210 Intelligence Division
Job Entry Date 03/24/2014
Dept Entry Date 01/14/2019

<u>*Request Date</u>		<u>*Request For Dept</u>	<u>Status</u>	<u>Requested Dept Description</u>	
1	07/05/2017	302	Inactive	Second District	+ -

Deeba, Michael A

From: Deeba, Michael A <madeeba@slmpd.org>
Sent: Wednesday, June 14, 2017 2:03 PM
To: jnlynch@fbl.gov
Cc: Mierzsjewski, Stanley H;
william.woods@ic.fbl.gov; Warnecke, Mary;
Larson, Eric G; McAteer, Michael W;
Bottini, Thomas J
Subject: Contact information
Follow Up Flag: Follow up
Flag Status: Flagged

Mrs. Lynch:

Thank you for taking the time today to fill me in on the complex disciplines of the Integrity unit and human trafficking unit within the FBI, and the responsibilities of our Department to continue our fluid collaboration.

Moving forward the POC for Human Trafficking for my Department:

Det. [REDACTED] You have his contact information.

He and our Departments Human Trafficking Unit is now going through a pilot program, reporting to the Commander of SexCrimes/ Child Abuse. The commander is Captain Warneke. [REDACTED] will work ongoing and future cases with you and you can communicate with his new new Captain Warneke to remain fluid.

The POC moving forward with corruption will be Sgt [REDACTED] who is assigned to my office.

Please ensure the FBI vehicle we spoke about that has not yet been turn in is returned to your office and please advise the office this is completed.

Also, you inquired about on going cases involving HT investigations and steps moving forward.

Each time a officer is transferred from one unit to another, any/all equipment, vehicles, and access and clearance are turned in and such things as clearances are made inactive. They are not allowed to work further, start new cases or what not, to include to work any overtime compensation, with any State/Federal agencies; there are no exceptions.

Your last concern was with current on going investigations involving one of the officers that was transferred from Intelligence to the 5th Police District. This sergeant is now assigned under the command of Captain Larson. Please communicate with him for investigative needs

* * *

Transfers effective Monday July 10, 2017

O'Toole, Lawrence (Colonel)

Fri 7/7/2017 2:30 PM

To:SLMPD <SLMPD@SLMPD.ORG>;

The following transfers, detachments, end of detachments and end of internship are effective Monday, July 10, 2017. Commanders are reminded to complete a Performance Appraisal Form and forward it to Human Resources and forward the District/Division Personnel File to the new Commander.

From District Five (305)

Police Officer Donald Williams, DSN 4184 to Warrant and Fugitive (606)

Transfer and Related Detachment

Sergeant Edward Moran, DSN 3597 who is currently assigned to Internal Affairs (601) will be transferred to Traffic Safety (378) and detached to District Two (302)

Detachments

Sergeant John Sabin, DSN 3777 who is currently assigned to Emergency Management (530) will be detached to District Two (302)

Sergeant Scott Valentine, DSN 5497 who is currently assigned to the Marshals (608) will be detached to District Two (302)

End of Detachment and Related Detachment

Sergeant Nicole Gentilini, DSN 6509 who is currently detached to Operational Planning (220) will return to her home assignment District Four (304) and be detached to District Two (302)

End of Internship

Police Officer Andrew Hatcher, DSN 6327 who is currently participating in an Internship in the Academy (602) will return to his home assignment District Six (306)

Transfers/Detachments Effective August 7, 2017

O'Toole, Lawrence (Colonel)

Fri 8/4/2017 2:33 PM

To:SLMPD <SLMPD@SLMPD.ORG>;

The following transfer, detachments and end of detachments are effective Monday, August 7, 2017. Commanders are reminded to complete a Performance Appraisal Form and forward it to Human Resources and forward the District/Division Personnel File to the new Commander.

From District Five (305)

Police Officer Stephen Perry, DSN 1957 to Police Academy (602)

Detachments

Sergeant Ja'mes Davis, DSN 6110 who is currently assigned to Community Outreach (560) will be detached to District Two (302)

Sergeant Nick Humphrey, DSN 3691 who is currently assigned to Internal Affairs (601) will be detached to District Two (302)

End of Detachments

Sergeant Joseph McCloskey, DSN 6945 who is currently detached to District Two (302) will return to his home assignment Internal Affairs (601)

Sergeant Edward Moran, DSN 3597 who is currently detached to District Two (302) will return to his home assignment Traffic Safety (378)

Sergeant Scott Valentine, DSN 5497 who is currently detached to District Two (302) will return to his home assignment Marshals (608)

End of Detachment and Related Detachment

Sergeant Orlando Morrison, DSN 6573 who is currently detached to the Academy (602) will return to his home assignment District One (301) and be detached to District Two (302)

* * *



IAD Positions

Koeln, Adam J

Fri 8/25/2017 6:42 PM

[REDACTED]
Clayborn-Muldrow, Jatonya S <jsclayborn-Muldrow@SLMPD.ORG>; [REDACTED]

Cc:Kornherger, Joseph S <jskornberger@SLMPD.ORG>;
Jones, Rochelle D <RDJones@SLMPD.ORG>;

All,

I was informed today that the positions for *Sergeant – Investigator – Internal Affairs Division* will definitely not be filled before mid to late November due to the districts' manpower shortage. I felt as though you all should be made aware of this decision as you may have other opportunities you wish to explore. I appreciate all of the interest in the position, but due to these circumstances I understand if you wish to remove your name from consideration. If this becomes the case, please contact me and let me know.

Lieutenant Adam Koeln, DSN 6001
Commander, Internal Affairs Division
(314)444-5914
ajkoeln@slmpd.org

Coonce, Angela G

From: Howard, Maj. Daniel E
Sent: Monday, June 26, 2017 11:04 AM
To: Kegel, Kenneth K
Cc: Coonce, Angela G
Subject: Fw: District 2 Sergeant Shortage

Kenny,

Please see the below from Captain Coonce. I am authorizing Sgt. overtime as needed but we really need to look at a permanent solution. Can we discuss with you and the Colonel when possible?

Major Daniel E. Howard
Commander South Patrol Division
SLMPD
314-444-0181
DEHOWARD@SLMPD.ORG

From: Coonce, Angela G
Sent: Friday, June 23, 2017 5:53 PM
To: Howard, Maj. Daniel E
Subject: District 2 Sergeant Shortage

Major Howard –

The sergeant shortage in the 2nd Districts at critic mass. Sgt. Niemara is currently detached from District 3 which is helping to cover one open platoon but I still have one platoon of 6 officers that does not have a sergeant.

1. Det. Sgt. Lance Isbell –Out long term sick retiring in January

2. Sgt. Laurie Lantezyk – Out long term sick [REDACTED]
3. Sgt. Mike Pratt – Out long term sick [REDACTED]
4. Sgt. Tom Lake – Out long term sick [REDACTED]
5. Sgt. Bob Weast – Out long term sick [REDACTED]
6. Sgt. [REDACTED] Detached to Intel
7. Sgt. [REDACTED] – Detached to Intel

Can I transfer Sgt. Isbell out of the District 2 Bureau back to the 2nd District so I can post my Detective Sergeant Position? He will be burning sick days until January which puts our Bureau in a horrible spot.

Respectfully,

Angela

**METROPOLITAN POLICE DEPARTMENT –
CITY OF ST. LOUIS OFFICE
OFFICE OF THE CHIEF OF POLICE
SPECIAL ORDER**

Date Issued: July 28, 2011 Order No.: SO 3-06

Effective Date: July 28, 2011 Expiration: Indefinite

Reference:

CALEA Standards: 16.2.2

Cancelled Publications: SO 3-06 issued
November 15, 2010

Subject: TRANSFER POLICY

To: ALL BUREAUS, DISTRICTS AND DIVISIONS

PURPOSE: To make the best use of our personnel in order to deliver the best possible police service.

A. GOALS

1. To insure fairness, impartiality and consistency in the selection of candidates for transfer.
2. To provide a systematic, professional growth process for commissioned personnel.

B. TRANSFER AUTHORIZATION

In all cases, the responsibility for the transfer of personnel rests with the Chief of Police and he/she retains the right to assign personnel as the needs of the Department dictate.

C. TRANSFER PROCEDURES (16.2.2)

1. Police Officers and Sergeants
 - a. Specialized Positions

- 1) When a vacancy occurs or is anticipated in a specialized position, the Division or District Commander will submit an email through the chain-of-command to the Bureau Commander requesting that the position be filled. Once approved, the email will be forwarded to the Human Resources Division (Human Resources).
- 2) Prior to the final approval of the Chief of Police, the Department will notify the Police Officer's Association of any new Job qualifications for any job designated for the Police Officer rank. The Department or the Association may call a meeting of the Labor-Management Committee within seven (7) days to discuss the job qualifications. If a meeting is requested, the Committee will meet no later than ten (10) days from the notice to discuss qualifications before final approval. (CBA 2011, Art. 7, Sec. 4)

* * *

- 12) Successful candidates in the Bargaining Unit will be placed on probationary status, contingent upon successful performance, for the first 30 days In the new position. The Chief of Police may disqualify those on probationary status for good cause and the officer will be returned to his/her former district without loss of

seniority rights. (CBA 2011, Art, 7, Sec. 1)

b. Uniformed District Assignments

Any police officer or Sergeant may request to be considered for transfer to a uniformed District assignment. Upon receiving a transfer to the assignment requested, the officer must remain in that assignment for at least 6 months before requesting another uniformed assignment. The procedures for requesting such assignment are as follows:

- 1) Interested police officers and Sergeants assigned to the Bureau of Community Policing must submit a memorandum to the Area Aide for their assigned area. Interested police officers and Sergeants not assigned to the Bureau of Community Policing must submit a memorandum to any Area Aide or to Human Resources.
- 2) The Area Aide will then enter the requested assignment into the Personnel Profile of the officer requesting the assignment.
- 3) The Deputy Chief, Bureau of Community Policing will consult with the District Commanders and transfer personnel between Districts and areas as needed.
- 4) Once a transfer has occurred, satisfying the District choice of the police officer or Sergeant, Human Resources

will delete that District choice from the individual's profile. The employee must specify another District choice by memorandum if a Retire transfer is desired.

- 5) A District Commander may reassign personnel within his/her own unit, staying within the same assignment code, and in accordance with Department policies.

2. Lieutenants, Captains, Majors, and Deputy Chiefs

The Chief of Police will make the appropriate transfers of Lieutenants, Captains, Majors and Deputy Chiefs, taking into consideration the manpower needs of the Department and also matching the duties and responsibilities of the position with the qualifications and knowledge of the individual.

- D. CIVILIAN VACANCIES (16.2.2)

1. When a vacancy occurs within a unit, the Unit Commander will submit an Intra-Department Memorandum through the chain-of-command to the Bureau Commander requesting that a vacancy be filled, If the Bureau Commander approves the request, the memorandum will be forwarded to Human Resources.
2. Job posting procedures for Bargaining Unit positions are described in the Memorandum of Understanding.

3. Human Resources will post job vacancies for Non-Bargaining Unit positions for fourteen (14) days. Human Resources will then provide Civilian Interview Sheets received to the Unit Commander.
4. The Unit Commander will interview all candidates. If an internal applicant is selected, the Unit Commander will prepare an Administrative Report Transmittal Sheet (ARTS) to the Chief of Police requesting the transfer or reclassification of the selected applicant.
5. If no one from the interne interviews Is selected, the Unit Commander will request that Human Resources supply him/her with applications from outside applicants.
6. If an outside applicant is selected, the Unit Commander will send a memorandum to the Bureau Commander requesting approval to hire the selected applicant.
7. Human Resources will notify the successful applicant that he/she has been selected for the position.

E. DETACHMENTS

1. Introduction

Detachments may be temporarily used to strengthen a District/Unit experiencing a need for additional manpower in order to perform their designated tasks, with the approval of the Chief of Police.

NOTE: For purposes of temporary manpower assignments, personnel will not be “detailed.” “Detail” will be used only, for functions

authorized by Operational Planning, such as Fair St. Louis, etc.

2. Detachment Process

a. Officers Qualified for Detachment

All officers selected for detachment to another assignment must satisfy the same criteria necessary for a transfer to that assignment.

b. Formal Requests for Detachment

Any District/Division Commander may initiate requests for additional manpower.

NOTE: All reports requesting a detachment will be prepared on an Intra-Departmental Memorandum and submitted through the chain-of-command to the Chief of Police.

1) Report from Requesting Unit

The request will be submitted in report form and will include expectations of performance and how that performance relates to the direction of the Department (i.e., how will the temporary assignment of (an) additional officer(s) solve the problem or address the issue and will the detachment aid in making the Department more efficient).

2) Report from Supplying Unit

In addition, the District/Division Commander of the unit losing

personnel will prepare a report showing how the loss of manpower will affect his/her unit's performance.

c. Monthly Progress Reports

- 1) The Commander managing the detached officer(s) will prepare a monthly progress report. This report will contain information related to the effectiveness of the detachment in addressing the problem/issue.
- 2) Where it is found that a detachment is not effective, the detachment may be terminated, thereby allowing for a more efficient allocation of manpower.
- 3) To assist Commanders in monitoring the performance of a detached officer, detached officers will use the assignment code of the unit which detached.

EXAMPLE: P.O. Jones is detached from assignment code 303 to assignment code 441. Upon making an arrest, P.O. Jones would use assignment code 441.

EXCEPTION: For purposes of the Duty Roster System, the detached officer's attendance will be entered on the parent unit's duty roster for the first seven (7) days of the detachment (see the Special Order entitled "Computerized Duty Roster System").

3. Length of Detachment

A detachment will not exceed one (1) year In duration. If a detachment does exceed one (1) year, the position will be posted and filled using the procedures for tilting new positions and vacancies. (CRA 2011, Art. 7, Sec. 2)

4. Contractual Detachments with Other Agencies

Persons detached due to agreements or contractual arrangements with other governmental agencies are excluded from these provisions. However, before entering such agreement, our Department's service demands will be balanced against the needs of the other agencies.

* * *
