



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

1221 SW 4th Avenue, Room 140
Portland, OR 97204
phone: (503) 823-4078
web: www.portlandoregon.gov/auditor



Date: October 1, 2012

To: Mayor Sam Adams
Police Chief Mike Reese

From: Auditor LaVonne Griffin-Valade

Re: Independent review of Officer Frashour arbitration and ancillary matters

Our independent review of the testimony of Police Bureau members, from initial interviews through the Frashour arbitration hearing is attached. Mayor Adams requested this review following allegations of officer untruthfulness related to the internal administrative investigation and policy review of the 2010 shooting death of Aaron Campbell.

An independent review serves an important public purpose and is in keeping with the role of the City Auditor. Three Auditor's Office staff members assisted with the review: Constantin Severe and Rachel Mortimer from the Independent Police Review division, and Margie Sollinger from the Ombudsman's Office. A summary of the team's qualifications can be found in Appendix C.

We expanded the scope of this review to include testimony, communication, and related documents outside the arbitration record. This allowed us to conduct the thorough examination and assessment of evidence warranted in this case. We looked for material discrepancies and omissions or possible untruthfulness to identify any violations warranting an administrative investigation. We examined relevant internal processes to evaluate their effectiveness. The report summarizes our review and findings, and includes two policy recommendations to improve practices going forward.

We appreciate the cooperation we received from all parties throughout the review period.

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INDEPENDENT REVIEW

INTRODUCTION

Officer Ronald Frashour was terminated following the Police Bureau's internal policy review of the 2010 officer-involved shooting of Aaron Campbell. The Portland Police Association appealed the termination on Frashour's behalf, and the matter went to arbitration. The Arbitrator ruled in favor of Frashour on March 30, 2012. The City subsequently appealed the ruling. Following that, both parties involved in the proceeding raised the specter of officer untruthfulness. On June 6, 2012, Mayor Adams requested an independent review of the testimony of Police Bureau members, from initial interviews through the arbitration hearing.

Officer untruthfulness is a serious allegation and one of particular concern to the Police Bureau and the community at large. Bureau directive 310.50 addresses the expected standard of conduct: "The integrity of police service is based on truthfulness. No member shall knowingly or willfully depart from the truth" The policy further states, "members are obligated under this directive to respond fully and truthfully to questions about any action taken"

Our objective was to analyze all Bureau member testimony, including interviews conducted immediately after the incident through arbitration testimony. We looked for any indication of material discrepancies, material omissions, or possible untruthfulness. A further objective was to identify any practices or lack of clear procedures that could impede the quality, fairness, and/or transparency of internal administrative investigations and policy reviews.

Our review did not assess the merits of the Arbitrator's decision or the case presented by either party during the arbitration. We did not conduct the review as a performance audit. Rather, we evaluated relevant information to determine if there was sufficient indication that one or more Bureau member violated directive 310.50, thereby warranting a formal administrative investigation.

REVIEW FOCUS & TASKS

We examined the transcripts, exhibits, and documents pertaining to the following:

- Detective interviews held January 29 and 30, and February 1, 2010 in the matter of the officer-involved shooting death of Aaron Campbell
- Grand Jury testimony presented February 4 through February 9, 2010
- Internal Affairs interviews held March 1 through May 15, 2010
- Documents, presentations, notes, and communication regarding the Police Bureau's internal policy review and the Use of Force Review Board held August 26, 2010
- Depositions from the 2011 civil litigation on behalf of the estate of Aaron Campbell
- Testimony from the 17 days of arbitration held September 14 through December 19, 2011

- The Arbitrator’s decision delivered on March 30, 2012
- Police Bureau directives (policies and procedures) and other background information
- The 20 distinct versions of the Training Analysis draft made available to us during our review, along with the final Training Analysis

We communicated with counsel representing both parties in the Frashour arbitration to clarify concerns regarding Police Bureau member testimony during that proceeding.

To obtain additional background information, we conducted six formal, compelled interviews with the following Bureau members:

- Assistant Chief Larry O’Dea – June 27, 2012
- Lt. Kristy Galvan – July 6, 2012
- Chief Mike Reese – July 11, 2012
- Lt. David Virtue – July 17, 2012
- Officer Paul Meyer – July 19, 2012
- Lt. Robert King – July 26, 2012

Transcripts of these interviews can be found in Appendix A.

ORGANIZATION OF REVIEW

The review is comprised of three parts. Part I looks at whether there is evidence that individual Bureau member testimony violated the Bureau’s policy on truthfulness. Part II examines the development of the Training Analysis, considering testimony and exhibits from arbitration, as well as information outside the arbitration record. Part III contains our general policy recommendations to the Bureau.

I. TESTIMONY OF INDIVIDUAL POLICE BUREAU MEMBERS

Introduction: We analyzed thousands of pages of testimony and other documentation, and we conducted follow-up interviews. We focused our review on issues raised during the arbitration hearing, as well as ones we identified in the course of our review.

We conducted more detailed analyses of the testimony of three eyewitnesses to critical parts of the incident: Sgt. John Birkinbine, Officer Jeff Elias, and Officer Tyrone Willard. We examined the testimony of Lt. Robert King, co-author of the Training Analysis. The Training Analysis was a major element in the Police Review Board’s deliberations and decision-making.

Birkinbine, Elias, and Willard testified in the arbitration hearing, as well as all other transcribed legal proceedings associated with the Campbell shooting; we compared their arbitration testimony to the testimony obtained in those other proceedings. King testified over three days at the Frashour arbitration but not during other transcribed proceedings.

Our review of the testimony of each Birkinbine, Elias, Willard, and King is summarized below. Other Police Bureau members also named in this summary include Officer Ryan Coffey, Officer Todd Engstrom, Officer Paul Meyer, and Lt. David Virtue.

A. Testimony of Sgt. John Birkinbine

We compared transcripts of Birkinbine’s detective interview (1-30-10), Grand Jury testimony (2-9-10), Internal Affairs interview (4-23-10), civil litigation deposition (2-10-11), and arbitration testimony (11-15-11). We found no indication that Birkinbine provided untruthful testimony.

Birkinbine’s testimony remained fundamentally consistent over the course of the five proceedings. The fact that he did not provide exact word-for-word testimony at each juncture is immaterial. Some variation in testimony is reasonable, given that it occurred over the course of several years and in response to different people asking different questions for different purposes. Here we look at two examples which show that even if there were discernible shifts in Birkinbine’s testimony, those shifts viewed in context were not meaningful.

1. The pace at which Mr. Campbell was moving after exiting his apartment

Our analysis found that where it was specifically raised, Birkinbine’s testimony regarding his factual observations and interpretation of Mr. Campbell’s backward-walking pace was consistent. His observations regarding Mr. Campbell’s pace ranged from “moving pretty fast,” to “a little faster than normal,” to “more quickly than normal.”

In earlier statements Birkinbine said that he found Mr. Campbell’s backward walking to be “odd” but explained that he “wasn’t at that point concerned about it.” In later testimony Birkinbine described himself as thinking Mr. Campbell’s backward walking was “very purposed and deliberate.” When presented with his prior statements, Birkinbine affirmed his continuing adherence to them. To the extent that Birkinbine’s word choice varied, those word choices were not material changes but rather nuanced versions of the same testimony.

2. Mr. Campbell’s conduct moments prior to the first less lethal shot

Birkinbine unfailingly described Mr. Campbell in the moments prior to the first less lethal shot as standing still with his back to the custody team officers. However, we did note one potentially anomalous comment in his civil litigation deposition. He provided an observation that had not come up prior to this deposition, in which he described Mr. Campbell as turning his head to look back for an undetermined purpose. Nevertheless, this anomalous observation does not constitute a material change because it does not conflict with Birkinbine’s other testimony.

The comment about Mr. Campbell's head turning was made in the context of a longer narrative in which Birkinbine repeated that Mr. Campbell was standing still with his back to officers. As such, it is reasonable to read these comments as consistent with one another. That is, it is both possible for Mr. Campbell to have stood still with his back to officers and to have turned his head toward the custody team. Finally, neither party raised Birkinbine's omission of this observation as an issue at the arbitration hearing, suggesting it was immaterial to both sides.

B. Testimony of Officer Jeff Elias

We compared transcripts of Elias' detective interview (2-1-10), Grand Jury testimony (2-4-10), Internal Affairs interview (3-18-10), civil litigation deposition (2-1-11), and arbitration testimony (11-15-11 and 11-16-11).

For the most part, Elias' sworn testimony in the five proceedings remained consistent. On one issue, there was a shift in Elias' testimony over time. However, we did not find any indication that he "knowingly or willfully" departed from the truth, which is the standard of conduct required by the Bureau (310.50). Further, the shift in Elias' testimony may be a byproduct of the Bureau's communication restriction practices in place at the time.

1. Placement of Mr. Campbell's hands when running

We attributed most of the perceived differences in Elias' sworn testimony to the vagaries of attorney questions rather than to material changes indicative of untruthfulness. For example, in each sworn testimony, Elias stated that Mr. Campbell's hands were in his waistband area. Elias also clarified that he was not specifically looking at Mr. Campbell's hands because he had just sent the canine to "take" Mr. Campbell and was watching the canine as well. There was some minor discrepancy on whether Elias actually saw Mr. Campbell's hands, but it was consistent throughout that Elias had a basic impression of where Mr. Campbell's hands were located. Elias also consistently conveyed that his primary focus was not Mr. Campbell's hands.

2. The pace at which Mr. Campbell was moving after exiting his apartment

The one issue where there was a material shift in Elias' testimony was regarding the pace at which Mr. Campbell was moving after exiting the apartment. At his detective interview three days after the shooting, Elias described Mr. Campbell as "slow, just walking backwards." Elias was not asked about the speed of Mr. Campbell's pace at the Grand Jury hearing, although he described him as walking backward to the sound of officers' voices.

At his Internal Affairs (IA) interview, Elias said Mr. Campbell's pace "wasn't slow enough to feel comfortable. He just seemed like he was on a mission . . ." During Elias' deposition in civil litigation, he described Mr. Campbell's pace as "kind of like a brisk slow walk." During direct examination at the arbitration hearing, he

characterized Mr. Campbell's pace as being "pretty much faster than I've ever seen anyone walk back toward the police." When asked during arbitration cross-examination if he had previously testified that Mr. Campbell was walking slowly, Elias said, "I possibly could have said that. But that was a couple years ago, and the more time that went by the more I recollected stuff and talked to other people."

At the time of the Campbell shooting, communication restrictions between officer-witnesses were only in place up through completion of Grand Jury testimony. Elias mentioned on several occasions that he attended a debriefing of the incident, which was a group session that occurred at some point after the Grand Jury and before the IA interviews. The shift in Elias' testimony regarding Mr. Campbell's walking speed appears to have occurred during that time period. In fact, in his IA interview, Elias talked about having been upset about the information he learned during the debriefing. This suggests the timing of the debriefing session and Elias' response to what he heard there may have influenced his subsequent testimony regarding Mr. Campbell's pace approaching officers.

What the material shift is indicative of remains unclear to us. Elias offered an explanation indicating that his recollection changed due to the passage of time and because of conversations with others. Lacking sufficient evidence that Elias' shift in testimony was a knowing and willful departure from the truth, we do not recommend further investigation. We address the duration of post-incident communication restrictions in the policy recommendations discussed in Part III of our review.

C. Testimony of Officer Tyrone Willard

We compared transcripts of Willard's detective interview (1-29-10), Grand Jury testimony (2-9-10), Internal Affairs interview (3-5-10), civil litigation deposition (2-3-11), and arbitration testimony (11-17-11). We found no indication that Willard provided untruthful testimony.

Willard was consistent in his testimony on the five occasions over the two-year time period in which he spoke under oath, despite being questioned by multiple investigators and attorneys, all of whom phrased their questions in different ways. Willard answered the questions that were put to him, and he did not appear to have changed his recollections or descriptions of events. In our review, we focused on his testimony in the three specific areas noted below.

1. Reaction to the children leaving the apartment

Willard was consistent throughout all of his testimony regarding his reaction to the children leaving the apartment. He kept to the same two themes of being relieved for the safety of the children and being concerned that the children leaving the apartment was a sign of escalation. During arbitration, cross-examination focused on this statement from Willard to detectives: "That just helped calm us down, you know, knowing that our backdrop wasn't any kids." When Willard was challenged on that statement, he continued with the same two themes. To this counsel

responded, “But that’s not what you told the detectives.” In fact, Willard did tell detectives and everyone else he spoke with on record about his concern that the exit of the children was an escalation of the situation.

2. Whether he thought Mr. Campbell was reaching for a gun

Willard was consistent throughout his testimony that he saw Mr. Campbell “digging” at his back left waistband area as he was running. On several occasions, Willard described how he wore his own gun when off duty and how he believed that Mr. Campbell’s reaching motions mirrored what his own would be if he were reaching for his gun. In any proceeding in which he was asked what he *thought* Mr. Campbell was reaching for, Willard consistently stated, “gun.” When asked what he *knew* Mr. Campbell was reaching for, Willard consistently stated that he did not know.

3. Social relationship with Officer Frashour

Willard, who traveled with Frashour to attend the call in the Campbell incident, was first asked about his social relationship with Frashour during his civil litigation deposition. Willard described his relationship with Frashour as being friendly. Willard was asked about their relationship again during his arbitration testimony, and he talked about helping build a fence at Frashour’s home prior to the Campbell incident.

During the arbitration hearing, Willard said that he had not gone out on social evenings with Frashour prior to the Campbell shooting, but did so afterwards. Willard described one such outing in which he had socialized with Frashour and two other officers who had been at the scene of the event; this occurred at some point after the incident, but also after the communications restriction was lifted and after the group debriefing took place. Although this particular gathering was not mentioned by Willard prior to his arbitration testimony, there is nothing to indicate he deliberately omitted it. He shared the information the first time he was asked about participating in social outings in the time period following the shooting.

D. Testimony of Lt. Robert King

We reviewed transcripts of King’s arbitration testimony (9-20-11; 9-21-11; and 9-22-11). Where possible and relevant, we compared King’s testimony to that of other arbitration witnesses.

There is no indication in King’s testimony that he was untruthful about whether and the extent to which he consulted with training instructors in the process of developing the Campbell incident Training Analysis. Regarding the characterization in the report preamble that development of the report was a collaborative effort by members of the Training Division, King testified consistently in response to questions on direct and cross-examination; his testimony did not materially change, he did not omit material information, he did not contradict himself, and he did not retract any of his own testimony.

1. Comparing King's testimony with trainer-witness testimony

Where King's testimony could be assessed against other trainer-witness testimony, the witness testimony was consistent with and/or did not contradict King's. King testified that he sought information and/or feedback from several trainers in the Training Division, and he testified about the process he used in creating his portions of the Training Analysis. Development of the Training Analysis is discussed at length in Part II of our review.

During the arbitration hearing, King named seven members of the Training Division that he said he consulted during development of the Training Analysis. King also testified that he provided an early draft of his portions of the Training Analysis to some, but not all, of the trainers he named. Of the trainers King named, only two actually took the stand during arbitration. Those two were Officer Todd Engstrom and Officer Paul Meyer. Engstrom testified after King took the stand, but neither side asked him any questions about whether King consulted with him or whether he reviewed an early draft of the Training Analysis.

Meyer, a lead special weapons instructor, testified at the arbitration hearing before King took the stand. Meyer was specifically asked about whether King or Lt. David Virtue, co-author of the Training Analysis, consulted him. Meyer confirmed that he had several conversations with King about what was being taught in training. Although Meyer testified that neither King nor Virtue asked him to review the case file or asked for his personal conclusions as to whether Frashour's conduct was consistent with training, he explained that because he was not assigned to do the review he did not consider it to be his role to do the analysis. In our interview with Meyer, he reiterated his arbitration testimony.

Based on the two opportunities to assess King's testimony against the testimony of trainer-witnesses, there is no evidence that King testified untruthfully.

2. Stipulated testimony

The remaining Training Division instructors who King indicated that he spoke with and/or provided a draft to were available to testify but were not ultimately called to the stand. Instead, the parties stipulated as to those trainers' testimony, based on the testimony of Officer Ryan Coffey who was assigned to the Training Division as the lead defensive tactics instructor in July 2010, the same month the Training Analysis was finalized.

Coffey testified at the arbitration hearing about his personal judgment that Frashour's conduct was consistent with training and his disagreement with King's conclusions. Coffey indicated that he did not see the Training Analysis until a September 2010 staff meeting. He recalled that lead trainers were "upset that they weren't consulted, that they had no input on it." Coffey further testified that at the time the Training Analysis of the Campbell incident was conducted, there was no standard operating procedure requiring that Training Division officers be consulted prior to completion of the review.

The stipulation, by its terms, only covers the part of Coffey's testimony regarding his position that Frashour's conduct was consistent with training and within policy. Based on that stipulation, we know that the other five training instructors that King said he consulted also believed that Frashour's conduct was consistent with training and within policy. King acknowledged in testimony that the trainers he spoke with felt this way, and thus his testimony was consistent with stipulated testimony.

The non-stipulated aspects of Coffey's testimony should not be considered representative of other training instructor testimony because Coffey was assigned to the Training Division shortly before the Training Analysis was finalized and King never testified that he consulted with Coffey. As such, Coffey's testimony offers very little basis, if any, for assessing whether King provided untruthful testimony regarding his consultation with instructors. Without more, Coffey's testimony that some trainers were upset that they were not consulted does not establish that King testified untruthfully.

FINDINGS:

We found that no Police Bureau witnesses appear to have violated directive 310.50 (Truthfulness), and we recommend no further investigation with regard to the testimony of Bureau members in this matter.

II. DEVELOPMENT OF THE TRAINING ANALYSIS

Introduction: Several years ago, the Police Bureau adopted the practice of compiling a Training Analysis of critical events, such as officer-involved shootings. This change was partly due to recommendations made by the Police Assessment Resource Center (PARC) in 2003. Following the PARC recommendations, the Bureau revised its policies and implemented a coordinated approach between Internal Affairs and the Training Division to conduct these analyses.

We examined the testimony and exhibits pertaining to development of the Training Analysis of the Campbell incident. Ours is the first independent review of this subject, as the Arbitrator declined to "make any determination regarding the [Portland Police] Association's complaints concerning the process of the Training Division review and conclusions contained in the final report." Our review considered information and records outside of the arbitration record, including several more versions of the Training Analysis draft and email communications associated with the drafting of the Training Analysis. We also interviewed relevant Bureau members.

Lt. Robert King and Lt. David Virtue developed the Training Analysis of the Campbell incident. Both have served as Police Bureau members for over twenty years and were assigned to the Training Division at the time of the incident. Virtue did not testify at the arbitration proceeding, but because he was the co-author of the Training Analysis, we interviewed him to obtain his perspective regarding that experience.

We focused our review on issues raised during the arbitration hearing, as well as ones we identified in the course of our review. We analyzed these two areas:

- adherence to standards or accepted practice and the adequacy of the process used in development of the Training Analysis and
- circumstances surrounding the multiple drafts and the nature of the changes made over the course of the Training Analysis development.

A chronological list of versions of the Training Analysis draft can be found in Appendix B.

Our review of the Training Analysis drafting process is summarized below. Other Police Bureau members named in this summary include Commander James Ferraris, Sgt. Kristy Galvin, Officer Paul Meyer, Sgt. Craig Morgan, Asst. Chief Larry O'Dea, Sgt. Jason Preston, and Chief Mike Reese.

A. Adherence to standards or accepted practice and the adequacy of the process used in development of the Training Analysis

As noted above, the Police Bureau began the practice of conducting a formal training analysis of critical incidents a number of years ago, based in part on the 2003 PARC recommendations. PARC's 2005 follow-up report noted that the Bureau had changed its policy as recommended but called out a lack of specific procedures governing the Training Division's role in administrative investigations and recommended that procedures be promptly drafted. Additionally, PARC's 2009 follow-up revisited the matter of the Training Division's analysis, this time recommending that there should be a standard format for its written report.

Training Analysis reports have evolved over time and become more thorough assessments of the Police Bureau's response to critical incidents. These analyses have also emerged as one of the primary factors considered in Police Review Board deliberations. However, the continued lack of established procedures and a standardized format for Training Analysis reports were problematic in this case.

1. Involvement of trainers

The issue of proactively involving trainers in the development of the Training Analysis was a focus of arbitration testimony. By no small measure, this particular issue contributed to questions about the veracity of the report's conclusion regarding the use of deadly force. It may be worthwhile for the Bureau to consider formal involvement of trainers in the development of future Training Analysis reports; however, that was not the established process in this case.

We saw evidence that Virtue and King consulted a number of subject matter experts throughout development of the Training Analysis. For example, King and Sgt. Jason Preston from the Canine Unit communicated about the use of the canine, and Preston conducted a technical review and critique of the use of the canine during the event. Also, Virtue told us that he relied on Asst. Chief O’Dea in particular for clarification on training for critical incident management. O’Dea had written the manual for critical incident management and had been an instructor of that unit, including having taught sergeants who responded to the Campbell incident.

Officer Paul Meyer, lead instructor for the beanbag shotgun and the AR 15 programs, told us that King consulted with him on a number of occasions. Documents show that Meyer emailed the less lethal lesson plans and power point and the AR 15 operator course outline and lesson plans to King on April 2, 2010. Meyer also said that his conversations with King were about what was being taught, and since he was not assigned to do the review, he did not consider it to be his role to do the training analysis. We asked Meyer, a trainer in the Police Bureau since 2000, if he had ever reviewed past training analyses in the draft stage. He responded, “I don’t recall ever seeing them before they were finished, no.”

Virtue, who has written several training analysis reports, indicated that he goes to the trainers during the development of these reports to talk about general concepts of training. He said that he does not share the specifics of cases with trainers, but calls on them if he finds there is a gap in his own knowledge and understanding, or if he is confused about a particular training regimen. Virtue indicated there is no expectation that trainers are consulted during development of training analysis reports, and no expectation that he should get consensus from them on his conclusions.

2. No Standard Operating Procedure

King spoke throughout his interview about the need for a standard operating procedure (SOP) for developing training analyses. He explained that “having something spelled out so that the Training Division analysis and review has the rigor that it needs to have, but spells out in some detail or captures these different points of view, is . . . needed today kind of more than ever, because you know, cases like this one are difficult, obviously, for everybody involved, but when . . . we use deadly force, we have to review those and make the tough call about whether . . . it was appropriate or not, consistent or not, in policy or not, and so in order to do that, we have to be, I think, very well informed”

King pointed to the lack of a codified SOP as being an issue during the analysis of the Campbell incident. Whether established procedures and a standard format for the report would have prevented some of the accusations that subsequently arose is a matter of debate. But good procedures and a designated format would most certainly have made for a clearer and more transparent process for the Training Division team charged with developing the Training Analysis in this case.

In his interview, O’Dea noted the evolution of training analyses during his tenure, and spoke to us about the lack of established procedures, saying, “An SOP on who gets consulted, when they get consulted would make sense to me . . . there’s always value in everybody working off the same sheet of music and having consistency.” Along the lines of who might be consulted, King called for the possible development of a minority report that expresses any dissenting views, either as a separate memo or as part of the final training analysis.

Virtue also talked about the lack of an SOP, saying that he had basically come up with his own way of developing training analyses. He indicated that the methodology he devised for conducting a reasonable analysis of whether training had been followed amounted to reviewing all of the material, identifying the training concepts and principles that required analysis, and then comparing the record of training to the facts of an incident.

Several times in his interview, Virtue spoke specifically about the importance of being “as objective as possible” in carrying out training analyses, saying, “I equate it to being the judge who’s looking at the law and then he looks at the facts . . . and the facts don’t always fit exactly into the law . . .” He elaborated further about it being a difficult responsibility, but he understood that he had to “. . . craft this thing that is fair and accurate and objective.”

Training analysis reports have become more comprehensive documents. The Chief of Police, command staff, and the Police Review Board rely on the quality and thoroughness of these analyses in their decision-making. In our view, that is all the more reason to establish and codify an SOP that can, to the degree possible, ensure the fair, accurate, and objective reports that Virtue has sought to produce. We further address this issue in the policy recommendations in Part III of our review.

B. Circumstances surrounding the multiple drafts and the nature of the changes made over the course of Training Analysis development

Writing of the Training Analysis occurred over the course of several months. The first known version of the draft was dated March 31, 2010, and the final Training Analysis was dated July 14, 2010. Some versions of the draft contained only minor edits, while others had substantial edits, indicating that report development was a continuous work in progress during that time period.

In his interview with us, Virtue noted that he had completed two training analyses before being assigned to the review of the Campbell incident; one was an analysis of a shooting involving the Special Emergency Reaction Team (SERT), and the other was an analysis of a less lethal deployment. Because the Campbell case was so voluminous, he asked that King assist him.

Virtue and King divvied up the discrete issues, with Virtue covering the initial patrol response, communications, negotiations, actions and decision points of the multiple sergeants on scene. King covered the remaining training elements – use of

less lethal (beanbag gun and canine) and the use of deadly force. Virtue explained that once they agreed on which sections of the Training Analysis they would individually focus, they went on their “own paths” to write those sections, although they “used each other as a resource.” They each revised sections throughout development of the Training Analysis, in some cases multiple times. Also, it appears they both worked on some of the smaller sections, such as the officers’ training background and the recommendations. Virtue indicated to us that he and King met regularly, and that they both struggled with some portions, but would share sections they were writing to get and give feedback.

In our view, the independent drafting of various sections made it difficult for King and Virtue to successfully coordinate their efforts. Again, established procedures could have provided a mechanism for them to consistently track and document changes to versions of the Training Analysis draft, clarify the rationale for those changes, and work more efficiently. The summary of the drafting process below exemplifies the problems that can occur when no such procedures are in place.

For the purposes of our review, we labeled the distinct Training Analysis draft documents provided to us as version 1 through version 20. We did this to distinguish between the arbitration exhibits designated as draft #1 through draft #10 and the “The Copy I changed” draft. We compared changes and edits in the 20 versions of Training Analysis draft, as well as the final document. A chronological list of the 20 versions of the Training Analysis draft made available for our review can be found in Appendix B.

1. Earliest versions of the Training Analysis draft

(a) Shift in use of deadly force conclusion

One area of concern that emerged during King’s arbitration testimony was the change in the Training Analysis draft regarding his conclusion on the use of deadly force. Version 5 through version 8 appear to have used the same language in the use of deadly force section, and all explicitly stated that the use of deadly force was consistent with training. (Note: version 1 through version 8 on our list exactly match the date and content of those designated as draft #1 through draft #8 in the arbitration proceeding.)

Version 9 on our list was not discussed in the arbitration proceedings. However, King’s June 20, 2010 email containing version 9 was included in arbitration exhibit A-39. The use of deadly force section in version 9 indicated a shift in conclusion and had language similar to that found in a seven-page re-write of that section. This re-write was prepared by King and also included in exhibit A-39.

The re-write was discussed at length during arbitration because it appeared to represent a sudden change regarding the use of deadly force. The timing of King’s re-write was further complicated by the fact that Virtue emailed version 10 less than 24 hours later. Version 10’s deadly force section contained the same conclusory language as version 5 through version 8. (Note: version 10 on our list was designated as draft #9 in the arbitration proceeding.)

It is unclear what specific discussions Virtue and King may have had about their respective sections between May 12, 2010 when version 5 was emailed and June 20 when version 9 was emailed. At the very least, it appears that if King shared his revision of the use of deadly force section with Virtue, Virtue did not include it in version 10. However, the conclusion that deadly force was inconsistent with training appeared to be definitive in version 11, which was emailed by King on June 21, 2010 about an hour after Virtue sent out version 10. (Note: version 11 on our list was designated as draft #10 during arbitration.)

In our interview with King, he talked extensively about the difficulty of this particular assignment and about the writing of the Training Analysis being an iterative process. He indicated that as he collected more information and listened to interviews and studied training policies, he struggled more and more with the initial conclusion that the use of deadly force was consistent with training. King discussed the key factors that led him to that conclusion, specifically his assessment that Frashour failed to de-escalate and be adaptive during the Campbell incident. In our interview with Virtue, he affirmed his agreement with King's conclusion that the use of deadly force was inconsistent with training.

(b) Sgt. Galvin's edits

King emailed version 12 to himself on June 21, 2010 at 5:58 pm and copied Commander Jim Ferraris at North Precinct, the precinct in which the Campbell incident took place. Version 12 was not included in arbitration exhibits, and although it had the same number of pages as version 11 on our list, it varied slightly in its narrative and formatting. At some point, version 12 was also forwarded to O'Dea, although the identity of the sender was not clear in documents made available to us. We do know that version 12 contained eleven typographical errors, and those were subsequently identified and corrected by Sgt. Kristy Galvin, who was serving as O'Dea's Executive Officer.

Galvin's role in making changes to the Training Analysis draft was called into question during arbitration. She indicated in our interview with her that as part of her administrative responsibilities, she had gone through O'Dea's email inbox at his request because he was busy with other matters at the time. In doing so, she opened the draft of the Training Analysis and "reviewed it for spelling and grammar." We found that the only changes Galvin made to version 12 were to correct the eleven typographical errors. She then sent version 13, with those eleven errors corrected, to King and Virtue on June 23, 2010 at 3:21 pm. (Note: in the arbitration proceeding, version 13 was designated as "The Copy I changed" draft.)

Galvin also followed up with an email to King and Virtue at 3:30 pm that same day in which she listed the eleven corrections, with associated page numbers. When asked if she wrote any of the Training Analysis, Galvin told us no. Further, we saw no indication that she provided any assistance other than correcting minor errors on this single occasion.

2. Final versions of the Training Analysis draft

The work to finalize the Training Analysis appears to have intensified in late June and early July 2010, resulting in seven additional distinct versions of the Training Analysis draft, subsequent to version 13. These seven versions appear to have been primarily authored by King, although he received editing assistance from others besides Virtue on at least two occasions.

King sent versions 14, 15, 16, and 17 to himself over the course of two days, June 27 and 28, 2010. On July 1, Sgt. Craig Morgan in IA emailed version 18, referring to it as a “redline copy,” to King and Virtue, apparently with changes that Morgan and/or others had made. King emailed version 19 to himself on July 5. The file name of version 19 indicated that it was a final draft pending the review of David Woboril, Senior Deputy City Attorney.

King appears to have emailed another version of the Training Analysis draft on July 12, 2010 at 8:46 am to O’Dea, with a copy to Virtue and Woboril. In that email, King says, “Boss, David Woboril and I added language about the mission of training in the Frashour training analysis section. Let me know what you think. . . .” At 9:27 am, Woboril emailed King saying, “Robert – I did some non substantive editing – attached. Same title as yours, but ‘Woboril tune-up’ added at the end. . . .” King forwarded Woboril’s email to O’Dea later that day at 3:00 pm.

O’Dea emailed King on July 13, 2010 at 12:48 pm asking, “Can you delete the displayed track changes on page 48-49 so it can go out officially?” King responded to O’Dea at 4:54 pm that day, “Boss, here it is.” The only version of the Training Analysis draft provided to us from this exchange was version 20 on our list, with the file name of “FRASHOURFINAL7-13-10.doc.” Version 20 essentially matches the final Training Analysis presented as arbitration exhibit J-11 (pages 88 – 145) and hand-dated “7-14-10,” except for the text boxes that surround section titles in the final.

The version King emailed on July 12, 2010 at 8:46 am and Woboril subsequently indicated he had edited, may have been another distinct version; regardless, it was not included in documents provided to us. In addition, no version with “Woboril tune-up” added to its file name was provided to us, so we were not able to substantiate the existence of such a document or whether it was in essence the same as version 20. Because of the short timeframe between emails, we assume that in both instances of potential interim versions, they would not have contained substantive differences from version 20 on our list.

In our experience, the development of complex reports often requires the compilation of multiple versions. Given the volume of testimony (transcripts and recordings) and training materials King and Virtue had to consider in developing the final Training Analysis, we find the number of versions reasonable. Further, despite the change in the use of deadly force conclusion from consistent to inconsistent with training, we find it is reasonable that an initial conclusion could be reversed as more information came to light.

3. Internal and/or political pressure to reach certain conclusions in the Training Analysis

Mayor Adams took charge of the Police Bureau as Police Commissioner on May 12, 2010 and immediately appointed Mike Reese as Police Chief. This change in leadership took place midway through completion of the Training Analysis and amidst community turmoil over the Campbell incident. During arbitration, these events prompted questions about undue political or internal pressure, particularly in regard to directing authors of the Training Analysis to reach certain conclusions or change conclusions.

Asserting such influence during the course of developing the Training Analysis would not have violated any Police Bureau directives. Further, since no SOP was in place to guide preparation of such documents, there was no procedure prohibiting superiors from weighing in on the outcome or conclusions. That institutional reality aside, any internal or political pressure to arrive at specific conclusions would have compromised the process and violated the trust of witness officers, other Bureau members, and the public. As such, we considered this matter an important aspect to examine.

Our review revealed no documentary evidence that either Virtue or King were subjected to internal or political pressure regarding their assessment of the Campbell incident or the conclusions they came to during development of the Training Analysis. In our interviews of O’Dea, King, Virtue and Reese, we inquired about such influence being applied; a summary of their responses follows.

O’Dea has been an assistant chief under both Reese and former Chief Rosie Sizer, who was chief at the time of the Campbell incident. O’Dea supervised King and Virtue during development of the Training Analysis in this case. That was unusual, but deemed necessary to avoid any potential conflict, since their supervisor at the Training Division also had been the captain at the scene during the Campbell shooting. When asked if either Sizer or Reese had directed him to include certain findings and conclusions in the Training Analysis, O’Dea was firm in saying no. He also said, “We have a case where there is a high level of public outcry . . . every couple of years, but I did not feel any pressure at all through any of this,” including during the transition period between chiefs.

When we questioned O’Dea about whether there had been any pressure from the Mayor’s Office about the Training Analysis being done in a prescribed way in this particular case, he said no. O’Dea elaborated by saying that he had attended virtually all of the meetings between Mayor Adams and Chief Reese from the beginning of the Reese’s tenure and “there’s not been anything that’s even on the agenda” regarding the Training Analysis of the Campbell incident.

King explained that he and Virtue met with O’Dea numerous times during the drafting of the Training Analysis. King indicated that O’Dea “never told us what to write, never told us what direction . . . the review should take. In fact he was very explicit with both of us that, in the course of our . . . review of the material, that he

didn't want us writing anything that we were not individually personally comfortable with or confident about . . . and told us in no way what to conclude.”

We also asked King if he had felt any political pressure from the Mayor's Office or the wider community while he was working on the Training Analysis. King responded: “Virtue and I were never told by anybody, by the mayor, anyone that represents the mayor, by the chief, anybody who represents the chief, Chief O'Dea or anyone else what we ought to conclude or what . . . direction the review ought to take.

Virtue confirmed King's view of O'Dea's role as their supervisor, saying, “I never felt like he was telling me what to write.” Virtue further indicated that this particular training analysis “was the hardest thing I'd ever done because it was just such a tough situation all the way around, so [O'Dea] did a lot of . . . reassurance, just do your best job . . . come up with your best analysis”

We also asked Virtue whether he thought King was the subject of internal or external pressure to find Frashour's actions inconsistent with training. Virtue's personal perspective was that “[King] had more pressure the other way, to be honest.” Virtue said that he believed King knew where he needed to go to arrive at the conclusion that the use of deadly force was inconsistent with training, but had a hard time getting there because he “was feeling the emotional pressure not to go down that path . . . would be my assessment.”

Reese, who was the Commander at East Precinct where Frashour was assigned, told us that he had no role in the Campbell investigation, in creation of the Training Analysis, or in assigning King and Virtue to its development. When asked about command staff oversight of the Training Analysis, Reese said that the role of a commander would be only to ensure the document was thorough, complete, and written in such a way to be acceptable for the “institutional record.” When asked if a commander should be able to direct what is included in or deleted from a Training Analysis, he said, “I would find that to be problematic.” Further, Reese was clear that King and Virtue were the ones assigned to developing the Training Analysis, and that meant their names were on it, so “they own it.”

We asked Reese if his decision to terminate Officer Frashour was based on any political motivations or pressure. He said, “Absolutely not. And specifically to the allegation that the mayor and I had some sort of agreement that I would fire Ron Frashour if I was named chief, that never occurred. We never had a conversation about it”

Reese went on to say that termination “was a decision that I struggled with. As I read through all of the material and had conversations with the assistant chiefs, and then the PRB [Police Review Board] I think was a watershed moment when the fact that you had peer members, citizen members, division command and the – and the chief's office all reviewing the same thing I was reviewing and coming to the same conclusion” He clarified that “while I place great importance on the various pieces of the process that we go through, the training analysis, the finding by the commander, the PRB, I still read that material and come to my own conclusion.”

Finding no documentary evidence of superiors attempting to influence King's or Virtue's ultimate conclusions and absent any conflicting testimony in our interviews, we determined there was no indication of undue internal or political pressure applied in the development of the Training Analysis.

FINDINGS:

We found the Police Bureau's lack of a standard operating procedure for the development of training analyses to be problematic. Such procedures would define consistent objectives and practices for the development of Training Analysis documents in general. In this particular case, having no such guidance likely contributed to concerns about the purpose, objectivity, and transparency of the Training Analysis and the veracity of its conclusions.

Further, we found it reasonable that the development of the Training Analysis of a complex incident, involving a number of Police Bureau members and tactics, would undergo multiple versions, re-writes, and possible substantive changes, particularly since the Training Analysis report was developed by two different writers who had to analyze several training elements.

Finally, through our review of communication documents, arbitration testimony, and our follow-up interviews, we found no indication of direct or indirect internal or political pressure to reach certain conclusions or change conclusions in the final Training Analysis.

III. POLICY RECOMMENDATIONS

Recommendation #1:

Develop a set of procedural guidelines to clarify the purpose of Police Bureau training analyses. For example, is a training analysis to be used as a best practices document and/or a disciplinary tool, or does it serve some other accountability purpose?

- Procedures should establish a consistent process for development of training analyses, including the incidents and training elements subject to analysis.
- Procedures should identify the scope and analytical steps to be undertaken.
- Procedures should include a mechanism to consistently track and document changes to drafts and clarify the rationale for those changes.
- Procedures should include a mechanism for objective quality assurance that verifies facts and tests the reasonableness of conclusions.

- Procedures should clarify the staff level most appropriate for conducting analyses and should outline the level(s) of oversight and supervision.
- Procedures should address if and when dissenting views regarding conclusions are considered and incorporated into the final product.
- Procedures should include a timeline for completing training analyses.

Recommendation #2:

After any incident that is subject to a training analysis, extend the time period for communication restriction orders until after completion of Internal Affairs interviews. Doing so will contribute to the integrity of the investigatory process and enhance public trust in that process. To support the mental health of those involved in critical events, IA interviews should be scheduled as soon as possible after the incident.

APPENDICIES

Appendix A: Interviews of Police Bureau Members

Appendix B: Chronological List of Versions of the Training Analysis Draft

Appendix C: Independent Review Team Qualifications

Appendix A:
Interviews of Police Bureau Members

Assistant Chief Larry O'Dea, 6/27/12

Lieutenant Kristy Galvin, 7/6/12

Chief Mike Reese, 7/11/12

Lieutenant David Virtue, 7/17/12

Officer Paul Meyer, 7/19/12

Lieutenant Robert King, 7/26/12

Assistant Chief Larry O'Dea
Interviewed June 27, 2012

1 **PORTLAND POLICE BUREAU**
2 **INTERNAL AFFAIRS**
3 **Confidential Taped Statement**
4 **Investigator William Accornero/#91743**
5
6

7 **Interview Date:** 06/27/2012
8 **IA #:** 2012-B-0021
9 **IA File Name:** 12b0021dss-o'dea
10 **Complainant:** Portland Police Bureau
11

12 **Interviewed:** A/C Lawrence O'Dea, #18924
13
14

15 **ACCORNERO:** Okay, this is WILLIAM ACCORNERO, #91743, Internal Affairs Investigator.
16 Present with me is IPR Assistant Director CONSTANTIN SEVERE. Today is June 27, 2012. It's
17 approximately 1300 hours. We're at the office of the Chief of Police, City of Portland. Also present is
18 Assistant Chief LAWRENCE O'DEA, #18924. This is regarding Internal Affairs Division 2012-B-
19 0021, Portland Police Bureau case number 10-8352. Assistant Chief O'DEA has been advised that his
20 conduct and/or the conduct of any other bureau members present on...this is regarding the Officer
21 FRASHOUR shooting and it covers a time period of January 29, 2010 to present, is the subject of this
22 investigation. Assistant Chief O'DEA has reviewed information necessary to be reasonably apprised
23 of the nature of this complaint. Assistant Chief O'DEA has been informed that he is a witness in the
24 case and that Captain DAVID A. FAMOUS is in charge of the investigation. I have advised the
25 assistant chief that he could have an attorney or advocate present during the interview, and has decided
26 to proceed without one, an attorney or advocate. Chief, under the authority of Captain FAMOUS, I am
27 ordering you to answer all of my questions fully and truthfully. If you fail to respond fully and
28 truthfully, you may be disciplined up to and including dismissal. Do you understand, Sir?

29 **O'DEA:** Yes, Sir.

30 **ACCORNERO:** Okay. Portland City Auditor LAVONNE GRIFFIN-VALADE is conducting an
31 independent investigation into the circumstances surrounding the training division review and analysis
32 of the shooting of AARON CAMPBELL by Officer RONALD FRASHOUR, and the subsequent
33 arbitration hearing regarding Officer FRASHOUR'S discipline in the case. The auditor has assigned
34 Independent Police Review Assistant Director CONSTANTIN SEVERE to collect and review all
35 information related to the training division's review and analysis of the shooting. Chief REESE has
36 assigned internal affairs to assist the auditor in gathering information relevant to the auditor's
37 investigation and review. On January 29, 2010, the shooting of CAMPBELL occurred, as reported in
38 Portland Police Bureau case number 10-8352. As required, internal affairs conducted an investigation
39 as reported in our case number 2010-B-0004, and training division conducted a review and analysis of
40 the shooting. The homicide detectives, IA investigators and training then presented all the information
41 collected to the Use of Force Board. The purpose of this interview is to get an understanding of the
42 purpose and preparation of a training analysis during the review of the officer-involved, in-custody
43 death investigation. Also to determine your involvement, if any, in the preparation of training
44 division's review and analysis of this incident. We would also like to discuss your observations of any
45 inconsistencies in witness statements or reports presented during the Use of Force Board and the
46 subsequent arbitration hearing. And Mr. SEVERE is gonna continue on with the questioning.

47 **SEVERE:** Thank you, BILL. This is CONSTANTIN SEVERE with the IPR. Good afternoon, Chief.
48 Well, I've got a whole bunch of questions, but I'll start off with some easy ones. What's your current
49 rank and position?

50 **O'DEA:** My current position is Assistant Chief in charge of the Operations branch.

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51 **SEVERE:** And how long have you been a member of the Portland Police Bureau?

52 **O'DEA:** Almost 26 years. I was hired September 4, 1986, so,...

53 **SEVERE:** Okay.

54 **O'DEA:** ...shortly, I'll be coming up on 26 years.

55 **SEVERE:** At least onto the training analysis piece, just with your level of experience at the bureau
56 and just being in different slots, why do you think the bureau does training analysis, what's the
57 purpose behind it?

58 **O'DEA:** Essentially, the short version of it is to see if a member's actions were consistent with what
59 we train. The role of the training division analysis is not to decide is somebody in policy or out of
60 policy, but are their actions consistent with what they're trained.

61 **SEVERE:** Okay. Do you...do you see the training analysis as part of the administrative
62 investigation, or is it something that's separate from it, or is it just kind of one big piece?

63 **O'DEA:** It's probably a little bit hard to answer so clear-cut. I think that there's, you know, an
64 officer-involved shooting in the City of Portland is probably the most investigated event that happens
65 within the City. There's many layers of oversight, many layers of investigation, looking at different
66 things. You could probably spill nuclear waste and have less oversight than...than what we have. But
67 part...part of that review, separate from a policy review, is what do we train the officers and did they
68 act within the scope of that training. That is one tool that is available to the RU manager when they
69 make their finding to help come to their conclusion.

70 **SEVERE:** Okay.

71 **O'DEA:** And another role of that also is past, is there any other recommendations that the training
72 division sees out of a review of this that they would recommend that the chief implement and change,
73 whether it is adding new tools, adding different training.

74 **SEVERE:** Okay. Have you ever written a training analysis before?

75 **O'DEA:** I have not.

76 **SEVERE:** What role do the trainers in the training division have in a training analysis? Is it
77 something...like, basically, in a training analysis, do the trainers have to accept the conclusions
78 reached by the authors of the training analysis or what...what's their role, if there is one?

79 **O'DEA:** Their role is really what...a supervisor writes these reviews. Historically, you've had both
80 sergeants as supervisors write these reviews and lieutenants as supervisors write these reviews, and so
81 it's the, you know, if the role of that supervisor, how they choose to use the trainers in there is, in my
82 mind, it's really up to them in deciding is this what we are training or not. My expectation is that the
83 supervisors know what we are trained, that they're familiar with the lessons plans and are ensuring that
84 the trainers are...are training to that standard.

85 **SEVERE:** Okay.

86 **O'DEA:** But it's, you know, certainly, when you look at an incident, there's a range of potential ways
87 to solve that situation and everybody could come to their own conclusions on how to do that. So
88 within the range of acceptance, there are some that might be outside of that, but there certainly is no
89 requirement at all that...that an individual trainer agree with everything that is in a training review.

90 **SEVERE:** Okay. Are trainers usually consulted by the authors of a training analysis in your
91 experience of just reviewing them?

92 **O'DEA:** I can't say.

93 **SEVERE:** Okay.

94 **O'DEA:** I don't know.

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95 **SEVERE:** Fair enough. Just kind of going back in how the bureau and commanders and RUs use
96 training analysis in coming up with their findings, how much...do you have an expectation of how
97 much of a role the training analysis plays or has in coming up with the findings when the commander
98 is writing up his findings?

99 **O'DEA:** No, it is...it's one piece. We've had, you know, shootings reviewed without the use of a
100 training review and shootings reviewed where the training review didn't come 'til after the RU
101 manager did their initial finding, you know, before the final process. So it is...it is one piece of many
102 pieces to come...to come to those conclusions.

103 **SEVERE:** So when...when there is a training analysis, is it kind of part of the normal chain of
104 command where, okay, let's say, in this case, lieutenants do the training analysis and then it goes up to
105 the, you know, RU commander, the captain of training and then up to the assistant chief of services
106 and then up to the chief of police, does it go up through that process normally, or is it just kind of off to
107 itself and just kind of walls off a little bit?

108 **O'DEA:** No, I think...I think there's been a couple different ways that it's...that it's happened
109 historically.

110 **SEVERE:** Um hm.

111 **O'DEA:** The...the training reviews are done at the training division, you know, either by the
112 sergeants or by the lieutenants, and then, historically, and this case was an exception for a reason I will
113 address in a minute, historically, that would have been reviewed and signed off by the training division
114 captain. Because, in this case, the training division captain's behavior was also subject to review in
115 this incident, he had to be recused from that and then, at that time, I was sitting in the chair of assistant
116 chief of services, so then I assumed that role of oversight during the training review to ensure that we
117 had a complete product.

118 **SEVERE:** Okay.

119 **O'DEA:** So, historically, it would go up through to that...to that training division captain, and then
120 would be forwarded to the RU manager for their findings. It doesn't come up to the chief of police to
121 be signed off before it goes where it goes up to the training division captain, and then it goes to the RU
122 manager for...as part of that tool for their investigation.

123 **SEVERE:** Okay. And, to your knowledge, it's been a couple years since the CAMPBELL incident
124 and the training analysis and the investigation, is that still the way it's done at the bureau?

125 **O'DEA:** I think where we're at now I believe, 'cause we've had a transition, and part of the transition
126 has been civilianizing that old chair of the assistant chief of services, so that's brought us some
127 benefits and some challenges. Part of the challenge is the person sitting in that chair, even though
128 they're the branch manager of all of the support, the business side of the house, training is the one
129 piece of business that's still very police oriented, police work involved.

130 **SEVERE:** Um hm.

131 **O'DEA:** So those...I think those training reviews have come up to him.

132 **SEVERE:** Um hm.

133 **O'DEA:** I have been forwarded a couple of those during that interim process,...

134 **SEVERE:** Okay.

135 **O'DEA:** ...essentially as...as a look this over, is this where we want to be, but with our...with our
136 transition...well, and I'll have to back up just a little bit here,...

137 **SEVERE:** Feel free.

138 **O'DEA:** ...as assistant chief in charge of services, I sat through the Shooting Review...Review Board
139 and...and there was...the training review was being done by a sergeant in there, and during the process

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140 of going through that review board, I had real concerns about the quality of that review. Specifically,
141 we were talking about a shooting, I want to say it was 92 and Glisan, that was being supervised by a
142 sergeant and the members were asking questions of the sergeant who was presenting us the training
143 review, and it was clear to me that he was not familiar with the training we specifically give to the
144 sergeant managing critical incidents, and he was trying to judge that sergeant's decision based on what
145 we train officers. So there was a real disconnect and we had to take a break there and a time-out, and it
146 was during a transition where we actually had Sergeant VIRTUE sitting there watching this other
147 sergeant, Sergeant DODY, do this review to learn how to do these, and I took him and I took the
148 training division captain aside at the time, who was TELLIS, who was still in a commander position
149 then, and I said this can never happen again where we've got training division only being able to speak
150 about what we train officers, not what we train sergeants. The training division review needs to be
151 conducted in a way that they are comfortable with everything we teach the bureau, whether it's
152 officers, whether it's sergeant, whether it's SERT tactics. So I had seen issues with this training
153 review. It was actually a good opportunity with Sergeant VIRTUE, who was gonna be assuming that
154 role, as Sergeant DODY was leaving that position, and then, ultimately, Sergeant VIRTUE assumed
155 that position, it was a formal sergeant position in the training division to do these reviews.
156 When...when this particular review came up, it was during his transition to lieutenant.

157 **SEVERE:** Okay.

158 **O'DEA:** And then during...during that process, there was a period of time for several months where I
159 ran both branches. I ran the services branch and the operations branch, and what became clear to me
160 was the quality and the nature of these reviews needed to be lieutenant level reviews and the work and
161 volume was such that it made sense to me to pair up a training division lieutenant and an operations
162 branch lieutenant or commanding officer. So, since then, every shooting that we've had, I've paired an
163 outside operations branch lieutenant or a captain in a couple of occasions who haven't had any
164 experience with the training division personnel to keep that quality at that high level.

165 **SEVERE:** Okay, gotcha. Would you feel that it's appropriate for someone in kind of the command
166 staff level, who's like in the ACs office...or chief's office, assistant chief or chief, to say, you know, to
167 review a draft training analysis and for them to say I don't think you're explaining what bureau
168 training is or whether a member's in or out of policy, I want you to change this to...to the author or
169 authors of a training analysis?

170 **O'DEA:** Well, I'll back up on a couple things. There should be nothing in that document at all about
171 in or out of policy.

172 **SEVERE:** Okay.

173 **O'DEA:** It should, again, be is this what we train or is this what we do not train. That role belongs to
174 the captain of the training division.

175 **SEVERE:** Okay.

176 **O'DEA:** The reason it was being done in this case by me was, as I explained before, part of what we
177 were reviewing was the behavior of that captain, who wasn't the captain of training at the time,...

178 **SEVERE:** Um hm.

179 **O'DEA:** ...but was a captain during this.

180 **SEVERE:** Gotcha.

181 **O'DEA:** But I don't see that as the role...those reviews do not, in my mind, need to come after the
182 captain of training. If that captain wasn't involved, this would have been the role for that captain of
183 training to review that and not to come up to the assistant chief's office for another check-off. The

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184 only reason I was involved was...was as explained. I was filling the role of that subordinate
185 who...who we could not have evaluate that.

186 **SEVERE:** Okay. So I mean...I mean so just to kind of summarize, because just as a lawyer, you
187 know, I can't grasp very complicated concepts, so I always need to like make them really smaller. So
188 just from what I understand what you were just telling us, and interrupt me if you think I'm getting it
189 wrong, the commander of...normally, the commander of training is basically kind of where the buck
190 stops with the training analysis. Folks at the chief level or assistant chief level really don't participate
191 in the crafting of it. Is that...

192 **O'DEA:** We have never participated...

193 **SEVERE:** Okay.

194 **O'DEA:** ...in the crafting of it...

195 **SEVERE:** Okay.

196 **O'DEA:** ...to my knowledge, never.

197 **SEVERE:** Okay.

198 **O'DEA:** We have participated in, you know, my role, where I probably, as assistant chief, probably
199 had the biggest role that an assistant chief probably ever had,...

200 **SEVERE:** Okay.

201 **O'DEA:** ...and it wasn't involved in crafting it, it was an oversight, it was in discussions, it was in
202 what about this, have you talked about this, and all of that. And it was...this situation was such that
203 there were two lieutenants involved in this. ROBERT KING was also assisting DAVE VIRTUE in
204 this work, so we had, you know, a series of probably half a dozen meetings, and those conversations
205 were with both of them, and both of them were prefaced with I will never tell you what to put in there,
206 I will be asking questions. Part of where...where I probably had a lot of involvement was on the
207 DAVE VIRTUE side, when they chose to divide up the work,...

208 **SEVERE:** Okay.

209 **O'DEA:** ...DAVE VIRTUE had the...the review of the supervisors, the sergeant. Historically, a
210 piece you probably don't have is that I developed the Critical Incident Management Training for the
211 sergeants,...

212 **SEVERE:** Um hm.

213 **O'DEA:** ...so the training that the sergeants in this case received was...was not only my material, but
214 it was taught to them by me and assisted by other folks, so, historically, the bureau, as they trained
215 sergeants on managing critical incidents, during sergeant's school, a half hour class and a checklist,
216 which was, in my mind, pretty inadequate to go out and handle the hottest calls in the City. Because of
217 my background and having been on the SERT team and being an assistant (indecipherable) on the
218 SERT team, I had asked training, we need to step this training up, we need to step it up, and then,
219 ultimately, in 2003, they said why don't you develop it for us. So I did completely develop that
220 training to the same training that we train nowadays. So where my conversations and input came in
221 particular to VIRTUE was here's where you need to go to look for this information, training has my
222 lesson plan and my PowerPoints, here's some areas that you want to look at that I see are of concern,
223 and go and look at those. So he was able to go back there and get the lesson plans that I had at training
224 division that keeps all our lesson plans, and then go back and then just structurally say it makes sense
225 to me if you see these areas and then specifically spell out, match it to a point in the lesson plan where
226 it's not consistent.

227 **SEVERE:** Okay. And...

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228 **O'DEA:** And then also, the other point too was that, on the converse side, being objective, go back
229 and say, here are the lesson plans where this is consistent with our training,...

230 **SEVERE:** Okay.

231 **O'DEA:** ...would be an objective there. Because part of the initial conversations were I was hearing
232 here's where it was lacking, but it wasn't objective,...

233 **SEVERE:** Okay.

234 **O'DEA:** ...it was just the one side.

235 **SEVERE:** Gotcha. Do you know why Lieutenant KING and Lieutenant VIRTUE were chosen to do
236 the training analysis?

237 **O'DEA:** Lieutenant VIRTUE was chosen because, like I told you, that was his job as a sergeant. He
238 was the training review...shooting review sergeant at training.

239 **SEVERE:** Okay.

240 **O'DEA:** He got this job either just after or during the time he was gonna get promoted, he got this
241 assignment, and then I want to say ROBERT was gonna be his replacement or ROBERT was already
242 over there, and so ROBERT was helping him there...

243 **SEVERE:** Okay.

244 **O'DEA:** ...with that. But it was...it was VIRTUE'S job, as a sergeant, and he got this just as he
245 was...either got it as a sergeant and then got promoted during it or got it as he's anticipating getting a
246 promotion. But it was his job. That's why he originally went to the training division. And then
247 ROBERT was either there or going there,...

248 **SEVERE:** Um hm.

249 **O'DEA:** ...and was a secondary person to help him out and then they figured out how to divide the
250 work themselves.

251 **SEVERE:** Okay. Okay, that makes sense. To your knowledge, have there been either SOPs or
252 directives on what the format of the training analysis should be?

253 **O'DEA:** Not that I'm aware of.

254 **SEVERE:** Okay.

255 **O'DEA:** One of the...one of the pieces that I remember having to remind them in there a couple of
256 times, really probably more so with ROBERT than DAVE, although I think almost all our meetings
257 were the three of us, was remember your job is not to decide if it's within policy or not, it is, is this
258 consistent with our training or not, and tie it to specific training, specific lesson plans, sergeant
259 training, officer training, less lethal training, tie it to the lesson plans, tie it to training. So there kept
260 almost being a mindset of am I deciding if this is out of policy, kind of how you were saying, it's
261 natural to say out of policy, and I'd do the same thing. No, we're not talking about out of policy, we're
262 talking about is this consistent with our training or not.

263 **SEVERE:** Okay, and that's a very important point you bring up about the distinction between
264 consistent with training and being out of policy, and there is a difference between the two?

265 **O'DEA:** Yes.

266 **SEVERE:** Can you explain what the difference is between something being consistent with training
267 and then something being in or out of policy, what's, at least philosophically, what's a different
268 analysis or a different mindset that you have to do for one as opposed to the other or however you want
269 to choose to explain it?

270 **O'DEA:** I mean our policies are our general rules, here's what we expect you to do. If you don't,
271 there's consequences. Training...training has, you know, generally, a range of acceptance, so I could
272 go handle a call, a disturbance out in the hallway, and arrest one party. BILL might go out and handle

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273 that call and make peace with both of them and it's handled. You might go out and handle that call
274 and arrest the other party.

275 **SEVERE:** Um hm.

276 **O'DEA:** All of those could be...waffle within the range of resolving that call. You know, during the
277 course of that, it might be that you're able to just calm the person down and talk to them. I might not
278 have those communication skills or not be able to have that affect.

279 **SEVERE:** Um hm.

280 **O'DEA:** I might have to put somebody in handcuffs to get to that point, though still might be within
281 the range of acceptable responses, but just doing things a different way to get to that point.

282 **SEVERE:** Okay, all right. Thank you. Back to the question of SOPs or directives for training
283 analysis. Do you believe formalized guidelines for training analysis would be helpful to...to those
284 crafting training analysis and just for bureau members, you know, if they are in a position where their
285 actions are reviewed in a training analysis, just as the guideline for folks to understand what the
286 process is and what it isn't?

287 **O'DEA:** I think that makes a lot of sense. I think where the state of our training reviews, where they
288 are at now, is much more consistent than...than, you know, looking back over, you know, the history
289 of them, but I think there's certainly value in starting out here's what we think one should look like,
290 here's what a preamble should say and remind us that here's what it is, here's what it isn't. An SOP on
291 who gets consulted, where they get consulted would make sense to me. But there's always value in
292 everybody working off the same sheet of music and having consistency.

293 **SEVERE:** Okay. Just to your knowledge, do you remember any prior training analysis looking at
294 officer-involved shootings or in-custody deaths where the training office has found that the involved
295 member's actions were not consistent with the training, prior to CAMPBELL...the CAMPBELL
296 training analysis?

297 **O'DEA:** There's nothing that I can recall specifically that, but it would surprise me that there
298 wouldn't have been something that's not necessarily consistent with our training. I think, certainly,
299 nothing that garnered the magnitude of attention that this one did.

300 **SEVERE:** Yeah.

301 **O'DEA:** But I certainly don't rule out that in past training reviews there was, you know, maybe lesser
302 things that were found to not be consistent with training, but I can't...I truly can't recall one way or the
303 other.

304 **SEVERE:** Okay. You mentioned a couple of times that, during this period of the training analysis
305 being crafted in the CAMPBELL case, you were both assistant chief of operations and services...

306 **O'DEA:** At least during some point.

307 **SEVERE:** At least some parts of it. And...

308 **O'DEA:** And the reason, you know, I remember not only having meetings down in that office, but
309 having meetings in this office, which was that, but then what I specifically remember was there or
310 directly thereafter having the ability of having both offices...I didn't have anyone to argue with that it
311 made sense I'm gonna pair an operations lieutenant with the training lieutenant to accompany this
312 product.

313 **SEVERE:** And for folks who just don't have the benefit of the history of what was going on in that
314 time period when you were in both chairs, why were you assistant chief of operations and services?

315 **O'DEA:** Well, we had a change in chiefs on May 12th of 2010. Chief SIZER was relieved. Chief
316 REESE was put in the position and...and then, that afternoon, he placed me in charge of...I kept the
317 services branch for the time being, he placed in charge of the operations branch, and then also, which

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318 was a separate entity at the time, in charge of the professional standards division. His plan was to
319 civilianize my old job and he was gonna bring in a new assistant chief in charge of investigations, and
320 asked me to continue doing both jobs until they were able to get that person up. It was right during a
321 critical budge time period and the whole chief changeover due to pieces involving the budget process,
322 so...so, right away, I still had to come up with a completely new budget, essentially overnight, that met
323 the mayor's expectations.

324 **SEVERE:** Okay. How long were you at services before the switchover?

325 **O'DEA:** I was promoted in November of 2008 to assistant chief. We had probably about two, two
326 and a half months of overlap time where I was essentially an extra assistant chief up here, and that time
327 period was 'til right around the first part of January, maybe the end of December. And the thought
328 during that time period was Chief MARTINEK, who was in charge of services, was spending time
329 with Chief BERG, learning the operations job, and then I was spending time with Chief MARTINEK
330 learning the services job. So we had...had the luxury of probably eight or ten weeks of overlap for us
331 to learn our new jobs before Assistant Chief BERG retired.

332 **SEVERE:** Okay.

333 **O'DEA:** And then so, essentially, from probably, you know, Januaryish of 2009 until...from May 'til
334 probably the second or third week of August in 2010 is about the time that Director KUYKENDALL
335 showed up. So from May 12th 'til the second or third week of August I had both branches in 2010.

336 **SEVERE:** Okay. So the CAMPBELL incident happened January...late January 2010.

337 **O'DEA:** Yes.

338 **SEVERE:** So from...you were assistant chief of services at that point and then until May 12th or 13th,
339 you became assistant chief of operations and services.

340 **O'DEA:** Right.

341 **SEVERE:** So during that first part, you were...when you were assistant chief of services, was there
342 any direction or any conversations with either Chief SIZER or Assistant Chief MARTINEK on how
343 the training analysis was supposed to go?

344 **O'DEA:** Not at all.

345 **SEVERE:** Okay.

346 **O'DEA:** In part, and I'll back up a little bit, part of...essentially, the primary reason that Chief SIZER
347 said she chose me to be the chief of services was to work with...work to improve the training division.

348 **SEVERE:** Um hm.

349 **O'DEA:** We had had a change in our use of force policy and she wasn't happy with the speed of the
350 development of all the pieces of where we were going with that.

351 **SEVERE:** Okay. And during this time period, at least until I believe July of 2010, what was
352 called...I guess professional standards or OAPS as it was called before, LESLIE STEVENS was the
353 director of OAPS and it's kind of a different structure...

354 **O'DEA:** Um hm.

355 **SEVERE:** ...than it is currently. She had professional standards, which includes internal affairs.
356 Were there any conversations with her about how the training analysis was supposed to go.

357 **O'DEA:** Absolutely not,...

358 **SEVERE:** Okay.

359 **O'DEA:** ...no.

360 **SEVERE:** As assistant chief of services, you...did you run the Use of Force Board and Performance
361 Review Board or that would have been your mandate rather?

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362 **O'DEA:** Yeah, the structure where we were at before the IPR Reform Ordinance, was that the
363 assistant chief in charge of the service branch also was the facilitator of the force and performance
364 review boards.

365 **SEVERE:** Okay. Okay, thank you. So who was your...who was your adjutant or executive officer
366 when you were assistant chief of services?

367 **O'DEA:** I had a couple. My first one was MIKE MARSHMAN. That...that position was a sergeant
368 position at the time. And then my second one after that was KRISTY GALVAN.

369 **SEVERE:** Okay. And was she your executive officer during the period of this training analysis?

370 **O'DEA:** Yes, she was.

371 **SEVERE:** Did you...did you give any commands to her about what you expected from the training
372 analysis or...

373 **O'DEA:** Yes.

374 **SEVERE:** Okay, and what were those?

375 **O'DEA:** For her to review this document for grammar and spelling. ROBERT KING is a lot of
376 things, but he's not a strong grammar/spelling person. As you see, with all our PIO postings.
377 KRISTY is a strong writer, so at one point during this she had the direction to red pen this thing for
378 grammar/spelling cleanup.

379 **SEVERE:** Okay. So your direction to GALVAN did not involve any content of the training analysis?

380 **O'DEA:** No, and she...and she has no expertise in that. She's not worked in the training division.
381 She's had the training as a sergeant, but she's had no...she has no additional experience in doing that.

382 **SEVERE:** Okay, and when you took on the operations branch, did you have a XO or executive officer
383 in operations?

384 **O'DEA:** Yes.

385 **SEVERE:** And who was that?

386 **O'DEA:** PAT WALSH was the first one up here.

387 **SEVERE:** Okay, and was he at operations during the period of this training analysis, if you can
388 remember?

389 **O'DEA:** I'm trying...when Chief MARTINEK...he had a couple there. I believe...I believe his first
390 executive officer was ED HAMANN and then he picked up PAT WALSH. I could have that
391 backwards.

392 **SEVERE:** Okay.

393 **O'DEA:** But those were the two folks that I remember working for...

394 **SEVERE:** Okay.

395 **O'DEA:** Yeah, no, 'cause I ended up, I had PAT, right.

396 **SEVERE:** Okay.

397 **O'DEA:** So he would have had ED HAMANN first and then had PAT WALSH next, because when I
398 moved over here, I inherited PAT WALSH. I remember us having a conversation.

399 **SEVERE:** Okay. And to the best of your knowledge, did you have any conversations with either ED
400 HAMANN or PAT WALSH about the training analysis or any...okay.

401 **O'DEA:** No, my conversations about the training analysis were just directly with...with KING and
402 VIRTUE during our meetings.

403 **SEVERE:** Okay.

404 **O'DEA:** And then KRISTY just reviewed the grammar and spelling piece.

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405 **SEVERE:** Okay. So looking at prior investigations or administrative reviews of officer-involved
406 shootings and in-custody deaths, do you believe the CAMPBELL case was handled differently than
407 those previous cases or the same or how would you view that?

408 **O'DEA:** I think probably differently in some respects, part because you do have an assistant chief
409 involved in it, which you usually don't, and we know why. Part also because, you know, certainly, I
410 had frustrations with the quality of training used in the past. And this was probably the first time
411 where you had two lieutenants working completely on it, so this was really that probably the first one
412 that has continued on in the model we're at now, you know, where we're having a couple lieutenants
413 working on this, we're having them tie everything specifically to our lesson plans.

414 **SEVERE:** Okay. And I'm just getting from your body language that it seems like you think training
415 analysis have improved?

416 **O'DEA:** Oh, absolutely.

417 **SEVERE:** Could you speak on that.

418 **O'DEA:** You know, I told you my frustration. We had the shooting review, this 92 and Glisan one,
419 and it was BACON and MCCOLLISTER were the involved members, and Sergeant STEIGLEDER
420 was the supervisor. I remember sitting there during this and...and, you know, they read some of the
421 shooting review during...during the pre-piece, but then hearing the sergeant being unable to answer
422 effectively why the sergeant was doing the things when the answer is not only because this is exactly
423 what we train, but she is an assistant instructor in training this, and so for him to essentially reflect to
424 the rest of the board, oh, I'm not sure why she's doing this when the answer is completely different,
425 she's an instructor in this, she's one of the best at this, you know, we train to do this and she trains
426 others to do this, so, you know, so I had absolute frustration with...with that. And so this was one
427 where...and, also, because of my expertise in knowing the sergeant pieces of this very, very
428 specifically, and having specifically trained those two folks, we've gotta tie this stuff to the lesson
429 plans. So when you're saying something is consistent or not, footnote it and show it exactly where it
430 belongs in the lesson plan and give us a professional product.

431 **SEVERE:** Um hm. You've mentioned in our time together this afternoon that you've had a relatively
432 heavy involvement in the crafting of this training analysis, what...I kind of want to break it down into
433 like what was your role.

434 **O'DEA:** Um hm.

435 **SEVERE:** So just kind of have an open question to you, what was your role in...in this particular
436 training analysis?

437 **O'DEA:** My role really was, as both of these lieutenants began to work through the material, to make
438 sure that are we accurately citing these pieces, are we tying this to lesson plans, are we...are we
439 staying with our role of ensuring that it's consistent with our training or is it not. To, you know, keep
440 coming back off the is this in policy or not, but really just making sure that...that the document we
441 have when we're talking about these folks' different actions, that we're able to tie it specifically to our
442 lesson plans or what we train.

443 **SEVERE:** Um hm. You discussed earlier that you had discussions and meeting with Lieutenant
444 KING and Lieutenant VIRTUE about coming up with this training analysis. To the best of your
445 recollection, can you give us a summary of what those meetings were about?

446 **O'DEA:** Yeah, part of the difficulty that I remember that we had in this was they would be working
447 off of tapes and not transcripts for everything, so they would come in and start talking about here's
448 different...different pieces we're working on, and I remember ROBERT...

449 **SEVERE:** Just to interrupt you chief, tapes of interviews or...

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450 **O'DEA:** Yeah.

451 **SEVERE:** Okay, of interviews of witness or subject officers involved...

452 **O'DEA:** Yeah.

453 **SEVERE:** ...involved in this...

454 **O'DEA:** And this...and this was, you know, there were a bunch of sources...

455 **SEVERE:** Okay.

456 **O'DEA:** ...of information. You've got, you know, a detective division interview on the front end,

457 you've got internal affair investigations, you've got grand jury transcripts, so you've got multiple

458 sources of information.

459 **SEVERE:** I know it well.

460 **O'DEA:** In fact, I remember... 'cause they would come in and they had almost like a little airline

461 stewardess cart with notebooks and volumes of stuff stacked on, and come in and start talking about,

462 here, we've looked at this section next and looked at this section next and, you know, so we had a lot

463 of general, on the front end, how do we frame this, how do we do it. And like we talked about before,

464 I kept hearing this policy thing. I said, all right, time-out, the first thing what you work on is a

465 preamble that says what this is and what this isn't. And so this is are we consistent with training, it's

466 not a policy piece. So we spent some time just on the preamble before getting to the material to stay,

467 you know, in our lanes, what we're supposed to...

468 **SEVERE:** Okay.

469 **O'DEA:** ...be covering here. And then part of it was structural, the different pieces that I want to

470 ensure get looked at from the use of deadly force to the use of less lethal force to the use of the K-9, to

471 the post shooting. So I want that broken out and clear and what do we train and they type of action to

472 go...go through. So we had, you know, structural conversations as well.

473 **SEVERE:** Okay.

474 **O'DEA:** It was I'll bet you easily a half a dozen meetings over time.

475 **SEVERE:** Did you have a role in writing any of the training analysis?

476 **O'DEA:** No.

477 **SEVERE:** Okay. Did you engage in any editing of the training analysis?

478 **O'DEA:** No.

479 **SEVERE:** Okay. Do you know...do you know if KRISTY GALVAN had any editing roles?

480 **O'DEA:** No, her...her role was literally grammar and spelling, not content at all.

481 **SEVERE:** Did you order any changes made to the training analysis?

482 **O'DEA:** No. And I specifically told both of them on more than one occasion during our meetings, I

483 will never tell you what to put in here. Anything you write in here, you absolutely have to own.

484 **SEVERE:** Did you approve the final draft that Lieutenant VIRTUE and KING put together?

485 **O'DEA:** Yes.

486 **SEVERE:** Okay. So in putting together this training analysis, there were many drafts of this training

487 analysis,...

488 **O'DEA:** Oh, yes.

489 **SEVERE:** ...to my knowledge, somewhere around 11 or 12 drafts in some form. Is that unusual to

490 you?

491 **O'DEA:** Not having been sitting in this role before, I can't necessarily say, but having worked on

492 other projects and documents of this scale...in my recollection, I thought it was 7 or 8, somewhere in

493 there, but I wouldn't necessarily find that unusual. Maybe a few more than usual, but these are big

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494 works and...and, you know, evolutions as you continue to go on and look at each different piece of
495 this.

496 **SEVERE:** Okay. Were you aware of, particularly in Lieutenant KING'S portion of the training
497 analysis, that during...in some of the earlier to mid versions of the training analysis, he believed that
498 some of Officer FRASHOUR'S actions were in policy, and then later on shifted to that they were not
499 consistent with training.

500 **O'DEA:** Yes.

501 **SEVERE:** What...what...well, one, do you have any idea why that occurred?

502 **O'DEA:** Yeah, as...remember one of the things that I told you, part of the challenges of this were the
503 volume of information and the speed at which you could go through it. And, as he continued to go
504 through it, he changed from where he started and what he thought. You know, one of the powerful
505 things I remember him saying was listening to certain interviews, and not just reading the words, but
506 part of I know because he had been listening to some and reading different things I think caused him to
507 go and listen to some other stuff, but I remember him, being powerfully affected by actually listening
508 to the words of his interview and coming to some conclusions based on that. I remember that had a
509 powerful impact. But part of it...I think a big piece of it is there's a huge volume of information, lots
510 and lots of perspectives to look at, and it just took time to get through all of those pieces and then,
511 ultimately, put that together and come to, you know, what he believes was not consistent with what we
512 train.

513 **SEVERE:** As you know, being an AC for several years and just when this incident...the CAMPBELL
514 incident occurred, that this was subject to a high level of public interests, there were council members
515 who made statements about this case, as to whether Officer FRASHOUR was in violation of some
516 directive or another, there was just a high level of kind of scrutiny to this case. Do you...did you feel
517 that there was a pressure on the folks doing the training analysis, in particular, and just the bureau in
518 general, to find Officer FRASHOUR out of policy?

519 **O'DEA:** No. We...we have a case where there is a high level of public outcry involvement every
520 couple of years, but I did not feel any pressure at all through any of this, and I was here through
521 the...and walked over with Chief SIZER during her termination. The chief brought me in his first day,
522 you know, the next day when he was made chief and I never saw anything at all that gave me any
523 indication that there was any...any pressure at all like that. What I saw was the public outcry that we
524 see in shootings that could be portrayed as being controversial, and we have...we've had those several
525 times over my...my almost 26 years here.

526 **SEVERE:** So you referred to in just your previous statement Chief REESE became chief basically in
527 the middle of this investigation, did he give you any direction or anything about whether Officer...or
528 whether this training analysis should be done in a particular way?

529 **O'DEA:** Not at all.

530 **SEVERE:** Okay. And to your knowledge, was there any pressure from folks in the mayor's office,
531 since the mayor is the police commissioner and he had taken on the police commissioner role after
532 having another commissioner do it for a number of years?

533 **O'DEA:** Not at all.

534 **SEVERE:** Okay.

535 **O'DEA:** In fact, with this new mayor or with the major taking over the job as police commissioner, I
536 find myself going over with the chief and have been at virtually 100% of their meetings, unlike
537 the...the last commissioner, who would meet with the chief generally alone or I would go over there if
538 there was a particular issue to talk about, like the budget. With Mayor Adams taking over, he has

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539 several staff at these meetings and the chief brings his staff, and they don't have one-on-one time. So I
540 have been at the vast majority of their contacts, and I even talked with the chief, how does that work
541 for you, how do you not get one-on-one time with your boss to be able to talk about things, and that's
542 just the structure that...that works for this mayor. So, you know, there's just...there's not been
543 anything that's even been on the agenda.

544 **SEVERE:** Okay. So you attended the Use of Force Review Board on this case, is that correct?

545 **O'DEA:** Yes.

546 **SEVERE:** Okay. Did you have any particular impressions of how that board went and the testimony
547 given by individuals during that review board?

548 **O'DEA:** Yes.

549 **SEVERE:** Do you have anything in particular that you would like to...

550 **O'DEA:** Yeah, you know, ROBERT gave a lot of the training division perspective as it related to the
551 FRASHOUR case as a very powerful, emotional testimony of his journey going through all of this
552 material and coming to his conclusions. There was, I thought, some pretty powerful testimony by the
553 two peer member officers who were there, and their discussions when we were in executive session
554 talking about...and one of them was an AR-15 operator, as well, and their perspective.

555 **SEVERE:** The involved members in this case, did they go to the review board?

556 **O'DEA:** I do not think so.

557 **SEVERE:** Okay. Was there a presentation by other members of the training division, besides
558 Lieutenant KING?

559 **O'DEA:** I'm not sure if VIRTUE gave a presentation during that piece or not. ROBERT'S is
560 certainly the one that...that stands out to me.

561 **SEVERE:** Okay. And this...this was the last or one of the last review boards under the, for lack of a
562 better word,...

563 **O'DEA:** (indecipherable) (laughs) yes it is.

564 **SEVERE:** And before the IPR Reform Ordinance that you mentioned earlier went into effect. So one
565 of the last...it was the last review board, I believe...I believe I remember that. Let's see, so you went
566 to the arbitration hearings...

567 **O'DEA:** Yes.

568 **SEVERE:**in this case. And you went there as what?

569 **O'DEA:** The labor...the primary management representative...

570 **SEVERE:** Okay.

571 **O'DEA:** ...for this case. When we have arbitrations like this, the City assigns a management
572 representative...

573 **SEVERE:** Um hm.

574 **O'DEA:** ...to the case. Unusual for it to be an assistant chief.

575 **SEVERE:** Um hm. And there were a number of different hearings on different days.

576 **O'DEA:** Yes.

577 **SEVERE:** How many of those hearings did you attend?

578 **O'DEA:** I want to say there was about seventeenish days over five months, and I dismissed a several
579 day period, maybe three days, during the Occupy event, where I had to come back and plan our piece
580 for that and then in the course of doing...and I had...at the front end of this, I had broken my foot and
581 then during the...the planning of the night of the Occupy event, I re-broke the progress that I had
582 gained, so I...so there was...there was a period of...it was probably three, four days, four I think at
583 most, but there was a previous several days in a row where I missed, but I was at the vast majority of

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584 them. There was a couple days it was all in...in a...in one span, and DAVE VIRTUE then filled in for
585 me during that portion as the management representative.

586 **SEVERE:** So during your attendance of these arbitration hearings, did anything occur that either
587 bothered you or that you took note of as being unusual or just something that you...

588 **O'DEA:** I will tell you this and...and it's not shining it up a bit that...that in my almost 26 years here,
589 that that was the single most painful, hard thing for me to go through. And I...and I don't say that
590 lightly. I've done quite a bit in this place. I've been in shootings, I've been shot, but I tell you
591 that...that...I...I agonized through that for a lot of a different reasons, and had a stomachache the
592 entire time just about. And it really gave me a lot of pause to think should I just...is it time for me to
593 retire and be done. I did like coming towards the end of my career and feeling what I was feeling
594 during that process.

595 **SEVERE:** Okay. What was it about the arbitration hearings that...that was so uncomfortable for
596 you?

597 **O'DEA:** The...the feelings that I had in there were here we have a major event and what feels like to
598 me the people that are being the most consistent in what they say, regardless if it's a statement in favor
599 of the City or in favor of the grievant, the ones that were the most consistent are the uninvolved
600 citizens that are out there. And there was several of them and their stories to me seemed very
601 consistent from what they said as witnesses on the front end to what, you know, they came in and said
602 later, either in the internal affairs process or in the arbitration itself, and then brother officers who have
603 taken oath to swear to tell the whole truth and dedicate their life to this, what I felt was, by some of
604 them and not all of them, but there were several that I remember feeling like this is a very definite shift
605 in where you were that night when it's just a witness to...as we migrate down to now we're in this
606 process...

607 **SEVERE:** Um hm.

608 **O'DEA:** ...and...and not that I can definitely put my finger on it and say this is a lie, but there
609 was...there was...I felt a very definite shift and I remember feeling pretty uncomfortable by a couple
610 of people's statements in there that I felt were shifty, and then the other part of my...my uncomfortable
611 and just bad feeling about this whole event was the way that some of the training people came in and
612 portrayed what they were saying was...was how we were trained and how we were doing things.
613 So...so it's two-fold. It's...it's credibility concerns that I have with some of the people and then I
614 don't know if I want to say it's differences of opinion, but I...I felt like there was just some...it felt
615 like there was a circling of the wagons.

616 **SEVERE:** Okay.

617 **O'DEA:** And...and not by all, 'cause there was some people that I think came in and I thought that
618 they were...and...and I don't at all tie it to did they try and say what I want to hear or what I believe,
619 because I...I can very much respect somebody that...that, you know, on day one if they say, you
620 know, that guy was a danger, he was an immediate threat, and they stay consistent with that, I'm okay
621 with that. We're just in a different place.

622 **SEVERE:** Um hm.

623 **O'DEA:** That's...that's...that's a different thing for me than did, you know, did he come out, he came
624 out slowly here, now in arbitration he came out briskly.

625 **SEVERE:** Um hm. Okay. So the folks or the officers that you felt shifted in their testimony, do you
626 remember anybody in particular that you felt...

627 **O'DEA:** I can...I can tell you a couple, there's some I can't, (indecipherable)...

628 **SEVERE:** Okay.

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629 **O'DEA:** ...but, you know, I don't know, I don't remember and I, you know, I...I have struggled with
630 this incident because just really gets at...at the core for me.

631 **SEVERE:** Okay.

632 **O'DEA:** But I struggled with FRASHOUR for one. There were things that he said, you know, early
633 on that I thought, by the time he came in and talked, were that was different and, you know, I felt like
634 he's now trying to play to the arbitrator and not saying the same things when he's talking about, you
635 know, CAMPBELL'S mindset, you know.

636 **SEVERE:** Um hm.

637 **O'DEA:** You know, is he gonna give up or is he not gonna give up. Nope, you know, on the front
638 end, this guy was not giving up, he was coming out to do this, and then when he's talking to the
639 arbitrator, oh, I thought he was gonna give up. And it's like that's...that's different. And...and I
640 almost think this...this grading and shading of a lot of this stuff, in many ways, can be the worst kind
641 of lie, you know. As you start shifting, shifting, shifting, why can these detached citizens say the same
642 thing on day one and say the same thing now.

643 **SEVERE:** Um hm.

644 **O'DEA:** I mean that's...that's the truth. I'll tell you one that...that...that does clearly stand out to me
645 too that...that bugged me was ELIAS. ELIAS said, you know, at some point early on, either in his
646 detective interview or his IAD interview, you know, that CAMPBELL came out slowly, and then by
647 the time we're over here, now he came out briskly. That's a significant difference. It puts a different
648 spin on this whole episode and helps, you know, directly will play into what the arbitrators happen to
649 decide here. And you can't say he came out at this speed over here that...that is one, and then this
650 speed over here. And then all these changes, these gradings I remember feeling are, of course, all in
651 favor of RON FRASHOUR. This isn't a, you know, a random failing of memory in my mind. This is,
652 in any of the shifts that I'm seeing...seeing are all in one direction, and they're all in...in favor of this.

653 Part of...the other part that bugged me is, you know, the shift in...in the two peer members now that
654 in the review board had said, you know, we believe that he wasn't an immediate threat and that, you
655 know, that he should, you know, was not an immediate threat and should not have been shot, and then
656 when it comes time to we've got this arbitration coming up, well, I...I've changed my mind now and
657 then knowing that DARYL TURNER has talked to at least one of them directly. And...and what kind
658 of pressure is he creating...is that creating on this.

659 **SEVERE:** Okay.

660 **O'DEA:** And I remember feeling, you know, and at the time I had...I would go into that every day
661 and I would have my...my Detective Division interviews and my IAD Division interviews right there
662 and who we had on deck for that day, so I was kind of knowing what to expect. And then when that
663 person would talk we would hear something different and, you know, part of my role, besides being
664 the police expert for them, was to...to talk with our attorneys about that, well, why are you changing,
665 why are you shifting that.

666 **SEVERE:** Okay.

667 **O'DEA:** And I remember...I remember feeling the thought of shifting testimony on...on probably
668 about three people besides RON, but I remember ELIAS being really clear one who just stands out to
669 me, the slow...slow over here and...

670 **SEVERE:** Right.

671 **O'DEA:** ...the brisk here. But there, you know, there were at least two other people that I remember
672 having those same feelings. I can't put my name on it, you know, was it KEMPLE, was it WILLARD
673 here, but I remember...I remember feeling that same way, the shifting testimony at about...about three

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674 witness officers that, you know, things you said over here to over here, I can't...the one that just is
675 clearly in my head is the ELIAS one that, you know, I remember that going from here to here, but I can
676 just tell you I remember those feelings on a couple of others.

677 **SEVERE:** To your knowledge, when members are given communication restrictions, does that go to
678 the conclusion of the investigation or does that go 'til conclusion of this...

679 **O'DEA:** It goes until they rescind it and...and...until you get something that rescinds that, you know,
680 you're restricted from your communicating.

681 **SEVERE:** Okay, and to your knowledge, had the communication restrictions been rescinded in
682 the...in the CAMPBELL/FRASHOUR case?

683 **O'DEA:** I...I do not know. Not to my knowledge.

684 **SEVERE:** You brought up some testimony by individuals who are members of the training division
685 or were at least at the time of the training review, that you were bothered by some of their testimony.
686 Do you have any individual names of the people that you're willing to...

687 **O'DEA:** Well, my...my concerns there are...are different than credibility concerns as it relates to
688 here's what I said here, here's what I said here, but...but I remember feeling that there was very much
689 a mischaracterization of...of different pieces of what we trained, you know...you know, and...and part
690 of it's probably relevant for this and part of it probably isn't, but, you know, the entire time this was
691 portrayed by everybody as running to hard cover and...and that's as much a...probably their legal
692 strategy as anything else, but any direction you run, there's...so there's this whole...this whole just he
693 was doing...everything was so this was for sure. A mischaracterization of that...this action/reaction
694 principle and when it's appropriate, you know, when it's not, action/reaction. You know, if you're
695 sitting right there and say I'm going to shoot you, reach in, that's very different than, you know, the
696 action/reaction if you're a person that is running away and we're ignoring the obvious. So it was...it
697 was just more on how I felt that the trainers were framing some of that...that information, so I don't
698 have, you know, names and places that I can point to you about that, but I felt that there was just a lot
699 of mischaracterization about some basic police stuff there. And that, you know, at the end of the day,
700 that may be more I'm in a different place than somebody, but I'll tell you it just felt like I was hearing
701 one orchestrated story in there and not individual opinions.

702 **SEVERE:** Is, you know, we've been talking for a little bit now, Chief. Is there anything in the
703 questions that I've talked to you about that you think I've missed something that you feel like we
704 should bring up while we have the opportunity to?

705 **O'DEA:** No, I mean I think it'll be, you know, be real important to look at...because, like I said, I
706 remember feeling, you know, about a couple, three different witnesses at least that that's different from
707 what I heard before, so the places that...that would be worth looking into detail will be everybody who
708 was witness officers that got interviewed that night, they'll have multiple testimonies and need to be
709 looked at, what did they say here, what did they say here and what did they say here, because I very
710 much had the feeling that this was a clear movement in one direction by...by a couple different people,
711 not...not just clearly the ELIAS one that I...that I remember there. I have a lot of concern about, you
712 know, what pressure did the union put on some people, especially as it relates to the...the peer
713 members in the review board. I...I felt like what I heard was a...a rehearsed union story from some of
714 the trainers, not individual opinions on here's what I know, here's what...how to apply this. I know
715 there's concern about ROBERT KING'S testimony. I can tell you I didn't have that feeling about him.
716 What I felt from hearing him was a journey for him from being a union president, protector of officers,
717 to genuinely believing this was not consistent with what we train and I...and I heard and felt that that
718 was a very personal and emotional struggle for him. And I heard...and I...and I...and I don't want to

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719 mischaracterize all the officers out there, because I also heard...like JIM QUACKENBUSH, that this
720 was a personal emotional event for him as well, but I never felt at all like he was shading or changing
721 or migrating anything in there, so I...I...I also don't want to say that, you know, everybody in there
722 changed their story and was lying, but I can tell you I've never seen or felt in any of...any of my time
723 like I felt there. And it was just like I had a fist in my stomach the whole time. It's like this doesn't
724 feel right, this isn't right, something is going on here.

725 **SEVERE:** I've...I've had the pleasure or honor of reading a lot of the different testimony, particularly
726 Officer ELIAS, Officer BIRKENBINE, Officer WILLARD'S testimony, from initial detective's
727 interview, IA, civil deposition, arbitration, and there are shifts and one of the things in...in our review
728 is trying to figure out is...is...are the shifts something that happens over time, because CAMPBELL
729 happened January 29, 2010, arbitration was September, October, November 2011. I will mention that,
730 just people misremembering things or remembering what they want to remember. Would you...do you
731 believe any of the officers are lying?

732 **O'DEA:** What I have concern with is I felt a shift in testimony by officers over that same period of
733 time that I did not see or feel with independent civilian witnesses. Whether...whether their viewpoint
734 was for the...for the City or for the grievant, what I saw was citizens who could remember the same
735 thing for a period of time, but when officer's stories seemed to change, they seemed to change only in
736 favor of RON FRASHOUR. And...and my question is why is that? Certainly, memory can change
737 over time, but it can also change with other influences or motivation.

738 **SEVERE:** Mr. ACCORNERO had some questions, I believe.

739 **ACCORNERO:** Yes.

740 **SEVERE:** You want to hit some of those?

741 **ACCORNERO:** Sure, I...I think you've covered most of them. I just want to go over
742 this...regarding any documents. Do you have any documents, that includes handwritten notes or any
743 other type of material associated with the training analysis, the review board and arbitration that hasn't
744 already been turned over to the City attorney?

745 **O'DEA:** No, the only...the only notes I have that I brought, and I don't know that's all of them, but I
746 think I've kept everything related to this case, were my notebooks that I kept as the...the management
747 rep during that process, so some of them make sense to me now, some of them don't, but they're
748 essentially points where, as the witnesses were talking, I would make notes and then we would take
749 our breaks and I would confer with our attorneys you might want to bring this up or I had concerns
750 about that, or pieces like that, but most of that is almost untranslatable, but it's that. I don't have any
751 notes, never took any notes related to the training reviews in particular.

752 **ACCORNERO:** Okay, Sir. As stated in the earlier being served with the order to produce
753 documents, I would like to ask you for those. And if you could get them down to me. You can
754 interoffice mail a copy would be fine.

755 **O'DEA:** Oh, these notes?

756 **ACCORNERO:** Yeah.

757 **O'DEA:** Okay. These aren't related to the training review, these are just my notes from...from
758 arbitration.

759 **ACCORNERO:** Okay, great if I could get those. And then I want to remind you again about a
760 communication restriction order that you were served with. And I want to confer...I believe I
761 understand this, you discussed the training division and some inconsistencies or perhaps shifts would
762 be a better word. I understood you to say from the written review to the Use of Force Board to the

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763 arbitration, as I understood you to say, you did not detect any inconsistencies in Lieutenant's
764 KING'S...

765 **O'DEA:** No, and like I said, for me, this was largely a matter of what I remember him saying, what
766 am I feeling here, and...and I don't...I...I...I don't...I didn't have any concern, any feeling about
767 ROBERT'S testimony shifting or changing. What I felt out of him was real similar to what I felt out
768 of QUACKENBUSH. Here's...this is a powerful emotional journey.

769 **ACCORNERO:** Okay. And did Lieutenant VIRTUE testify at all?

770 **O'DEA:** Yes, he did.

771 **ACCORNERO:** Any...any...

772 **O'DEA:** I believe he testified on one of the days that I was gone.

773 **ACCORNERO:** Okay, Sir. All righty. Any questions of us?

774 **O'DEA:** No. The only...just one clarification I guess, I would have got e-mail updates of drafts from
775 ROBERT and DAVE as we went along, as they were...here's the next piece I will be able to discuss,
776 but it was something that, you know, I know I didn't keep, I don't (indecipherable) just the drafts that
777 you guys were aware of as they went along. I know some of those you got, you know, ROBERT or
778 DAVE would have forwarded to me, but they weren't anything that I kept or certainly didn't make any
779 notes about any of that. Are stuff was all conversations, two-on-one conversations.

780 **ACCORNERO:** All right, Sir, anything else you would like to say before we close?

781 **O'DEA:** I don't think so.

782 **ACCORNERO:** Anything, Sir?

783 **SEVERE:** No, Sir, thank you.

784 **ACCORNERO:** All right, it is approximately 2:13 p.m. and we are going off tape.

785

786 12b0021trs-o'dea.doc

787 Transcribed 06/29/2012 @ 5:00 p.m. Laura Martinson (0629lm03)

Lieutenant Kristy Galvin
Interviewed July 6, 2012

1 **PORTLAND POLICE BUREAU**
2 **INTERNAL AFFAIRS**
3 **Confidential Taped Statement**
4 **Investigator William Accornero/#91743**
5
6

7 **Interview Date:** 07/06/2012
8 **IA #:** 2012-B-0021
9 **IA File Name:** 12b0021mp-galvan
10 **Complainant:** Portland Police Bureau
11

12 **Interviewed:** Lieutenant Kristy Galvan, #30402
13
14

15 **ACCORNERO:** This is WILLIAM ACCORNERO, Internal Affairs Investigator, #91743. With me
16 is IPR Assistant Director CONSTANTIN SEVERE. This is July 6, 2012. It's approximately 1400
17 hours at the Internal Affairs interview room. Also present is Lieutenant KRISTY GALVAN, #30402,
18 and Lieutenant MICHAEL MARSHMAN, #25056. This is regarding Internal Affairs case 2012-B-
19 0021, regarding Portland Police Bureau case number 10-8352. Lieutenant GALVAN has been advised
20 that her conduct and the conduct of any other bureau members present in the City of Portland
21 on...from January 29, 2010 to present is the subject of this investigation. Lieutenant GALVAN has
22 reviewed information necessary...actually, there has been no information provided. This is just a
23 straight interview without any documents, and there are no allegations in this matter. This is a review
24 by the auditor's office, so there are no allegations we're gonna be discussing here. Lieutenant
25 GALVAN has been informed that she is a witness in the case and that Captain DAVID A. FAMOUS is
26 in charge of the investigation. I have advised Lieutenant GALVAN that she could have representation
27 present during the interview, and Lieutenant MARSHMAN is here in that capacity. Lieutenant
28 GALVAN has been provided a copy of the Advanced Notice and Waiver form and has signed it.
29 Lieutenant GALVAN, under the authority of Captain FAMOUS, I am ordering you to answer all of my
30 questions fully and truthfully. If you fail to respond fully and truthfully, you may be disciplined up to
31 and including dismissal. Do you understand?

32 **GALVAN:** Yes.

33 **ACCORNERO:** Thank you. Portland City Auditor LAVONNE GRIFFIN-VALADE...

34 **SEVERE:** VALADE (*pronouncing correctly*).

35 **ACCORNERO:** ...VALADE is conducting an independent investigation into the circumstances
36 surrounding the training division review and analysis of the shooting of AARON CAMPBELL by
37 Officer RONALD FRASHOUR, and the subsequent arbitration hearing regarding Officer
38 FRASHOUR'S discipline in the case. The auditor has assigned Independent Police Review,
39 CONSTANTIN SEVERE, to collect and review all information related to the training division's
40 review and analysis of the shooting. Chief REESE has assigned internal affairs to assist the auditor in
41 gathering information relevant to the auditor's investigation. On January 29, 2010, the shooting of
42 CAMPBELL occurred, as reported in Portland Police Bureau case 10-8352. As required, internal
43 affairs conducted an investigation, as reported in IA case 2010-B-0004, and training division
44 conducted a review and analysis of the shooting. The homicide detectives, internal affairs
45 investigators and training then presented all the information collected to the Use of Force Board. The
46 purpose of this interview is to get an understanding of your involvement, if any, in the preparation and
47 editing of the training analysis prepared by Lieutenants KING and VIRTUE during the review of the
48 officer-involved shooting investigation. This interview will be conducted by Mr. SEVERE, and I will
49 be assisting him as a representative of internal affairs.

50 **SEVERE:** Ready?

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Portland Police Bureau / Lieutenant Kristy Galvan

July 6, 2012

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51 **ACCORNERO:** All right, Sir, sorry.

52 **SEVERE:** No, thank you, BILL. So, as BILL explained, I'm the auditor's office representative...

53 **GALVAN:** Um hm.

54 **SEVERE:** ...doing the interviews. So back during the time that the CAMPBELL training analysis

55 was going on, what was your position in the police bureau?

56 **GALVAN:** I was a sergeant in the chief's office.

57 **SEVERE:** And what was your title there?

58 **GALVAN:** I was Executive Officer to the Services Branch Director.

59 **SEVERE:** And what does that mean? What were your duties?

60 **GALVAN:** I assisted him in whatever he needed,...

61 **SEVERE:** Okay.

62 **GALVAN:** ...you know, he delegated a lot of stuff to me.

63 **SEVERE:** Okay.

64 **GALVAN:** Went to meetings for him as his representation.

65 **SEVERE:** Okay.

66 **GALVAN:** I did the uniform project. Boy, I think we did every duty as assigned. Yeah, MIKE was

67 there before me. We did lots of stuff. It was all administrative.

68 **SEVERE:** Do you remember the dates that you were executive officer, roughly, in services?

69 **GALVAN:** It would have been February of 2010...

70 **SEVERE:** Um hm.

71 **GALVAN:** ...to September of 2011.

72 **SEVERE:** And where did you go September 2011?

73 **GALVAN:** I went to East Precinct.

74 **SEVERE:** Okay. And so did you play a role in the CAMPBELL training analysis?

75 **GALVAN:** I wouldn't say I played a role. What happened was the training analysis was e-mailed to

76 ROBERT KING...or, sorry, not ROBERT KING, A/C O'DEA, and A/C O'DEA wanted me to pull

77 out things out of his mailbox, his e-mail, that I could take care of.

78 **SEVERE:** Okay.

79 **GALVAN:** And there was a draft of the training analysis in there, and it was for him to review.

80 **SEVERE:** Okay.

81 **GALVAN:** So I pulled it out and put it on my e-mail and reviewed it for spelling and grammar.

82 **SEVERE:** Okay, and...

83 **GALVAN:** No content.

84 **SEVERE:** No content. So you weren't assigned like a liaison role in the training analysis or anything

85 like that?

86 **GALVAN:** Absolutely not.

87 **SEVERE:** So there's an e-mail that you sent out I think June 23, 2010, where it says changes I

88 made,...

89 **GALVAN:** Um hm.

90 **SEVERE:** ...and there's like a list of maybe eight or nine grammatical...

91 **GALVAN:** Oh, okay.

92 **SEVERE:** ...changes that you made.

93 **GALVAN:** I was thinking I didn't do that many, so...

94 **SEVERE:** I might be off by the number, but there's like a list of...

95 **GALVAN:** Okay.

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96 **SEVERE:** ...of the changes that you made. Did you do anything else in the
97 CAMPBELL/FRASHOUR training analysis?
98 **GALVAN:** I had a conversation with ROBERT KING and DAVE VIRTUE via speakerphone and we
99 discussed the changes I made.
100 **SEVERE:** Okay.
101 **GALVAN:** That was it, just for clarification purposes.
102 **SEVERE:** Okay. So in that speakerphone meeting, were there any other meetings that discussed the
103 training analysis?
104 **GALVAN:** No.
105 **SEVERE:** Just based on your prior statements, I think I have the answer to this, but I'll ask you
106 anyway, so did you write any of the training analysis?
107 **GALVAN:** No. No.
108 **SEVERE:** Aside from the grammatical points, did you tell VIRTUE or KING to change the content
109 of the training analysis?
110 **GALVAN:** No.
111 **SEVERE:** Did you review any other training analyses while you were EX O?
112 **GALVAN:** Yes, I did, that were part of officer-involved shootings.
113 **SEVERE:** Yes. Was your role similar in those other training analyses?
114 **GALVAN:** No, not at all.
115 **SEVERE:** What did you do in those?
116 **GALVAN:** I just read them for review board purposes.
117 **SEVERE:** Oh, okay, okay.
118 **GALVAN:** And to prepare either KUYKENDALL or O'DEA.
119 **SEVERE:** Okay. Do, you know, the best that you can speak of, do you believe the CAMPBELL
120 training analysis was handled similarly or differently from other training analyses that you have
121 knowledge of?
122 **GALVAN:** I don't think I can answer that question, 'cause I...I can tell you that I don't remember
123 O'DEA ever getting another training analysis in his e-mail,...
124 **SEVERE:** Okay.
125 **GALVAN:** ...but I also wasn't there every day and checking his e-mail every day,...
126 **SEVERE:** Okay.
127 **GALVAN:** ...and he became the operations branch assistant chief prior to KUYKENDALL...
128 **SEVERE:** Um hm.
129 **GALVAN:** ...taking the services branch, and so I lost access to his e-mail when he moved over there.
130 **SEVERE:** Okay. Were you aware of any pressure from the chief's office to folks at training on what
131 the content of the training analysis had to be or should be?
132 **GALVAN:** No, I didn't hear any discussion on that.
133 **SEVERE:** You know, I mentioned the June 23rd e-mail that you wrote to KING and VIRTUE. Did
134 you write any other e-mails about this training analysis?
135 **GALVAN:** I don't think so.
136 **SEVERE:** Okay. Do you have anything, BILL?
137 **ACCORNERO:** Yeah, just a quick follow-up. You had been served with an order to produce
138 documents and a communication restriction order.
139 **GALVAN:** Um hm.
140 **ACCORNERO:** And you notified me that, by e-mail, that you had no documents.

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Portland Police Bureau / Lieutenant Kristy Galvan

July 6, 2012

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141 **GALVAN:** I do not.
142 **ACCORNERO:** Still nothing located?
143 **GALVAN:** No, not at all. I didn't keep copies of anything.
144 **ACCORNERO:** Okay. Are you aware of any information related to this investigation that has not
145 been covered during this interview?
146 **GALVAN:** No.
147 **ACCORNERO:** Okay, anything else you'd like to say about this matter?
148 **GALVAN:** No.
149 **ACCORNERO:** Any questions of us?
150 **GALVAN:** No.
151 **SEVERE:** Oh, now the real interview actually starts. That's it, thank you.
152 **GALVAN:** Okay.
153 **SEVERE:** Appreciate your time.
154 **GALVAN:** All right.
155 **ACCORNERO:** It is approximately 1410 hours and we're gonna be going off tape.
156
157 12b0021trs-galvan, Fldr 305.doc
158 Transcribed 07/09/2012 @ 6:00 p.m. Laura Martinson (0709lm03)

Chief Mike Reese
Interviewed July 11, 2012

1 **PORTLAND POLICE BUREAU**
2 **INTERNAL AFFAIRS**
3 **Confidential Taped Statement**
4 **Investigator William Accornero/#91743**
5
6

7 **Interview Date:** 07/11/2012
8 **IA #:** 2012-B-0021
9 **IA File Name:** 12b0021wmp-reese
10 **Complainant:** Portland Police Bureau/Auditor
11
12 **Interviewed:** Chief Michael Reese, #23000
13
14

15 **ACCORNERO:** This is WILLIAM ACCORNERO, Internal Affairs Division Investigator. Present
16 with me is IPR Assistant Director CONSTANTIN SEVERE. We're at the chief's office for the
17 purpose of interviewing Chief MICHAEL REESE, #23000. Today is July 11, 2012, at approximately
18 1:07 p.m. Chief, Portland City Auditor, LAVONNE GRIFFIN-VALADE, is conducting an
19 independent investigation into the circumstances surrounding the Training Division's review and
20 analysis of the shooting of AARON CAMPBELL by Officer FRASHOUR and the subsequent
21 arbitration hearing regarding Officer FRASHOUR'S discipline in the case. The auditor has assigned
22 Independent Police Review Assistant Director CONSTANTIN SEVERE to collect and review all
23 information related to the Training Division's review and analysis of the shooting. Chief REESE, as
24 you know, you assigned Internal Affairs to assist your auditor with that investigation and I'm here for
25 that purpose. The purpose of this interview is to get an understanding of the purpose and preparation
26 of a training analysis during the review of an officer-involved and in-custody death investigation, also
27 to determine your involvement, if any, in the preparation of the Training Division and review and
28 analysis of this incident. We would also like to discuss your observations of any inconsistencies and
29 witness statements or reports presented during the Use of Force Board and the subsequent arbitration
30 hearing. The auditor and Internal Affairs anticipates your full and truthful cooperation to this
31 interview. Mr. SEVERE will conduct the interview, and it's all yours, Sir.

32 **REESE:** Okay.

33 **SEVERE:** Thanks for having us, Chief. So, just getting right into it, on January 29, 2010,...

34 **REESE:** Um hm.

35 **SEVERE:** ...the date of the AARON CAMPBELL...

36 **REESE:** AARON CAMPBELL.

37 **SEVERE:** ...incident, you were commander of East Precinct?

38 **REESE:** Correct.

39 **SEVERE:** And RONALD FRASHOUR, he was assigned to East Precinct?

40 **REESE:** Correct.

41 **SEVERE:** (indecipherable) the findings as to him, right?

42 **REESE:** The incident happened in North Precinct and Commander JIM FERRARIS conducted the
43 findings.

44 **SEVERE:** And is that the way it's usually done if, let's say, an incident happens in North Precinct and
45 there's other officers from a different precinct, would the commanding officer in the area that the
46 incident occurred, would he - would he be the person that would do that or...

47 **REESE:** I think it would depend on the type of incident, how large a scope. If we had an incident that
48 occurred in North Precinct, but it only involved one officer, and that officer was an East Precinct
49 officer. So let's say we had a complaint, an East Precinct officer gets dispatched on a call to North

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50 Precinct and a citizen complains about that officer's conduct, I would do the finding as that person's
51 commander.
52 **SEVERE:** Okay.
53 **REESE:** But on an incident of this nature and scope, it is typical for the precinct commander that has
54 the, if you will, the venue or jurisdiction to actually conduct the finding.
55 **SEVERE:** Okay. And, just in my preparation for talking to you and other folks that we're going to
56 talk to, I've gone over the arbitration material and the depositions. At least for yourself, particularly
57 the arbitration and depositions, have you been deposed since you've - on this particular case, since you
58 were deposed by TOM STEENSON back in February 2011?
59 **REESE:** No, I have not been deposed since then. I - the next venue that I spoke about this case in
60 would have been the arbitration.
61 **SEVERE:** And have you spoken any place else about this case since then - in - in a, you know, like in
62 either a court or kind of a deposition type...
63 **REESE:** No.
64 **SEVERE:** ...situation? Okay. So you went to the scene on January 29, 2010.
65 **REESE:** Correct.
66 **SEVERE:** Just from you being at the scene, did you have a sense of how important this case was
67 going to be from...
68 **REESE:** No.
69 **SEVERE:** Okay. When did you get the feeling or when did kind of like the whole magnitude of this
70 case kind of hit you?
71 **REESE:** Once I started reading the detective's - once I was given, because I was the precinct
72 commander for RON FRASHOUR, I was also, even though I wasn't doing a finding, I was giving -
73 given a binder with the detective's investigation, and I read the grand jury transcripts once they were
74 put online and had concerns about the incident based on reading the detective's interviews and the
75 grand jury transcripts.
76 **SEVERE:** So, at the time of the incident, you were East Precinct commander. Subsequently, you
77 became police chief, the current position that you hold.
78 **REESE:** Correct.
79 **SEVERE:** Now, what was the date that you became police chief?
80 **REESE:** May 12,...
81 **SEVERE:** May 12th.
82 **REESE:** ...2010.
83 **SEVERE:** So, in kind of reviewing a lot of the statements that different parties and actors in this
84 review have made, the PPA has hurled some accusations that the decision to terminate Officer
85 FRASHOUR was based on political pressure from either the mayor or...
86 **REESE:** Um hm.
87 **SEVERE:** ...from forces or folks outside of the bureau. Was your decision to terminate Officer
88 FRASHOUR based on any political motivations or any pressure from folks?
89 **REESE:** Absolutely not. And specifically to the allegation that the mayor and I had some sort of
90 agreement that I would fire RON FRASHOUR if I was named chief, that never occurred. We never
91 had a conversation about it and it's ludicrous.
92 **SEVERE:** So you and the mayor, or folks on your staff, never had meetings talking about Officer
93 FRASHOUR prior to the - I believe there was a meeting between you and the mayor when you were
94 going to give your recommendations to the mayor about...

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95 **REESE:** Well, the mayor's staff participated in the Police Review Board.
96 **SEVERE:** Okay, okay.
97 **REESE:** So, the mayor had, and I think it was WARREN JIMENEZ - well, I don't attend the PRB, so
98 I'm not certain, but I think it was WARREN JIMENEZ. It might have been somebody else, but I think
99 WARREN did it as the - he was the deputy chief of staff at the time. But the mayor has a
100 representative who attends the PRB, reads all of the material and then helps the mayor understand the
101 complexity of whatever case they're reviewing.
102 **SEVERE:** Okay.
103 **REESE:** And, in this case, the mayor and I, there was never any - I was a strong advocate for
104 termination once I made the - once I determined that RON FRASHOUR violated policy...
105 **SEVERE:** Okay.
106 **REESE:** ...in our training guidelines.
107 **SEVERE:** Okay.
108 **REESE:** I - because it involved the loss of life, I felt very strongly that he should be terminated.
109 **SEVERE:** So when - when did you make the decision or reach the point where you felt that
110 termination was where you needed to go in this particular case?
111 **REESE:** Well, I mean I don't have a specific date. It was certainly a decision that I struggled with.
112 As I read through all of the material and had conversations with the assistant chiefs, and then the PRB
113 I think was a watershed moment when the fact that you had peer members, citizen members, division
114 command and the - and the chief's office all reviewing the same thing I was reviewing and coming to
115 the same conclusion, I think that was probably a watershed moment for me.
116 **SEVERE:** Okay.
117 **REESE:** But I mean that's a proposed discipline. I certainly wanted to hear firsthand from RON
118 FRASHOUR what he had to say about it in the mitigation, the due process hearing. And so my final
119 decision wasn't made until after that due process hearing.
120 **SEVERE:** So you became chief kind of midway through the investigation and review of the officer-
121 involved shooting incident.
122 **REESE:** I'd say towards the end of it.
123 **SEVERE:** Towards the end. Were - are you aware of any decisions by your predecessor, Chief
124 SIZER, or chief of - A/C of operations, MARTINEK, having a role in wanting Officer FRASHOUR to
125 be terminated or not to be terminated, having a decision or pre...
126 **REESE:** They never voiced anything like that to me.
127 **SEVERE:** Okay. So either before you became chief or while you were chief, while you are chief, did
128 you have any role in either the investigation or the creation of the training analysis?
129 **REESE:** No.
130 **SEVERE:** Okay. Did you have any role in assigning Lieutenant KING or Lieutenant VIRTUE to
131 doing the training analysis?
132 **REESE:** Those decisions were made before I became chief of police.
133 **SEVERE:** Have you done findings for officer-involved shooting cases before?
134 **REESE:** Yes.
135 **SEVERE:** Roughly, do you know how many or do you remember how many you've done?
136 **REESE:** I - I can think of two. One of them is where we shot and killed an unarmed person. So that
137 sticks in my mind because of the similarities with this incident.
138 **SEVERE:** Um hm, okay. So in - in just talking about a case that you've done prior to this case and
139 doing the findings, what role did the training analysis kind of have for you as a commander who's, you

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140 know, putting together the findings and, you know, to make the recommendations of whether this
141 action is...

142 **REESE:** Um hm.

143 **SEVERE:** ...in policy or not and, you know, kind of sending it up the chain, what...what role did the
144 training analysis have for you?

145 **REESE:** In past?

146 **SEVERE:** In past - in past cases.

147 **REESE:** To be honest, I think in the first one that we - that I did, it was when I was a lieutenant at
148 North Precinct, and I don't recall a training analysis being done. This would've been '90...1999 or...

149 **SEVERE:** Okay.

150 **REESE:** ...2000. So, you know, the process has evolved significantly in the last decade. The other
151 shooting that occurred when I was a Central Precinct commander. I don't recall the details of the
152 training analysis right now. I'm sure it impacted my decision-making,...

153 **SEVERE:** Okay.

154 **REESE:** ...reading whether or not officers followed policy or whether or not they followed their
155 training guideline or not.

156 **SEVERE:** Okay. In this particular case,...

157 **REESE:** Um hm.

158 **SEVERE:** ...you know, obviously, Commander FERRARIS had his findings and then the PRB did
159 their part, and then there was the mitigation process. But as to the training analysis in this particular
160 case, how important did you weigh that in making your ultimate decision to go to termination?

161 **REESE:** I think it played a significant role in the final decision. I thought that the - the way it was
162 written by Lieutenant VIRTUE and Lieutenant KING was exceptionally thoughtful and it resonated
163 with me. It made sense based on my training and experience as a police officer.

164 **SEVERE:** Okay. Just for, you know, other folks who are part of our team doing this...

165 **REESE:** Um hm.

166 **SEVERE:** ...who might not have the same experience in what we're doing, a training analysis is,
167 people who work in IPR, we kind of look at it all the time, but, just kind of a, I don't know, maybe a
168 20,000 foot or a 35,000 foot view of what the training analysis is, what - what do you think the purpose
169 of the training analysis is?

170 **REESE:** To review how we've, in the specific incident, to review how we've trained officers to
171 respond in that type of situation and to analyze their actions and then also to provide, I think, guidance
172 so that you - a critique, if you will, so that you may be - you may have followed training in one area,
173 but you could've done things - there are multiple ways in police work of getting a job done.

174 **SEVERE:** Um hm.

175 **REESE:** So there is sometimes no best way. But, in the training analysis, I think you can say, yes,
176 they did this, they accomplished the mission,...

177 **SEVERE:** Um hm.

178 **REESE:** ... and they followed training, but they could've done things slightly different and tried this
179 approach.

180 **SEVERE:** Okay.

181 **REESE:** So it's, I think, a two-prong look at whatever the incident is. One, did they follow what we
182 trained to, and then, two, the critique part, could they have done things better, are there other ways that
183 we've trained to that they could've looked at as well.

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184 **SEVERE:** And you made reference earlier to the training analysis evolving from possibly there not
185 being a training analysis,...

186 **REESE:** Um hm.

187 **SEVERE:** ...you know, twelve, thirteen years ago to where - where it is now. What do you think
188 some of that progression was or in the evolution of the training analysis, like what - what was added to
189 it, what - kind of (indecipherable).

190 **REESE:** Again, I'm not saying that it didn't - it - a training analysis may have happened.

191 **SEVERE:** Okay.

192 **REESE:** I don't remember it being part of my decision-making back in that case and it was, if
193 memory serves me, it seems like more that at that time, the trainers - the division commanders made a
194 finding and the trainers came in at the PRB process and presented their finding and there - it was
195 married together at the PRB. It wasn't as necessarily part of one linear process as it is now.

196 **SEVERE:** Okay. So, to your knowledge, is there a standard operating procedure or directive that
197 governs what a training analysis is supposed to consist of or how it's supposed to be routed through the
198 process in these cases?

199 **REESE:** No, I don't know. I'm sure the training has some protocols on it. Certainly, from my
200 perspective, ROBERT KING and DAVE VIRTUE were imminently qualified to do the training
201 review. DAVE VIRTUE had been a sergeant in charge of the training reviews before he got promoted
202 to lieutenant, and so he had conducted reviews prior to this. ROBERT had been head of the PPA for
203 many years, so he had been on the other side of the table...

204 **SEVERE:** Um hm.

205 **REESE:** ...in many, many deadly force incidents, so he understands the complexity of the incidents
206 and what a thorough and complete investigation and analysis looks like. ROBERT had been on our
207 SERT team. He had been in training in a prior role. He had been an instructor in several disciplines,
208 so I - I thought he was imminently qualified. He and DAVE VIRTUE were two of the very best.

209 **SEVERE:** Okay. So do - does the training analysis, is it advisory or is it something more formal, or
210 is it something that like if - just to give you, I don't know, just to kind of explain it a little bit more, if
211 somebody - if - when there's a training analysis done and the folks at training decide that the officer's
212 action in that particular officer-involved shooting...

213 **REESE:** Um hm.

214 **SEVERE:** ...were not consistent with training,...

215 **REESE:** Um hm.

216 **SEVERE:** ...does it necessarily follow that the officer was out of policy?

217 **REESE:** Or in policy.

218 **SEVERE:** Or - exactly, yeah.

219 **REESE:** No.

220 **SEVERE:** Okay.

221 **REESE:** I - I still make the final decision, were the actions of the officer in policy or out of policy,
222 and while I will place great importance on the various pieces of the process that we go through, the
223 training analysis, the finding by the commander, the PRB, I still review and read that material and
224 come to my own conclusion.

225 **SEVERE:** Okay.

226 **REESE:** And, certainly in this case, I put in a lot of time and energy reviewing and reading the
227 material and it wasn't an easy decision. It was a very difficult one.

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228 **SEVERE:** In this particular case, Commander FERRARIS, in his findings, he states that he relied on,
229 you know, the work done by IA and the training analysis heavily in crafting his findings that went to
230 you...

231 **REESE:** Um hm.

232 **SEVERE:** ...and went to the board. Is - is either the board or a commander who's doing the findings,
233 are they bound what's in the training analysis?

234 **REESE:** No. I would expect them to come to an independent conclusion based on their analysis of
235 our policies and the officer's actions.

236 **SEVERE:** Were you ever at training?

237 **REESE:** No.

238 **SEVERE:** Okay. Have you ever participated in a training analysis?

239 **REESE:** No.

240 **SEVERE:** Okay. One of the issues, and just in my review of the documents in this case, is that,
241 particularly at the arbitration, there was the suggestion by WILL AITCHISON that the - some of the
242 officers at training were not - were not onboard with what the training analysis said. They felt that that
243 was not representative of what...

244 **REESE:** Um hm.

245 **SEVERE:** ...the consensus opinion was about whether Officer FRASHOUR was - his actions were
246 consistent with training or not. To your knowledge, is - is the - is the training - do the training officers
247 have, I don't know, a veto of the training analysis or do they have the authority to do that?

248 **REESE:** Let me - let me point out a couple of assumptions...

249 **SEVERE:** Um hm.

250 **REESE:** ...that were made, I think, by people reviewing the arbitration process and what occurred
251 prior to it. They're assuming that WILL AITCHISON presented to the training officers an accurate
252 representation of what occurred on January 29, 2010.

253 **SEVERE:** Okay.

254 **REESE:** I believe that they - the - the PPA presented to our due process hearing a PowerPoint
255 presentation that they then showed to the trainers, and it was not factually accurate. I mean it's their
256 perception of how events played out.

257 **SEVERE:** Um hm.

258 **REESE:** I don't believe it's entirely accurate.

259 **SEVERE:** Okay.

260 **REESE:** So for the trainers to listen to WILL AITCHISON'S portrayal of the events and look at their
261 PowerPoint...

262 **SEVERE:** Um hm.

263 **REESE:** ...and come to conclusions based on that is one thing. I think if they're reviewing all of the
264 material in a more sterile environment, without the filter of management or labor, that they may come
265 to different conclusions.

266 **SEVERE:** Okay.

267 **REESE:** It's not like we all sit around the room with the trainers and the PPA and IPR and all - all of
268 the different people and have a discussion about the facts of the case and then come to conclusions.

269 It's a very formal process, as you know, and there's different perceptions and influences in that.

270 **SEVERE:** So I guess talking about it generally, does the - do the authors of the training analysis, do
271 they have to run it by the officers at training? Just using an example, PAUL MEYER, he's the AR-15,
272 less lethal...

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273 **REESE:** Right.

274 **SEVERE:** ...instructor. In this particular case, you know, that's one of the critical issues. Do

275 Lieutenant - does Lieutenant KING - well, Lieutenant KING because he's doing that particular part of

276 the training analysis, does he have to run it by PAUL MEYER to say do you agree with this or not?

277 **REESE:** I - I think that a thorough analysis would include whoever's responsible for writing it asking

278 the questions that are to - to come to conclusions, asking the questions of a variety of people, including

279 PAUL MEYER,...

280 **SEVERE:** Um hm.

281 **REESE:** ...and asking for their thoughts. Does that mean that ROBERT KING has to then at the final

282 document give it to PAUL MEYER and say I want you to read this and agree with it, I don't think so.

283 **SEVERE:** Okay.

284 **REESE:** ROBERT KING was charged, and DAVE VIRTUE, and what's left out of this is that DAVE

285 VIRTUE agreed with ROBERT KING'S portion of the finding.

286 **SEVERE:** Um hm.

287 **REESE:** ROBERT KING agreed with DAVE VIRTUE'S portion. They were in lock step on that

288 finding and there's - they are responsible, they have to own what they researched, what they wrote, and

289 the conclusions that they - they drew out of that, and no one else.

290 **SEVERE:** Okay. So thank you for that answer, it's helpful. One of the issues that have kind of come

291 up in my conversations with different folks is the way the training analysis is handled after it leaves

292 training, and - and the question I have for you is, after the training analysis is approved by the captain

293 of training or commander, depending on how it's structured...

294 **REESE:** Um hm.

295 **SEVERE:** ...at that particular time, should the training analysis be routed up to the chief's office for

296 approval by the director of services or the A/C of services, however that's structured?

297 **REESE:** I suppose it could be. Currently, the - I guess, if you will, the buck stops on the division

298 commander. If Director KUYKENDALL read it and saw major flaws in the logic used to arrive at

299 conclusions, I would assume he would have a conversation with the division commander and say

300 you've left out, based on my knowledge and experience, you've left out key elements of this analysis. I

301 mean it wouldn't do us any good to have a final product that is, in some way, incomplete and not

302 thorough.

303 **SEVERE:** So just to make sure I understand, you - you don't think there's anything inappropriate of,

304 you know, AC or director reviewing the training analysis after training is done with it?

305 **REESE:** I think they should.

306 **SEVERE:** They should, okay.

307 **REESE:** Yes. If it's not complete and thorough - I'm not saying they have to agree with it, they may

308 disagree with the finding...

309 **SEVERE:** Um hm.

310 **REESE:** ...or the - the conclusions drawn out of the training analysis, but if it's not thoughtful and

311 complete, they - they should be raising a red flag and saying you've left out elements that are going to

312 help us help the chief of police, because, ultimately, all of this body of work comes to me to help me

313 make a final decision on discipline and policy violations.

314 **SEVERE:** Okay. So, you know, just for instance, like let's take somebody like Chief O'DEA...

315 **REESE:** Um hm.

316 **SEVERE:** ...who's a very experienced member of the bureau, has been in different slots and...

317 **REESE:** Correct.

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318 **SEVERE:** ...and very well respected. He looks at a training analysis and says, you know, I don't
319 agree with what your conclusion is, that this - you know, whatever, it's consistent with training or it's
320 inconsistent with training,...

321 **REESE:** Um hm.

322 **SEVERE:** ...I - I don't agree with that, you need to change that. Would that be something that's
323 appropriate, based on your - what your understanding of how the process works with the training
324 analysis?

325 **REESE:** I would find that to be problematic.

326 **SEVERE:** Why would that be?

327 **REESE:** The person who wrote - now, if LARRY O'DEA, if he were, which he was in the role of
328 services assistant chief at this time, if he wants to write the training analysis, and based on his
329 experience and he wants to own what's set in it, then put your name on it. But if it has ROBERT
330 KING'S name on it and DAVE VIRTUE'S name on it, then they own it. And I would find it
331 problematic if LARRY O'DEA or any other assistant chief said you need to change this, leave your
332 name on it,...

333 **SEVERE:** Okay.

334 **REESE:** ...but I want it to say this.

335 **SEVERE:** Okay. So do you think other parts of the bureau get to weigh in on the training analysis
336 before it's done? Like, you know, say there's an informal draft of the training analysis and it kind of
337 goes around to different folks...

338 **REESE:** Um hm.

339 **SEVERE:** ...for, let's say, edits to, you know, relatively minor things to content...

340 **REESE:** Um hm.

341 **SEVERE:** ...or portions. Do you think that's something appropriate?

342 **REESE:** Again, ROBERT KING and DAVE VIRTUE have to own it. They're signing their name to
343 it. When I write documents of that nature, particularly that are of such great import,...

344 **SEVERE:** Um hm.

345 **REESE:** ...I'm going to have somebody review it to see if it makes sense...

346 **SEVERE:** Yeah.

347 **REESE:** ...and to check my spelling and my grammar and all of those good things because I mean we
348 all know this is going to become part of a institutional record...

349 **SEVERE:** Okay.

350 **REESE:** ...and I want my best work out there, not something that has grammar problems or
351 misspellings or - so to give it to someone to have them review it and say, yeah, this is logical, it's well
352 written, you've got - the punctuation's correct, that's the right thing to do. Now, if you give it to
353 somebody and say make some changes and put your thoughts to it, that would be, again, problematic,
354 unless that person wants to sign on as an author.

355 **SEVERE:** Okay. This is kind of a variation of what I just asked, but do you - do you believe it's
356 appropriate for someone at the training - I'm sorry, someone at the City attorney's office to write or edit
357 what's going out as a training analysis?

358 **REESE:** Again, DAVE WORBORIL does a lot of our training for us around use of force, so I think
359 that it would be appropriate to talk to him about the issues that are coming forward in a use of force
360 case and ask for his thoughts and what he's trained officers to,...

361 **SEVERE:** Um hm.

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362 **REESE:** ...and maybe even to have him read it and say, yes, that makes sense or, no, it doesn't. But,
363 again, if you're going to put - if you're going to allow that person to write material for you...
364 **SEVERE:** Um hm.
365 **REESE:** ...and you don't agree with it, then you better have their name on it, not yours.
366 **SEVERE:** How much of the arbitration did you attend?
367 **REESE:** Only my testimony.
368 **SEVERE:** Only your testimony, okay. To the best of your knowledge, are there any concerns that
369 you have or that have filtered up to you as chief about a possible issue with officers' testimony or
370 honesty issues that, you know, you'd like to talk to us about today or...
371 **REESE:** Well, during the course of the arbitration, LARRY O'DEA, who was our main
372 representative from the City, and HOWARD RUBIN, who was one of the attorneys, and STEPHANIE
373 HARPER, said they were concerned that there was changes from some officers' testimony from what
374 they said in other venues, like grand jury, detective's interviews or Internal Affairs interviews and what
375 they were saying in the arbitration process. And so I had concerns about that, but - and we talked from
376 a - a strategy perspective, what do we do with that, I mean, and HOWARD was bringing forward those
377 concerns as officers were testifying, he was, if you will, impeaching them based on the previous
378 statements they had made. So the arbiter was hearing those nuances. So I'm not sure during the
379 arbitration process what more he could have done.
380 **SEVERE:** Okay. In this particular case and just in our review of it, there was a communication
381 restriction on the involved officers and witness officers...
382 **REESE:** Um hm.
383 **SEVERE:** ...fairly early on, but it was rescinded I believe at the end of the grand jury process.
384 **REESE:** Okay.
385 **SEVERE:** Basically, by the middle of February of 2010, the communications restriction was
386 restricted...
387 **REESE:** Um hm.
388 **SEVERE:** ...was rescinded. Do you believe an expanded communications restriction could have
389 possibly dealt with some of the issues with shifting testimony or not?
390 **REESE:** Well, unless you have evidence of collusion between officers, I don't see how a
391 communications restriction would have played a role in that aspect of it. They certainly - officers have
392 a right to union representation and, if you have the same, or if you have union representation that's
393 listening to all the arbitration testimony and then telling officers what the testimony of other officers is,
394 you're going to have that issue no matter whether we give a communications restriction or not.
395 **SEVERE:** The one issue in this particular case is that, just in our review, and I think it was in the
396 arbitration or (indecipherable), at this point I can't remember where, but there's officers who talk about
397 going on a cookout together and actually discussing this case...
398 **REESE:** Um hm.
399 **SEVERE:** ...and then there's, basically, a debriefing session where it's I think - I believe it's after the
400 grand jury, but before even some of the officers give IA interviews where they - they hear the 911
401 tapes of the incident and they talk about what occurred, just is - is that concerning to you or - or you're
402 not...
403 **REESE:** Well, I - I think we're in a catch-22 a little bit. Because the officers have a right and need to
404 be together and talk about these incidents if they're going to heal, and I think these traumatic incidents
405 are life-changing for the officers. Being involved in a deadly force encounter is going to alter their
406 perception of life and death, and they're...some people don't recover from that. And they - it's hard for

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407 them to move forward as police officers. And I think part of that healing process is letting them come
408 together and debrief the incident and talk about it and let their emotions out with people who have
409 shared that experience, and it - now, is it going to be problematic later on in an arbitration? I hope not.
410 You know, I hope that people will stay consistent throughout with what they - what their perceptions
411 of events were, but, you know, I mean the reality is you've got to have - this is an event that, of course,
412 has huge ramifications. I ended up terminating an officer and disciplining three others. But we've had
413 a lot of officer-involved shootings and we have to let people heal.

414 **SEVERE:** Um hm.

415 **REESE:** So I - I think the right thing to do is to expect people to be consistent in their testimony...

416 **SEVERE:** Um hm.

417 **REESE:** ...and their perception of events, but allow them to come together and have that shared
418 experience and an opportunity at the right moment to...

419 **SEVERE:** Okay.

420 **REESE:** You can't wait two years...

421 **SEVERE:** Yeah, um hm.

422 **REESE:** ...to have that. It doesn't - it wouldn't do any good.

423 **SEVERE:** Um hm. I think, just some of the concerns when we've talked to folks about this particular
424 issue is that - I don't really - just based on what I've heard from other people,...

425 **REESE:** Um hm.

426 **SEVERE:** ...there really isn't a concern of officers purposefully lying or being untruthful. One, the
427 interviews or depositions or arbitrations took over about a year and a half to close to two years from
428 the beginning to kind of the last arbitration...

429 **REESE:** Right.

430 **SEVERE:** ...session. In hearing, basically, other folk's testimony at different events, either informal
431 or more formalized kind of...

432 **REESE:** Um hm.

433 **SEVERE:** ...can cloud that and kind of effect what - what occurs, and it just sets up this appearance
434 that - that people are colluding on their testimony.

435 **REESE:** Um hm.

436 **SEVERE:** It just creates the appearance despite the well intentions and - and I don't really know the
437 answer to this, but...

438 **REESE:** Yeah.

439 **SEVERE:** ...how - how do you address that as, you know, I don't know, whether there is a best
440 practices to that and what other bureaus and other police departments do,...

441 **REESE:** Um hm.

442 **SEVERE:** ...but just trying to have a situation where, obviously, officers can try to heal from very
443 stressful and traumatic situations for themselves, but, at the same time, not possibly compromise the
444 City and - and - and your - your responsibility...

445 **REESE:** Right.

446 **SEVERE:** ...as the chief to kind of, you know, review these cases and then look at what possible
447 discipline should be or if there is any.

448 **REESE:** Um hm.

449 **SEVERE:** I don't know.

450 **REESE:** I think we have a really good system in place. There's always room for improvement and
451 we're always looking at ways to balance all the competing interests at play - at play in these events.

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Portland Police Bureau-Auditor / Chief Michael Reese

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452 You know, I thought the process we went through was complete and thorough, and allowed me to
453 come to what I felt was a very just decision and, you know, throughout the process I always believe the
454 officers on scene, including RON FRASHOUR, had the best of intentions and they were trying to do -
455 to do good work and find a peaceful resolution to it. In reviewing the incident, I thought that there
456 were significant mistakes made and people - it involved the loss of life, and so people had to be held
457 accountable for those mistakes.

458 **SEVERE:** Okay. Is - we've kind of moved around a lot in - in our time together this afternoon. Is
459 there anything that you think I missed that you think we should - that should be brought up so we can
460 kind of discuss it right now while we - while we're all together?

461 **REESE:** It's - it's the system we have is set up to be very difficult to ultimately result in termination of
462 an officer. And I think, you know, we're unique as a profession in how we review these types of
463 matters. So if you're an attorney, you can face a bar issue, but it's not your peers. It's not like the folks
464 at IPR that are attorneys are all going to weigh in and say, yes, you did something wrong or not. And
465 medical doctors certainly have malpractice and boards that review them, but it's not their, you know,
466 the folks up on the hill don't have other doctors that they work side-by-side with weighing in and
467 making decisions about whether or not the surgery was done the right way or the wrong way. So I
468 think we're very unique as a profession in that we ask peer members to weigh in on whether officers
469 complied with training and policies and, ultimately, made good or bad decisions. We've come a long
470 ways in the time I've been in police work to where I think we have officers and command staff who are
471 willing to take a hard look at what we do and hold people accountable. But, again, I think there's
472 always room for improvement and maybe, you know, we should look at other - like - like you said,
473 with the training analysis, is it right that the trainers - should the trainers have a veto over what's
474 written in the training analysis, even though they're peers and they work with that person, they trained
475 them, they may have a personal relationship with them. So I don't - I don't know what the ultimate
476 answer is, but I do think the system we have is very, very good and people are willing to take very
477 critical looks at the most important of all decisions, and that's that life and death decision officers make
478 in these types of cases, and say, yeah, this officer did everything as they should or here's a slightly -
479 they're in policy in training, but they could have done - maybe tried it this way to - where we had in
480 this case, we found somebody out of policy.

481 **SEVERE:** Okay. Do you have anything, BILL?

482 **ACCORNERO:** Yes, Sir, if you have any documents, including handwritten notes or any other type
483 of material associated with this matter, and if it hasn't already been turned over to the City attorney or
484 to the auditor, could you arrange for me to get a copy of those?

485 **REESE:** Yeah, I would have turned over everything that I had in my possession to the City attorney a
486 long, long time ago. Just - this is - we've had multiple requests for information, so we complied with
487 that right off the bat.

488 **ACCORNERO:** Certainly. Any questions of us before we go off tape?

489 **REESE:** No.

490 **ACCORNERO:** Okay. It is approximately 1345 hours and we are going off tape.

491

492 12b0021trs-reese.doc

493 Transcribed 07/17/2012 @ 11:00 a.m. Laura Martinson (0717lm01)

Lieutenant David Virtue
Interviewed July 17, 2012

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PORTLAND POLICE BUREAU
INTERNAL AFFAIRS
Confidential Taped Statement
Investigator William Accornero/#91743

7 **Interview Date:** 07/17/2012
8 **IA #:** 2012-B-0021
9 **IA File Name:** 12b0021wmp-virtue
10 **Complainant:** Portland Police Bureau

11
12 **Interviewed:** Lieutenant David Virtue, #14138
13

15 **ACCORNERO:** This is WILLIAM ACCORNERO, Internal Affairs Investigator, #91743. With me
16 is IPR Assistant Director CONSTANTIN SEVERE. Today is July 17, 2012. It's approximately 2:30
17 p.m. at the Internal Affairs Division interview room. Also present is Lieutenant DAVID VIRTUE,
18 #14138, and Captain BRYAN PARMAN, #28328. This is regarding Internal Affairs case 10-8352,
19 Portland Police Bureau number – correction, this is regarding IA case number 2012-B-0021, Portland
20 Police Bureau number 10-8352. Lieutenant VIRTUE has been advised that his conduct and/or the
21 conduct of any other bureau members present from January 29, 2010 to the present is the subject of
22 this investigation. Lieutenant VIRTUE has received information necessarily – necessary to be
23 reasonably apprised of the nature of the allegation of the complaint. Lieutenant VIRTUE has been
24 informed that he is a witness in the case and that Captain DAVID A. FAMOUS is in charge of the
25 investigation. I have advised the Lieutenant VIRTUE that he could have representation present during
26 the interview, and Captain PARMAN is here in that capacity. Lieutenant VIRTUE has been provided
27 a copy of the Advanced Notice and Waiver form and has signed it. Lieutenant VIRTUE, under the
28 authority of Captain FAMOUS, I am ordering you to answer all of my questions fully and truthfully.
29 If you fail to respond fully and truthfully, you may be disciplined up to and including dismissal. Do
30 you understand, Sir?

31 **VIRTUE:** Yes, I do.

32 **ACCORNERO:** Okay. Portland City Auditor LAVONNE GRIFFIN-VALADE is conducting an
33 independent investigation into the circumstances surrounding the Training Division's review and
34 analysis of the shooting of AARON CAMPBELL by Officer RONALD FRASHOUR, and the
35 subsequent arbitration hearing regarding Officer FRASHOUR'S discipline in the case. The auditor
36 has assigned Independent Police Review Assistant Director CONSTANTIN SEVERE to collect and
37 review all information related to the Training Division's review and analysis of the shooting. Chief
38 REESE has assigned Internal Affairs to assist the auditor in gathering information relevant to the
39 auditor's investigation. On January 29, 2010, the shooting of CAMPBELL occurred, as reported in
40 Portland Police Bureau case number 10-8352. As required, IA conducted an investigation, as reported
41 in IA case number 2010-B-0004, and Training Division conducted a review and analysis of the
42 shooting. The Homicide detectives, IA investigators and Training then presented all the information
43 collected to a Use of Force Board. The purpose of this interview is to get an understanding of your
44 involvement and Lieutenant KING'S involvement in the preparation and editing of the Training
45 Division analysis of the officer-involved shooting. The interview will be conducted by Mr. SEVERE
46 and I will be assisting him as a representative of Internal Affairs.

47 **SEVERE:** Good afternoon, Lieutenant. Thank you for making it today.

48 **VIRTUE:** Certainly.

49 **SEVERE:** How long have you been a Portland Police Bureau member?

50 **VIRTUE:** Twenty four years on July 14th.

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- 51 **SEVERE:** Do you have any prior law enforcement experience before that?
- 52 **VIRTUE:** I do. I was a City of Milwaukie police officer for two and a half years. I was also a special
- 53 agent in the FBI for just about a year in San Francisco.
- 54 **SEVERE:** Okay. When were you promoted to sergeant?
- 55 **VIRTUE:** November of 1995.
- 56 **SEVERE:** Okay, and you were a sergeant how long before you became a lieutenant?
- 57 **VIRTUE:** Fifteen years.
- 58 **SEVERE:** Okay. And you were promoted to lieutenant when?
- 59 **VIRTUE:** 2010.
- 60 **SEVERE:** Okay.
- 61 **VIRTUE:** February or March of - February of 2010.
- 62 **SEVERE:** Okay. And were you on probation while you were doing the training analysis...
- 63 **VIRTUE:** Yes.
- 64 **SEVERE:** ...in this CAMPBELL case? Okay. Did you feel that, being on probation, that there was
- 65 some pressure on you to do the training analysis in a certain way?
- 66 **VIRTUE:** No.
- 67 **SEVERE:** Okay. While you've been a Portland Police Bureau member, what are some of the
- 68 assignments that you've been doing?
- 69 **VIRTUE:** I worked the first seven and a half years I was patrol mostly, North nights, as a nightshift
- 70 officer. I worked Gang Enforcement Team as a narcotics officer, also as a uniformed gang
- 71 enforcement officer. As a sergeant, I was a patrol sergeant. I was also a training sergeant in charge of
- 72 our field training program. I spent probably the majority of most of my time as a supervisor in the
- 73 Drugs & Vice Division.
- 74 **SEVERE:** Okay.
- 75 **VIRTUE:** And then I've also had assignments, I was - various times, I was assigned to the Chief's
- 76 Office as an executive officer for a little over a year. I worked on emergency management for a little
- 77 over a year...
- 78 **SEVERE:** Okay.
- 79 **VIRTUE:** ...and then back, most recently, prior to promotion, I was a sergeant in the Training
- 80 Division.
- 81 **SEVERE:** And what were you doing at training as a sergeant?
- 82 **VIRTUE:** Well, my primary position I came up there to do are officer-involved shooting reviews.
- 83 There was a supervisory position, a sergeant's position that, at that time, did our officer-involved
- 84 shooting reviews. I also had the task of developing a pre-academy training program for our field
- 85 recruits who were waiting to go to the academy, so my time was split between those two things while I
- 86 was a sergeant.
- 87 **SEVERE:** Okay. So did you do - did you do training analyses before this case?
- 88 **VIRTUE:** Yes, I had done two prior to this case.
- 89 **SEVERE:** Do you remember what cases those were?
- 90 **VIRTUE:** Yeah, one of them was - I don't remember all the specifics, but one of them was a shooting
- 91 involving our tactical team or SERT team.
- 92 **SEVERE:** Okay.
- 93 **VIRTUE:** And the other one was the less lethal deployment by Officer HUMPHREYS.

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94 **SEVERE:** Just comparing the experience of doing the training analyses in those prior cases,
95 compared to what occurred in the CAMPBELL/FRASHOUR training analysis, were those experiences
96 the same or were they different?
97 **VIRTUE:** They had some similarities. They all have, you know, a certain level of similarity.
98 **SEVERE:** Okay.
99 **VIRTUE:** All of those were fairly – well, the CORNO shooting was a little – not quite as complex,...
100 **SEVERE:** Okay.
101 **VIRTUE:** ...but the way we do these reviews, it seems like the complex - complexity is enhanced by
102 the time involved and...
103 **SEVERE:** Okay.
104 **VIRTUE:** ...the number of resources deployed, because we have to, you know, research all that and
105 actually recreate what happened...
106 **SEVERE:** Okay.
107 **VIRTUE:** ...and look at different levels of training. So they all had a similar vein through them.
108 **SEVERE:** Um hm.
109 **VIRTUE:** Probably the HUMPHREYS shooting and the CAMPBELL one were probably - or the
110 HUMPHREYS less lethal deployment and the CAMPBELL one had a little similarity because, for lack
111 of a better word, they were politicized. I mean there was a lot of attention regarding them, a lot of
112 media attention, a lot of interest both externally and internally. The CORNO shooting was, for lack of
113 a better word, a run of the mill, you know, shooting that did not have as much outside, you know,
114 scrutiny. So I suppose just the environment, which just naturally is different, so CORNO and the
115 CAMPBELL...
116 **SEVERE:** Okay.
117 **VIRTUE:** ...were similar – or excuse me, the HUMPHREYS less lethal and that one were similar.
118 **SEVERE:** Okay. How were they different compared to your other one?
119 **VIRTUE:** Well, the - they all were pretty much the same. I had the same methodology the way that I
120 did them. We really didn't have a standard procedure that they were done.
121 **SEVERE:** Okay.
122 **VIRTUE:** So, for lack of a better – I kind of molded my own way of doing them that fit my
123 personality in the way that I did them, so they all the same – what I typically did was reviewed all the
124 material and then I tried to identify the training concepts and principles that were needed to be
125 analyzed, and then I tried to find, as much as I could, the record of how we trained, and then I tried to
126 lay the facts of the incident over the record of our training and then tried to make some type of
127 reasonable analysis of what had happened, whether our training had been followed.
128 **SEVERE:** Okay.
129 **VIRTUE:** The difference, I would say, with the CAMPBELL one was volume,...
130 **SEVERE:** Okay.
131 **VIRTUE:** ...it was...it was an incident that took over I think an hour and a half, off the top of my
132 head, maybe an hour and 40 minutes, so whenever you're trying to recreate an incident like that, just
133 by nature, the volume of work that we had to do, and then the other part of it was that was different
134 was that I had a partner...
135 **SEVERE:** Okay.
136 **VIRTUE:** ...in the CAMPBELL shooting.
137 **SEVERE:** Okay.

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138 **VIRTUE:** So that was probably the biggest difference, I suppose. They all had – were very similar,
139 but then they all had their own uniqueness to it.

140 **SEVERE:** Do you know why you and Lieutenant KING partnered up to do the training analysis in
141 this case?

142 **VIRTUE:** Oh, yeah, I mean it – my – my boss came to me and said I was going to stay in Training
143 and do the review, which was...

144 **SEVERE:** And your boss at the time, was that DAY or was it somebody else?

145 **VIRTUE:** JOHN TELLIS – I think it was BOB DAY.

146 **SEVERE:** Okay.

147 **VIRTUE:** I believe it was BOB DAY. I had a captain right prior to him who had just retired, JOHN
148 TELLIS, but I think JOHN TELLIS was gone. So I actually went to him. I had heard that I was –
149 there was a time period before after the shooting and when I was in Training that I knew I was getting
150 promoted, so I was kind of under the assumption that I probably was not going to be there for that.
151 And so when I found out I was – I was going to stay in the Training Division and do the analysis, I was
152 told that there was going to be a – you know, obviously, there's an urgency to it, we wanted to get this
153 done as fast as possible for a variety of reasons, accountability, transparency, and for everybody
154 involved and, at that time, the Detectives Division and the Internal Affairs Division had enhanced their
155 resources to investigate the case.

156 **SEVERE:** Um hm.

157 **VIRTUE:** So I went to my boss and said if I've got however many detectives and however many
158 Internal Affairs investigators feeding me this case, I need help, I'm not going to be able to do this by
159 myself with that many resources being gathered, because that's what I – I do the – I reviewed their
160 work, essentially.

161 **SEVERE:** Um hm.

162 **VIRTUE:** I don't conduct an independent interview of anybody, I get that record, so I basically went
163 in, for lack of a better, whined to him and said I'm going to need help,...

164 **SEVERE:** Um hm.

165 **VIRTUE:** ...you know, and so he said, well, I'll get you help.

166 **SEVERE:** Okay.

167 **VIRTUE:** And I actually asked for Lieutenant KING.

168 **SEVERE:** Okay. Just, traditionally, the way the training analysis has been done, and correct me if
169 I'm wrong, it's usually been a sergeant doing them, is that – is that right?

170 **VIRTUE:** They had, up – they had been – when I came there, I had replaced a sergeant...

171 **SEVERE:** Um hm.

172 **VIRTUE:** ...and so then I had done two of them as a sergeant. So, yeah, that had traditionally been a
173 sergeant's job. There had been discussion about having command do them,...

174 **SEVERE:** Um hm.

175 **VIRTUE:** ...but, to that point, there had been no transition to that.

176 **SEVERE:** Okay, and why would command do the training analysis or a command officer do a
177 training analysis, as opposed to having a sergeant do it?

178 **VIRTUE:** Well, I mean I wasn't privy to the decision. I mean I had my own opinion. I thought it just
179 provided a different lens to look at things through at the command level.

180 **SEVERE:** Okay.

181 **VIRTUE:** I know just myself, my personal experience, at the sergeant level, it's a very difficult
182 emotional thing to do to sit in judgment of your peers,...

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183 **SEVERE:** Okay.

184 **VIRTUE:** ...and I think the common thought, although I don't want to speak for the people who
185 ultimately made that decision, because I wasn't privy to that, but I think the ultimate thought was this
186 will give one layer, you know, of separation, a little more emotional separation, it'll defer command to
187 look at things at a broader perspective, the way they need to be looked at.

188 **SEVERE:** Okay.

189 **VIRTUE:** That was kind of, like I said, nobody told me that, but that was – I know the discussions we
190 had had in the past.

191 **SEVERE:** Okay. And you said you requested Lieutenant KING to help you out on the training
192 analysis, and why Lieutenant KING?

193 **VIRTUE:** Well, we had actually gone through – I think there was a couple of other – I know there
194 was a discussion about who would do it, Sergeant GOFF at one point, because he had done the critical
195 incident management, a lot of that training, and he was in our office, and this appeared to be, at first
196 blush, an instant that we were going to look at the supervisory actions, so there was some discussion
197 about Sergeant GOFF, and then I think we landed on ROBERT, probably a little bit to do with his, you
198 know, workload and assignments and ability to do it, and then just the fact that I thought we would
199 work together pretty well. But we kicked around several people, but just at the end of the day, I think
200 Captain DAY decided it was a better fit...

201 **SEVERE:** Okay.

202 **VIRTUE:** ...for ROBERT to do it.

203 **SEVERE:** Had you worked together with Lieutenant KING prior to this?

204 **VIRTUE:** Not very much. No, I mean we worked – he was an afternoon officer. I worked nights at
205 the old North Precinct. I had been on the executive board of the union when he was the president, so I
206 knew ROBERT pretty well, but we had never worked...

207 **SEVERE:** Okay.

208 **VIRTUE:** ...necessarily together that much. He had, recently, I believe, come to the division.

209 **SEVERE:** Um hm.

210 **VIRTUE:** So it was more – I couldn't tell you exactly why, it was just a personal preference, you
211 know, somebody I thought it would be good to work with. I thought he'd do a good job, and I would
212 have taken - at that point, I just wanted help, but I thought I got lucky and got ROBERT.

213 **SEVERE:** Okay, so when you and Lieutenant KING received the assignment to do this training
214 analysis, were there any instructions from command, either Chief's Office or Captain DAY at
215 Training, on how you were supposed to do this?

216 **VIRTUE:** No. The only thing that was – that we knew that was a little different, because Captain
217 DAY had been involved in the incident, you know, peripherally, that we were told that A/C O'DEA
218 would kind of play that role as the Training Division manager and oversee the investigation, have that
219 level of oversight.

220 **SEVERE:** Okay.

221 **VIRTUE:** That was probably the only thing. Other than that, very little. It was just go forth and
222 conquer, off and run.

223 **SEVERE:** How did you and Lieutenant KING decide to divide up the assignments in the training
224 analysis since there's so many different discreet issues...

225 **VIRTUE:** Sure, sure.

226 **SEVERE:** ...that you've got to look at?

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227 **VIRTUE:** Well, as I recall, the first thing we did is we both just took the material and just read it, just
228 let's – because I wasn't sure how to do it and I think Lieutenant KING was kind of looking to me,
229 because I had done a couple of them. He may have done one on – he may have done one prior, a small
230 one, but I'm not sure.

231 **SEVERE:** Okay.

232 **VIRTUE:** I'd be speculating there. But our first thought was let's just go read this thing and see what
233 we have, see what's in front of us, see if we can at least come up with, you know, some bright lines
234 that we're going to be looking at and decision points we're going to be looking at. So we both took it
235 home, read it, you know, it was a large volume, listened to radio tapes. I don't think we got through all
236 of it. I think we got through the vast majority of it. We decided to sit down. I was worried about the
237 volume of it and I was worried about how – how is this logistically going to work,...

238 **SEVERE:** Um hm.

239 **VIRTUE:** ...because we had never done it like this, but I was glad we were because of the volume.
240 So we basically sat down and I kind of led the thought process, and I had broken this incident into a
241 couple of points, and I thought there was going to be a heavy supervision piece, we were going to have
242 to look at the supervisor's actions, and there was going to be a big piece of setting up the call, the
243 timelines and all the facts leading up to the call. At the time, I thought I was taking the bigger chunk
244 of it, so we decided to I'll address all the supervisor's actions and you address the officer's actions
245 once Mr. CAMPBELL comes out the door. So that's kind of how we broke it up.

246 **SEVERE:** Um hm.

247 **VIRTUE:** And so I covered all of the initial patrol response, communications,...

248 **SEVERE:** Um hm.

249 **VIRTUE:** ...the negotiations, the actions of the sergeants as they arrived, the decision points for the
250 sergeants, so I looked at all of that and focused on the critical incident manual for their training and
251 some of our initial patrol stuff, and then Lieutenant KING had, basically, from the time we literally
252 kind of drew that line, so from when he comes out the door, then you will pick up...

253 **SEVERE:** Okay.

254 **VIRTUE:** ...your analysis.

255 **SEVERE:** Um hm.

256 **VIRTUE:** And that was pretty much my, you know, the way I broke it up. ROBERT agreed, you
257 know, at the time. Looking back on it now, I mean he...he got the more difficult end of the stick I
258 think now, but, at the time, we were thinking – I thought the supervisory piece was going to be, and it
259 was a big piece, just a complicated piece with multiple sergeants on scene...

260 **SEVERE:** Um hm.

261 **VIRTUE:** ...and there's a lot happened up until that point,...

262 **SEVERE:** Um hm, um hm.

263 **VIRTUE:** ...and so I had about an hour and a half of it and he had about, you know, how many
264 seconds of it, you know, but – so that's how we broke it down.

265 **SEVERE:** Okay. Just kind of stepping back just a little bit, just kind of more of a macro-view of
266 things, what's the purpose of the training analysis, in your – your view?

267 **VIRTUE:** Basically, it's to analyze the training of the officers on scene, whether they followed their
268 training.

269 **SEVERE:** Um hm.

270 **VIRTUE:** That's a big part of it. And then another piece of it is if we identified training issues,
271 corrections we need to make in our training, and identify areas where we could do better, maybe we

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272 have gaps in our training, maybe there's parts of the training that we don't cover or we don't do as
273 well. So it, on first blush, just from a general overlay, it's to look at our training, our training
274 principles, see if they're followed, see if there's areas that we can improve on. But the other piece of it
275 was to make – help the bureau determine whether the officers followed the training or not.

276 **SEVERE:** Okay. So do you think the training analysis is kind of a, for lack of a better phraseology of
277 this, a disciplinary tool or part of the disciplinary process?

278 **VIRTUE:** Well, it's - I think it can certainly be used that way. I think, as one of the struggles and the
279 most difficult things for somebody who's doing an analysis is to separate that, and I know I tried to do
280 that as best I can as I did mine,...

281 **SEVERE:** Um hm.

282 **VIRTUE:** ...because I knew that that was out there. I knew that that could – it could be used in that
283 manner. That's the way I – I tried not to look at it that way, and to try to be as objective...

284 **SEVERE:** Okay.

285 **VIRTUE:** ...as possible, but it's just human nature that you project out, you know, if I make this
286 analysis, what's going to happen. I think that's a struggle of most of the officers and sergeants that do
287 the analysis have. And that's, again, another reason I think that the thought was at the command level
288 it's just a little easier to separate yourself.

289 **SEVERE:** Gotcha.

290 **VIRTUE:** It's more a part of your job...

291 **SEVERE:** Um hm.

292 **VIRTUE:** ...to make those kind of calls and decisions.

293 **SEVERE:** Okay.

294 **VIRTUE:** But as I approached it, I tried to be – to remove myself as best I could...

295 **SEVERE:** Um hm.

296 **VIRTUE:** ...from – from that end game and knowing that it could be used that way...

297 **SEVERE:** Okay.

298 **VIRTUE:** ...and tried to insulate myself as much as possible.

299 **SEVERE:** Okay. Can you describe the process that went into creating the training analysis. You
300 talked about it a little bit, how you and Lieutenant KING set it up, but just kind of throughout it from
301 kind of the beginning to the end.

302 **VIRTUE:** Basically, we cut it up that way and then we kind of went on our own paths to – to do the
303 writing, but then we would always merge...

304 **SEVERE:** Um hm.

305 **VIRTUE:** ...and use each other as resources, as a team, if I had a question. Because I use the analogy
306 of a jury deliberation, where there's decision points you make back and forth, and you look at your -
307 you right your analysis and sometimes you write your analysis and you determine if you've written it
308 well. That might not be the best analysis...

309 **SEVERE:** Um hm.

310 **VIRTUE:** ...so you go back. So we – we split it up and we went and did our own work. We worked
311 in offices, you know, in the Training Division. I had an office on the other side of the building, but
312 we're, you know, 40 feet away,...

313 **SEVERE:** Um hm.

314 **VIRTUE:** ...so, you know, KING would come in and shut the door and, you know, rub his head and
315 say, man, what about this deal. And then I would do the same, hey, I'm really struggling, you know,
316 and so we would do it that way. We would use each other to try to bounce ideas and concepts, but we

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317 – we pretty much went, in terms of the writing of it, we pretty much went our own separate ways and
318 literally tried to write it as – almost as two different incidents, but I had to make sure that I was
319 covering stuff. Say if there's something critical in the timeline that would relate to what he was going
320 to say, I had to make sure that my timeline addressed that, so that he's not referencing something...

321 **SEVERE:** Um hm.

322 **VIRTUE:** Because it was a little bit awkward that way and then I'm writing – I'm kind of writing the
323 facts...

324 **SEVERE:** Yeah.

325 **VIRTUE:** ...up until a certain point, some of which he relied on for the analysis, so we would have
326 that back and forth, hey, do I need to put this part in the timeline.

327 **SEVERE:** Um hm.

328 **VIRTUE:** But we certainly used each other as a resource,...

329 **SEVERE:** Um hm.

330 **VIRTUE:** ...you know, in the thought process, you know, and how his analysis was going and mine
331 was. So – but, as we wrote, we kind of wrote separately. He would show me parts, this is what I'm
332 thinking, you know, how does this sound, does this make sense to you,...

333 **SEVERE:** Um hm.

334 **VIRTUE:** ...sometimes just form, you know, sometimes it would be a bit more detail substance. I
335 probably didn't do that as much. I don't know, I'm just kind of that way. Is it right? I don't know
336 why, but I don't want anybody looking at my stuff, so I get – I get more – I'll give them
337 that at the end of it, but it's just however you are. That's just the way - my personal style wasn't, you
338 know, at the end of the day, I would, you know, I couldn't do bits and pieces,...

339 **SEVERE:** Okay.

340 **VIRTUE:** ...I had to kind of do it, just like I said, a personal style.

341 **SEVERE:** Did you have other duties besides this training analysis while this was going on, while you
342 were working on it?

343 **VIRTUE:** Yeah. I mean ROBERT did and then I did. I still was involved in the pre-academy
344 training...

345 **SEVERE:** Okay.

346 **VIRTUE:** ...that I was talking about.

347 **SEVERE:** Okay.

348 **VIRTUE:** So I was probably in a little better position. I can't remember exactly where I was with the
349 pre-academy work that I was doing.

350 **SEVERE:** Um hm.

351 **VIRTUE:** I did have some logistics. I think we put on one of our seminars during that time period.

352 **SEVERE:** Okay.

353 **VIRTUE:** But I had a little more of a free reign,...

354 **SEVERE:** Okay.

355 **VIRTUE:** ...just because that was – that was my job...

356 **SEVERE:** Yeah.

357 **VIRTUE:** ...was the officer-involved. So I had this other small task, but we did have other
358 responsibilities. And we'd attend meetings with the captain, still filling that role.

359 **SEVERE:** Gotcha.

360 **VIRTUE:** I was able pretty much to focus...

361 **SEVERE:** Okay.

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362 **VIRTUE:** ...on that, I felt.

363 **SEVERE:** Like if I was going to give it a number, like 80% of your time on the training analysis
364 versus...

365 **VIRTUE:** Yeah, I'd say that, yeah.

366 **SEVERE:** Okay.

367 **VIRTUE:** I would say, and a lot of time at home, just, you know,...

368 **SEVERE:** Um hm.

369 **VIRTUE:** ...(indecipherable) office work and people always were calling (indecipherable). It's
370 tough to just sit down with that kind of detailed work, which I really thought it was.

371 **SEVERE:** Okay. What material did you guys rely on in doing the training analysis?

372 **VIRTUE:** Just I mean I know just from the matter of course, typically – and, again, mine was a little
373 different than ROBERT'S.

374 **SEVERE:** Um hm, gotcha.

375 **VIRTUE:** I relied heavily on the critical incident management manual for supervisors, because that
376 was the piece that I had, and so I used the lesson plan and the PowerPoint presentation for the critical
377 incident management training that we teach our sergeants. So that was the primary piece that I looked
378 at, but I also looked at our tactical guidelines, and we had some cardinal principles and tactical
379 guidelines, the general tactical concepts and principles that, in all the reviews, that we typically would
380 look at and try to evaluate officers application of training through those guidelines to give us
381 something objective to look at, and that's typically what have been done in the past. I kind of figured
382 that out from the person that had my job prior to try to use those tactical guidelines and advantages,...

383 **SEVERE:** Um hm.

384 **VIRTUE:** ...and I know that Lieutenant KING, I think, relied on those also. Principally, I relied on
385 the critical incident management manual because it dealt with supervisory training, although there
386 were certain general training concepts that apply to everybody, that if I needed to look at, I would do,
387 like communication, things like that, so that's generally what we...

388 **SEVERE:** I know that in trying to do a training analysis, there's a lot of coordination with Internal
389 Affairs to make sure you have the interviews done, you know, a way that's helpful for you when
390 you're actually writing the training analysis. Did you guys actually sit in for any of the interviews?

391 **VIRTUE:** No.

392 **SEVERE:** Okay.

393 **VIRTUE:** The methodology was that if we could think of – if we knew somebody was going to be
394 interviewed and we had, after review of the material, if we had specific questions that we thought we
395 could address, that we would usually, either by phone or e-mail the investigator and say, hey, could
396 you ask about this. There was a lot of discussion about how, you know, to do that,...

397 **SEVERE:** Okay.

398 **VIRTUE:** ...how do we get our questions out – out there in advance.

399 **SEVERE:** Um hm.

400 **VIRTUE:** Just a bit of a cumbersome process.

401 **SEVERE:** Yeah.

402 **VIRTUE:** I think the investigators would agree also.

403 **SEVERE:** While you're doing this training analysis for that period of months, how often did you and
404 Lieutenant KING meet on just trying to figure out how to do this thing?

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405 **VIRTUE:** A lot. You know, we had different – we had different moments. We had – there might be
406 several days where we would go and not have any discussion, based on what’s going on, or we’d have
407 a block where we were really doing a lot of writing,...

408 **SEVERE:** Um hm.

409 **VIRTUE:** ...but we worked in the same office and so there’s a lot of daily contact,...

410 **SEVERE:** Okay.

411 **VIRTUE:** ...you know, just like I said, there was a lot. But there would be windows where we
412 wouldn’t have any.

413 **SEVERE:** Okay. So this was – well, I shouldn’t put words in your mouth. So was this a matter of
414 having to schedule meetings or was it whenever you guys saw each other, or did you have a little bit of
415 both?

416 **VIRTUE:** It was mostly informal. On occasion, I’d say very rarely would we schedule a meeting
417 with each other, because we just saw each other. We would call out, hey, I need to talk to you about
418 this or that. So we did not schedule very often, just, hey, at 10:00 tomorrow, let’s sit down.

419 **SEVERE:** Um hm.

420 **VIRTUE:** We were just readily accessible, because it was a primary focus of what we were doing,
421 so...

422 **SEVERE:** Did you ever have any meetings with A/C O’DEA on this...

423 **VIRTUE:** Yeah,...

424 **SEVERE:** ...training analysis?

425 **VIRTUE:** ...we did. We had - those would be more, because it was the chief’s time, those would be
426 more regularly scheduled. I don’t know – I know we did. I couldn’t tell you a number.

427 **SEVERE:** Okay.

428 **VIRTUE:** I would say a handful...

429 **SEVERE:** Okay.

430 **VIRTUE:** ...of times. Typically, I think – I would just be speculating when we first sat down with
431 him. We tried to get kind of deep into this before we - so we had something for him to – to look at,
432 and...

433 **SEVERE:** Okay.

434 **VIRTUE:** ...and review. So I – like I said, I couldn’t put a number on it. I know it was at least three
435 times...

436 **SEVERE:** Okay.

437 **VIRTUE:** ...or maybe more than that.

438 **SEVERE:** And what did you folks discuss when you would have the meetings with A/C O’DEA?

439 **VIRTUE:** We – we would discuss kind of where we were – it was a little unique for me because
440 Chief O’DEA had taught critical incident – he was the – he had instructed critical incident
441 management and written the manual, critical incident management, so I probably used him somewhat
442 as a resource, because he knew the material, because he taught – he actually taught the sergeants that
443 were at the scene.

444 **SEVERE:** Um hm, okay.

445 **VIRTUE:** So I would dominate some of the discussion, just if I had questions about if I didn’t think
446 there was stuff or I needed clarification, something I was reading in the training. So there was a lot of
447 discussion for me, you know, in this area right here, reading this language, does that mean what I think
448 it means. Yeah or no or – and then we had similar discussions about how, like ROBERT and I did,
449 you know, kind of like where were thinking. There was a lot of emotional angst,...

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450 **SEVERE:** Um hm.

451 **VIRTUE:** ...so he was more like I would think a little bit – he was trying to calm – it was such a high
452 profile incident,...

453 **SEVERE:** Um hm.

454 **VIRTUE:** ...there were a lot of emotions with us just - just because it was the toughest job I had ever
455 done in the bureau,...

456 **SEVERE:** Um hm.

457 **VIRTUE:** ...it was the hardest thing I'd ever done because it was just such a tough situation all the
458 way around, so he did a lot of time reassurance, just do your best job, you know,...

459 **SEVERE:** Um hm.

460 **VIRTUE:** ...come up with your best analysis, you know, you guys are good guys, you're going to
461 think about this, you're going to make good decisions and just try to keep it as objective as possible.
462 So we would have, like I said, I would talk to him probably more about his training manual that he had
463 developed, but it was – a lot of the discussion was just reassurance to us and some prompting about
464 timelines and, you know, we need – there was, you know, we need to get to...

465 **SEVERE:** Um hm.

466 **VIRTUE:** ...a point here, because I know my boss could tell you that I mean your tendency is you're
467 never done, I've got to read one more thing, I've got to make sure I have this, and you can do that
468 forever, so he just would remind us, you know, that at some point we needed to get to a conclusion.
469 But there were points, I couldn't tell you exactly what were decision points that he'd look at, and have
470 you thought about this, do you see this.

471 **SEVERE:** Um hm.

472 **VIRTUE:** Always, though, with the tone of wanting us to make our own analysis,...

473 **SEVERE:** Um hm.

474 **VIRTUE:** ...you know, (indecipherable). I never felt like he was telling me what to write.

475 **SEVERE:** Okay, so there was never a point where let's say you had kind of a prelim draft of
476 something and, you know, where, you know, like I'm just using this as an example, where you would
477 have said that Sergeant REYNA, when she went to talk to Captain DAY at the time, when she did
478 inform him that, you know, she was basically the critical incident commander, that that was consistent
479 with policy and, you know, O'DEA'S like, no, you need to change that. Was there anything like that?

480 **VIRTUE:** No, it was never that direct. We would have those kind of discussions, you know, what is
481 the expectation of a lieutenant, what is the expectation of a captain, what were the expectations, you
482 know, in this situation. We'd have those kind of discussions,...

483 **SEVERE:** Um hm, um hm, um hm.

484 **VIRTUE:** ...but never was, no, you know, you need to say this.

485 **SEVERE:** Um hm.

486 **VIRTUE:** It was never like that. It was – it was what I would call healthy, you know, hopefully
487 intellectual, someone could challenge whether it's intellectual or not, but a healthy, you know,
488 discussion about,...

489 **SEVERE:** Okay.

490 **VIRTUE:** ...you know, where we're at because the of way these are, I mean everyone's different, so I
491 don't think anybody can look at this and exactly find the same, you know, way to word or, you know,
492 or analyze expectations. There were some that were clear and then there's other ones that you really
493 truly had to dig down deep, and what are we going to find after looking at this whole case and

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494 reviewing all these facts, you know, what is our analysis. Sometimes most of the things were very
495 clear. Some of them were, you know, more complex than that. So we had a dialogue like that,...

496 **SEVERE:** Um hm.

497 **VIRTUE:** ...but I never felt as if, you know, I was going to write something that I was going to be
498 told I can't write that.

499 **SEVERE:** Okay.

500 **VIRTUE:** I just never felt - and I don't know what I would have done if I had gotten, you know, to
501 that point. But I will say I was at a pretty - I think I was at the same place with the chief.

502 **SEVERE:** Okay.

503 **VIRTUE:** There we weren't, you know,...

504 **SEVERE:** Um hm.

505 **VIRTUE:** ...and that's - that wasn't always the case you're not always at the same place and you
506 have to kind of get to a place where you both, you know, feel comfortable that it's a reasoned, you
507 know,...

508 **SEVERE:** Okay.

509 **VIRTUE:** ...analysis.

510 **SEVERE:** In the prior training analysis that you've done, did you have that level of dialogue with the
511 captain at training?

512 **VIRTUE:** Well, no. I would say this was probably more - more engagement than I had in the prior
513 two.

514 **SEVERE:** Um hm.

515 **VIRTUE:** And - but, again, it was a - it was bigger.

516 **SEVERE:** Um hm.

517 **VIRTUE:** It was much more complex. It was a little unique, in that it wasn't our direct, it was the
518 assistant chief, because our captain had been at the scene.

519 **SEVERE:** Gotcha.

520 **VIRTUE:** But it was probably closer to the HUMPHREYS case.

521 **SEVERE:** Um hm, um hm.

522 **VIRTUE:** In the HUMPHREYS case, like I said, it had a lot more interest. There just was so much
523 interest in it. So I had a - there was more engagement with the HUMPHREYS case because, again,
524 and it wasn't - that other one I'd done, I'd done the (indecipherable) in my opinion, the analysis was
525 not too complex. You know, a guy had come over the fence with a gun, pointed it at a police officer
526 and then it was a bang, bang thing. The HUMPHREYS case, a little more complex because, you
527 know, less lethal deployment, which we typically hadn't done. It seemed to be falling within the
528 guidelines of the officer's training, but then we had to look at the force policy...

529 **SEVERE:** Um hm.

530 **VIRTUE:** It was just a little more complex, and there was just naturally going to be more dialogue...

531 **SEVERE:** Um hm.

532 **VIRTUE:** ...and I would think that - I think the CAMPBELL too, it was - it was a big bite to chew
533 off.

534 **SEVERE:** Um hm.

535 **VIRTUE:** So the long answer, yes, there was more...

536 **SEVERE:** Um hm.

537 **VIRTUE:** ...discussion than the other two.

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538 **SEVERE:** Okay. I'm still trying to get my head around of, you know, as somebody who reads a lot
539 of training analyses, you know, having to actually look at one very in depth, I'm just trying to figure
540 out just, philosophically, how does the training analysis kind of work? Is it like kind of an independent
541 work like, you know, like let's say you guys were in a corporation and you're trying to look at best
542 practices and that kind of thing, where it's like, okay, the authors of the particular report, this is what
543 we've come up with looking at the different, you know, material within our particular organization,
544 and this is what the standards are, and we write it and it's basically our product and, you know, we're
545 kind of off to our, you know, we're off to ourselves, kind of doing our thing, or is it – is it like that or
546 is it something that it's kind of a part of the regular chain of command within the bureau where you
547 kind of need approval from folks who are higher up in the chain, you know, basically for you guys to
548 be done with...

549 **VIRTUE:** Sure.

550 **SEVERE:** ...what you're supposed to be doing?

551 **VIRTUE:** I think, ultimately, the way – and we - in our preamble, we discuss it. The reviews, as I
552 approach them and they were explained to me, are basically a corporate analysis by the Training
553 Division. You're the author and you're obviously, just because of that, have the primary influence, and
554 depending on how complex the case is, how – how difficult the analysis, there may be points in the
555 analysis, the findings. I think, at some point in time, value is given to them by...

556 **SEVERE:** Um hm.

557 **VIRTUE:** ...by the division, so you may see something, and that's why I think it's important at that
558 command level, it's really the divisions and, ultimately, I suppose, the bureau's analysis.

559 **SEVERE:** Um hm.

560 **VIRTUE:** And it's somewhat of an art too, you craft it, and depending on the complexity of it, there
561 may be no – people may read it and you're pretty much right where they think you should be and then
562 there's other times when they look at a piece of it and say, you know, I think that you did not, you
563 know, analyze this critically enough.

564 **SEVERE:** Yeah, yeah, gotcha.

565 **VIRTUE:** You know, it's just the way it is. Well, I didn't get that value, well, you know, that needs
566 to have more value. So that's kind of how I – I mean, as the writer, I always figured I was putting pen
567 to paper, I was the one responsible for reading all the material,...

568 **SEVERE:** Um hm.

569 **VIRTUE:** ...I'm probably going to know the case the best, but I also realized that, from my lens, that
570 there's going to be other people that may have – that want to give value to things – more value to
571 things than I did, and – but, typically, that's why you try to be as objective as possible. It's tough to do
572 because of – you're looking at general training concepts. I equate it to being the judge who's looking
573 at the law and then he looks at the facts,...

574 **SEVERE:** Gotcha.

575 **VIRTUE:** ...and the facts don't always fit exactly into the law, and so whenever that happens,
576 somebody has to give that value and – so I don't know if I'm making sense there, but it is - it's a
577 corporate piece. The analyst has a very big part of it, but you – we do not have total autonomy,...

578 **SEVERE:** Okay.

579 **VIRTUE:** ...and I've never thought I had – and I understood that going into it, that this – you know,
580 and that's the – I think the difficult part of it is that you have to, you know, craft this thing that is fair
581 and accurate and objective and it gives proper value for (indecipherable).

582 **SEVERE:** Okay, so just for example, so I can get my lawyerly brain around this,...

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583 **VIRTUE:** Yes.

584 **SEVERE:** ...so let's say you're working on a new training analysis and Captain PARMAN is your
585 supervisor, and I'll talk about him since he's here. I prefer to talk about you, you know, with your
586 back turned,...

587 **PARMAN:** Right.

588 **SEVERE:** ...so could you just turn your back? (chuckles) So, you know, Captain PARMAN'S your
589 supervisor and you have a particular view on critical incident management. You know, you've read all
590 the material, all that, you feel just, you know, with your prior experience dealing with these issues, you
591 pretty much assimilate all the kind of material out there within and outside the bureau and what's the
592 bureau training on that. You come down with an opinion that, you know, in this particular situation,
593 the officer acted in a way that was inconsistent with training. Captain PARMAN just reviews it and
594 disagrees with you and says I think you need to change that. Do you think that would be appropriate?

595 **VIRTUE:** That's a good question. I suppose, if after we had a healthy discussion about it and, again,
596 I go back to my jury deliberations, if – if – if a persuasive argument could be made of why it was
597 appropriate, that my analysis wasn't what it should be, I could see that. But, having just said that,
598 though, I think, at the end of the day, that the captain has that ability. And I would say that in all of my
599 analysis, except for probably the CORNO one, my captain has had some piece of that where they've
600 said, you know, this – this – I think right here that this was – we train officers to do this...

601 **SEVERE:** Um hm.

602 **VIRTUE:** ...and they didn't do that, and you didn't say that in your...your analysis. And I go back
603 and I wordsmith, try to understand his input, and then would wordsmith it and come back and say does
604 this sound like it is more in line with where you're thinking. And so, yeah, I think that does happen.
605 Ultimately, as I viewed it, the captain CAMPBELL incident, the assistant chief, had that authority and
606 that ability, but I never got – I want to reemphasize, Assistant Chief O'DEA, he was pretty clear that
607 he wanted us to come to our own conclusions and have – feel good about where we had landed,...

608 **SEVERE:** Um hm.

609 **VIRTUE:** ...and he wanted us to have ownership of what we were writing. So, in this instance, in all
610 the instances, at the end of the day, when the captain came and said, you know what, this piece here,...

611 **SEVERE:** Um hm.

612 **VIRTUE:** ...I really think that this is not consistent with training, this is why I think why. And,
613 again, they gave value to it. I may have seen it as somewhat inconsistent, but, in the corporate
614 document, I just didn't give it value because of other things, and I just knew at the end of the day the
615 captain had that authority...

616 **SEVERE:** Okay.

617 **VIRTUE:** ...and we didn't have any problem with that. It just never became an issue.

618 **SEVERE:** So just kind of taking that example just one step further, I know A/C O'DEA played a role
619 in this training analysis, particularly because he was the acting captain of Training, for the purposes of
620 this training analysis, but just for example's sake, if – once it's done, Training, through it's captain, has
621 signed off on the training analysis and it goes outside of Training to let's say the chief's office, do you
622 think it's appropriate for the chief's office to have a level of, I don't know, editorial control, for lack of
623 a better phrase, on the training analyses?

624 **VIRTUE:** You know, I'm going to say that's probably out of my pay grade.

625 **SEVERE:** That's fair - that's fair enough, that's fair enough.

626 **VIRTUE:** I don't know. I've never been in that role and...

627 **SEVERE:** Okay.

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628 **VIRTUE:** ...had that level of authority, so I just – I just – I don't think I can give an opinion on it. I
629 have not sat in that chair.

630 **SEVERE:** Okay, okay. That's fair enough. The reason I ask that is, you know, part of I guess the
631 review is just trying to figure out what is the training analysis. Is it okay for folks to have – not to say
632 in this particular case there was any editorial control or content,...

633 **VIRTUE:** (indecipherable)

634 **SEVERE:** Yeah, exactly, and from the chief's office, but it's a bureau product and, end of the day, the
635 chief of police can speak for the Police Bureau, and is that appropriate, particularly for the training
636 analysis, is that something that is appropriate for somebody in the chief's office to have control over or
637 not, and I don't really have an answer or there's not a correct answer or incorrect answer, so...

638 **VIRTUE:** I see it in other areas where, ultimately, if you just look at just general, you know, after-
639 action review, I mean a lot of what we do ultimately I'm sure, again, I don't want to sit in the chief's
640 chair, but everything that comes out of this department he owns.

641 **SEVERE:** Um hm.

642 **VIRTUE:** So I mean that's something that I think is a lens, you have to look through it...

643 **SEVERE:** Um hm.

644 **VIRTUE:** ...through it is that it is his, but, in the same breath, he wants it to be objective and fair.
645 That's why I said, it almost depends on the circumstances. As long as reasonable people can get to the
646 same place, like I said. Some people may say this has more value than this. As long as you can see
647 the reason analysis,...

648 **SEVERE:** Um hm.

649 **VIRTUE:** ...the objective and perspective, then I think that's an appropriate role.

650 **SEVERE:** Okay.

651 **VIRTUE:** Again, I think it's an art, because you want an objective document also.

652 **SEVERE:** Gotcha. So while you were doing your training analysis, were you ever told that you
653 needed to change any – not just for...not for grammatical reasons, but for like content, specific reasons
654 to change your training analysis?

655 **VIRTUE:** Not that I recall. There was – I think there were a couple of things that I came to that I
656 wasn't sure. Like I said, the specifics, I could not tell you what they are, but there were times where I
657 would, you know, look at this one piece of it, for example, and I'm not sure was this – this is the
658 training, this is what they did, I'm struggling with whether that was consistent with training,...

659 **SEVERE:** Um hm.

660 **VIRTUE:** ...and I know I had a couple of those with Chief O'DEA, and he was able to provide
661 clarity...

662 **SEVERE:** Okay.

663 **VIRTUE:** ...based on, you know, his training in this area. Now this is pretty much how the sergeants
664 were trained. So I don't recall a time where I went and had something written and he came and said,
665 you know, line 43,...

666 **SEVERE:** Gotcha.

667 **VIRTUE:** ...that's gotta change,...

668 **SEVERE:** Okay.

669 **VIRTUE:** ...it was mostly I had or we had in that level in my piece with Chief O'DEA was I usually
670 came to him with a question.

671 **SEVERE:** Okay.

672 **VIRTUE:** I've read the facts, I've seen the training, is this what we're talking about in this training,...

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673 **SEVERE:** Um hm.

674 **VIRTUE:** ...and - or what do we train. Typically, when I go to trainers, I try not to give them the
675 exact facts. This is a little different because he was overseeing the case, but, typically, I would just go
676 to trainers, what do we train. I wouldn't tell them the specifics of the case, I would just ask for general
677 concepts, so what do we train in suppression fire, what do we train in cover contact, how do we train
678 officers, and then I would try to get that general explanation and apply it to the facts. But that's more
679 with Chief O'DEA, a couple of times that would happen.

680 **SEVERE:** Okay. Besides yourself and Lieutenant KING and Chief O'DEA and the way that you
681 mentioned, was there anybody else that helps you folks in either writing or crafting or editing the
682 training analysis?

683 **VIRTUE:** Not me.

684 **SEVERE:** Okay.

685 **VIRTUE:** I don't know if ROBERT did or not.

686 **SEVERE:** I see, it's you.

687 **VIRTUE:** For me, I didn't. I was pretty much, like I said, I'm hermit-oriented and I like - I get
688 confused with too much, so I like to keep my thought process and get it packaged and then have
689 somebody come back and...

690 **SEVERE:** Okay. So while you're doing the training analysis, and I understand you said earlier that
691 you've kind of come up with your own kind of guidelines and just a way of doing these things, did you
692 feel that there was some sort of bureau or training specific guidelines or informal SOPs on how, or
693 formal SOPs, on how you're supposed to do these?

694 **VIRTUE:** Not that I was aware of. I think we currently have a draft in place (indecipherable). There
695 was nothing at the time. There was a gap - one of those gaps that we had is to make this uniform...

696 **SEVERE:** Okay.

697 **VIRTUE:** ...and consistent.

698 **SEVERE:** Do you think that would have helped you out in doing them?

699 **VIRTUE:** Sure.

700 **SEVERE:** When you mentioned earlier about how you were doing - how you decided to do your
701 portion of the training analysis, looking at the different policy areas and reviewing the training
702 materials and the course materials, while you're doing your piece, did you ever talk to the trainers who
703 taught those particular classes?

704 **VIRTUE:** I - I know this has been a big source of contention, I recall having numerous discussions,
705 none of them formal though,...

706 **SEVERE:** Um hm.

707 **VIRTUE:** ...with officers unless - again, mine was a little unique, my questions, Chief O'DEA had
708 written the - so the piece I was doing,...

709 **SEVERE:** Um hm.

710 **VIRTUE:** ...he was kind of my trainer, so I didn't have as much occasion to have formal discussions
711 with trainers. I recall having several informal discussions about, and I couldn't tell you with who,
712 about certain - like the way we set up the negotiations in this incident, what were the expectations of
713 the custody team, you know, what are we training our guys that are part of the custody team, what
714 were the expectations of a street officer that shows up, gets involved in negotiations. So I did have -
715 the way I used the instructors was if I thought there was a gap.

716 **SEVERE:** Okay.

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717 **VIRTUE:** If I didn't understand something. If I have a record that's totally clear to me, then I know –
718 and probably the bulk of my analysis, I have not spent a lot of time with the instructors because,
719 typically, if everything works perfectly, I have – I know what we've trained, where I would go out and
720 seek them is if I had confusion.

721 **SEVERE:** Okay.

722 **VIRTUE:** Where like if I was talking with Chief O'DEA, where so exactly, you mentioned this piece
723 here about – I'm trying to think of an example, there's part of the critical incident management training
724 about a sergeant having the role – specific role while they're also still the sergeant in charge,...

725 **SEVERE:** Gotcha.

726 **VIRTUE:** ...there was some language in there where, you know, there is a little allowance for, until
727 you get all your resources there, it's okay for the sergeant to have a functional role in the event.

728 **SEVERE:** Yeah.

729 **VIRTUE:** Ideally, you like them to be set aside and not have a role, but if you don't have everybody
730 there, you may need to have a role. And so I may come to like to Chief O'DEA and say so what do we
731 teach sergeants about having a role, if I'm confused about how that language is. So that's how I would
732 typically use our instructors is to try to – to get clarification. I think I did one recently where officers
733 were shot in the administering of suppression fire, so I – I go to the patrol tactics instructors and I
734 don't ask them to write an opinion about suppression fire, but I say so where do we – where is that in
735 our lesson plans or how do we teach that. I don't go to them and say this officer did A, B and C, was
736 that...

737 **SEVERE:** Um hm.

738 **VIRTUE:** ...was that consistent with or not consistent with our training. So that's – so, yes, I did
739 have...

740 **SEVERE:** Okay.

741 **VIRTUE:** ...some interaction. It wasn't, you know, what I would call a (indecipherable) asked to
742 write me, you know, a one page opinion on how, or give me an official opinion. That's just not how I
743 had done them.

744 **SEVERE:** Okay. Okay, so I mean earlier we discussed, you know, that there really wasn't a
745 formalized structure of how you're supposed to do these training analyses, but was it – is it an
746 expectation that the folks doing the training analysis have to talk to the trainers?

747 **VIRTUE:** I would say that, based on how I – my methodology, no, unless the situation warrants.

748 **SEVERE:** Okay.

749 **VIRTUE:** And, again, there was no SOP for it. There was no – I think there was an assumption, and I
750 think when I went into this job I figured I'd have more interaction...

751 **SEVERE:** Um hm.

752 **VIRTUE:** ...with the instructors, but, as I started to do it and get into what – if I could find the record
753 of the training,...

754 **SEVERE:** Um hm.

755 **VIRTUE:** ...which I thought was the most objective way to do the analysis of what the record was,...

756 **SEVERE:** Um hm.

757 **VIRTUE:** ...it was easier for me to lay the facts of the case over what we had as a record of what we
758 train our officers, unless I had a point I needed clarity on.

759 **SEVERE:** Okay.

760 **VIRTUE:** That, again, that's just the way I had always done them, so I would say in all the analyses
761 to date that I've done,...

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762 **SEVERE:** Okay.

763 **VIRTUE:** ...I've probably had, I guess, minimal interaction. I don't utilize them unless there's
764 confusion.

765 **SEVERE:** Okay.

766 **VIRTUE:** If I have the record, I'll go to the record, and if I'm confused, I'll try to get clarity.

767 **SEVERE:** Okay. I think I know the answer to this, but I'm going to ask you anyways, so you didn't
768 ask the trainers whether they agreed with your conclusions in your portion of the training analysis that
769 you did?

770 **VIRTUE:** Correct.

771 **SEVERE:** Didn't, okay. And do you – I mean you don't think that there needs to be a consensus with
772 the trainers at Training on what the training analysis says, like, you know, basically kind of a polling
773 or a consensus of the, you know, kind of the training core of the Training Division on what the training
774 analysis writers are doing?

775 **VIRTUE:** I think that would be hard to do. I think – and I guess I suppose you could craft that, I'd
776 say kind of a procedural or directive language that you have to have 70% of the training staff agree,...

777 **SEVERE:** Um hm.

778 **VIRTUE:** ...because I know from my experience just as an officer and then as doing these is that
779 you're probably not going to get that sometimes,...

780 **SEVERE:** Okay, um hm.

781 **VIRTUE:** ...and then what do you do if you don't have that...

782 **SEVERE:** Okay.

783 **VIRTUE:** ...and who gives value. That's why we have the discussions at the command level, the
784 lens that they have to look at things through. I think it's very difficult for a peer to sometimes give
785 value to their peer's actions. I know it was for me, especially in this line of work. It's very difficult.
786 I've used the analogy before of a doctor. Two doctors are in a doctor's office and one of them is being
787 sued for medical malpractice, and you go to his partner and say, hey, do you think that was medical
788 malpractice. That's a tough thing for another doctor who knows how difficult the job is and all the
789 complexities of decisions to make, and I think with officer's, it's emotional and then there's an
790 analytical piece, so it would be hard to do. I think it's, in most cases, there's at least some kind of
791 consensus, but there's times where somebody's got to officially make the call, and I think it needs to
792 be as objective as possible.

793 **SEVERE:** Okay.

794 **VIRTUE:** And so I don't know how you would craft such a procedure...

795 **SEVERE:** Okay.

796 **VIRTUE:** ...to get consensus or how you would – like I said, do you go to every one of them and do
797 you meet with them in a room and capture it, do you have them all write an opinion of how they – and
798 then they're doing the work that you're supposed to – you're supposed – nobody...

799 **SEVERE:** Okay.

800 **VIRTUE:** So, short answer, I understand the issue, but I don't – practically speaking, I don't know...

801 **SEVERE:** Okay.

802 **VIRTUE:** ...how we get there.

803 **SEVERE:** Would you, you know, let's say there was a requirement to do a training analysis or to
804 have a completed training analysis there has to be a – some sort of consensus of approval from the
805 trainers at Training, do you think that would be helpful or hurtful to the training analysis as a useful
806 product?

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807 **VIRTUE:** I think it would – it would probably – I guess you’d have to ask that again. I’m not sure
808 what you’re asking.

809 **SEVERE:** So requiring a consensus of the trainers at Training, would that be something that would –
810 do you think, just in your experience as somebody who’s done these training analyses, would that be
811 useful to I guess the end user of what – of the training analysis, having consensus, yes or no?

812 **VIRTUE:** Yeah, I think it would be, you know, facts they may want to know.

813 **SEVERE:** Okay.

814 **VIRTUE:** At best, if we’re talking about how to do this in prospective down the road, maybe you
815 would get that input and then provide it, and then if you are not going to follow it, explain why you’re
816 not.

817 **SEVERE:** Okay.

818 **VIRTUE:** Do you know what I mean?

819 **SEVERE:** Okay, okay.

820 **VIRTUE:** It’s – so I could see that you could, you know, I’ve talked to all these instructors and they
821 feel this, but,...

822 **SEVERE:** Um hm.

823 **VIRTUE:** ...based on the analysis and looking at the training, I feel this. But it’s – I think it’s –
824 there’s a lot of – it’s an imperfect system and I think, ideally, to get the instructor’s input is good
825 where needed,...

826 **SEVERE:** Um hm.

827 **VIRTUE:** ...you know, sometimes it’s not and sometimes it is. Like I said, there’s – it’s not clear.

828 **SEVERE:** Okay.

829 **VIRTUE:** I always looked at it as just trying to be as objective as possible.

830 **SEVERE:** Okay.

831 **VIRTUE:** And, to me, the objectivity is the – is the written record of what we train.

832 **SEVERE:** Okay, in your prior training analysis, did you get a consensus from the trainers?

833 **VIRTUE:** No.

834 **SEVERE:** Okay, and – oh, sorry, I think I’m cutting you off.

835 **VIRTUE:** No, I didn’t, no, and haven’t since.

836 **SEVERE:** Okay.

837 **VIRTUE:** Like I said, I continue to plot along with my – the way I do things. If I have – if I need
838 clarity, I try to ask it in general concepts.

839 **SEVERE:** Okay.

840 **VIRTUE:** So I’ll ask a specific – I won’t say here’s the facts,...

841 **SEVERE:** Um hm.

842 **VIRTUE:** ...was this consistent, I’ll try to get more clarity about what we train. Just, like I said, it’s
843 never been a huge issue. This one obviously became an issue.

844 **SEVERE:** Okay. And I believe you were involved in doing the training analysis or part of the team
845 doing the training analysis in the SINGH officer-involved shooting.

846 **VIRTUE:** Yes.

847 **SEVERE:** In that, I don’t know if you just kind of broke it up similarly where you had a particular
848 portion or – or how...

849 **VIRTUE:** Oh, that’s right, I did that one with a partner.

850 **SEVERE:** Okay.

851 **VIRTUE:** (indecipherable)

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852 **SEVERE:** Okay, in that, did you go into conversations with the trainers about different areas?
853 **VIRTUE:** I did the same methodology. That was the one with the suppression fire, so...
854 **SEVERE:** Um hm.
855 **VIRTUE:** ...how do we train.
856 **SEVERE:** Okay.
857 **VIRTUE:** So, yes.
858 **SEVERE:** Okay. So one of the issues that's kind of come up in this training analysis portion of this
859 FRASHOUR arbitration and the whole deal is that there's all these versions of the training analysis.
860 How many versions do you think there are of this training analysis?
861 **VIRTUE:** Of my piece?
862 **SEVERE:** I mean one of the things is what do you define as a version, but...
863 **VIRTUE:** Because we went through, as I recall, we went through, you know, merging the document.
864 **SEVERE:** Um hm.
865 **VIRTUE:** My methodology, I wasn't – I didn't keep drafts. Again, just part of my – if I made
866 changes, I just kept that document, especially if they weren't – if I was just doing grammatical, I would
867 just keep it, as I worked through it, and then at point towards the end, we merged the documents.
868 **SEVERE:** Um hm.
869 **VIRTUE:** So, as far as I know, there was only one, but...
870 **SEVERE:** Okay.
871 **VIRTUE:** I don't know if others, you know, through the administrative process, I know there was
872 some confusion on how to merge them,...
873 **SEVERE:** Okay.
874 **VIRTUE:** ...which was just our lack of experience of figuring out at the end of the day how are we
875 going to merge these documents and footnote issues, because we had each footnoted, and – but, as far
876 as I know, there was only one final document.
877 **SEVERE:** Okay.
878 **VIRTUE:** Unless through the merging process we ended up with – with a couple, but I don't – I can't
879 say that for sure, but that was my – at some point, I delivered, you know, my piece...
880 **SEVERE:** Um hm.
881 **VIRTUE:** ...and I'm not even sure who merged that, if it was an administrative person or if it was –
882 I'm not sure. To be honest with you, I can't recall who did that.
883 **SEVERE:** So just to make sure I'm getting you correctly, like when you get feedback from other
884 folks on what you were doing, your particular piece, you kind of kept it like in a document,...
885 **VIRTUE:** Right.
886 **SEVERE:** ...and you just kind of incorporated those kind of as things went along.
887 **VIRTUE:** Right.
888 **SEVERE:** Okay.
889 **VIRTUE:** I didn't keep a bunch of – a bunch of drafts of my work, I just – I made changes and
890 worked off that one.
891 **SEVERE:** Okay, how aware were you of the stuff that ROBERT KING was working on on the less
892 lethal and the deadly force portions?
893 **VIRTUE:** We were having, you know, a lot of discussions about it,...
894 **SEVERE:** Okay.
895 **VIRTUE:** ...and so I was pretty aware.

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896 **SEVERE:** Okay. And just as somebody who's just read the different versions, for the lack of a better
897 word, of the training analyses, it looks like kind of towards earlier on Lieutenant KING has the belief
898 that Officer FRASHOUR'S actions were consistent with training, and then there's a shift. Did you
899 have any discussions with Lieutenant KING or was that a topic of discussion when you guys had
900 meetings?

901 **VIRTUE:** You know, it may sound – I don't recall ever seeing a version that he did not find that it
902 was inconsistent with training.

903 **SEVERE:** Okay.

904 **VIRTUE:** And I know there's been a lot of – there probably – it sounds like there is a version. I don't
905 – I just don't recall that. Most of the recollection I have of ROBERT is just it was more the emotional.

906 **SEVERE:** Okay.

907 **VIRTUE:** We had a lot of discussions about the emotions he had for where he was headed.

908 **SEVERE:** Okay.

909 **VIRTUE:** But I just – I – I don't recall ever seeing, hey, here's the...

910 **SEVERE:** Okay.

911 **VIRTUE:** ...I'm going to find this. I just don't recall seeing that.

912 **SEVERE:** So...

913 **VIRTUE:** He may have had it in one of his drafts?

914 **SEVERE:** Yeah. Just best as you can recollect, there wasn't a point where you folks had a meeting
915 and it's like, okay, here's a draft and...

916 **VIRTUE:** Find this.

917 **SEVERE:** Yeah.

918 **VIRTUE:** No,...

919 **SEVERE:** Okay.

920 **VIRTUE:** ...I don't recall that at all.

921 **SEVERE:** And you discussed that Lieutenant KING had a lot of emotions about where he was going.
922 I'd like to kind of break that up a little bit. What were the emotions?

923 **VIRTUE:** Well, I think his analysis was is that – that Officer LEWTON and Officer FRASHOUR,
924 after his reading of it, his analysis was that they weren't consistent with the training,...

925 **SEVERE:** Um hm.

926 **VIRTUE:** ...and the concerns about what that may mean, you know,...

927 **SEVERE:** Um hm.

928 **VIRTUE:** ...what value would be given to that.

929 **SEVERE:** Um hm.

930 **VIRTUE:** He didn't have control over that value. And that was the discussion I kept telling him, I
931 said, you know, I've done a couple of these, you're not going to be able to give value to this, you just
932 write what you write and somebody else is going to give value to, you know, what that means, but I
933 think he was just really struggling with the emotions of making that kind of analysis that he knew
934 there's a very strong chance that somebody's going to give value to it that could severely impact a lot
935 of people's lives, and I think, as the former president of the union,...

936 **SEVERE:** Um hm.

937 **VIRTUE:** ...I think there was just some natural human emotions revolved around that. So I mean
938 that's kind of the – you know, we had discussions about - about that, and for some reason I was in a
939 different place. I mean I don't know why, you know, I just felt like, hey, we've just got to do our
940 job...

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941 **SEVERE:** Okay.

942 **VIRTUE:** ...and we've just got to get to a place that we can believe in what we're doing and be true
943 to yourself and write what you write and - but it was easier for me to do. He had had a much different
944 role in this bureau and...

945 **SEVERE:** Yeah.

946 **VIRTUE:** ...had been on the other side of that table a lot of times,...

947 **SEVERE:** Gotcha.

948 **VIRTUE:** ...so I think he was just – so what I saw, I didn't see intellectual conflict,...

949 **SEVERE:** Um hm.

950 **VIRTUE:** ...personally, I saw more emotional conflict with him. But that was – that's just kind of
951 my take away two years later of how it played out. I just didn't see the (indecipherable).

952 **SEVERE:** To your knowledge, was Lieutenant KING subject to any pressure from folks within the
953 bureau or without the bureau to act a certain way in doing his training analysis?

954 **VIRTUE:** Or make a certain?

955 **SEVERE:** Like, you know, to say or, you know, I mean just to kind of spell it out, that LEWTON and
956 FRASHOUR, their actions were inconsistent with training.

957 **VIRTUE:** And this is totally subjective and just my – my personal assessment, I thought he had more
958 pressure the other way, to be honest, but that was just – in dealing with him, I think, again, this is just
959 my interactions were that he knew where he needed to go,...

960 **SEVERE:** Um hm.

961 **VIRTUE:** ...he's having a hard time getting there.

962 **SEVERE:** Okay.

963 **VIRTUE:** That was my – that was my perception. Like I said, if there was any pressure, at least from
964 my experience with him, other than the natural pressure, for being on probation, this is a very high
965 profile deal, but, at the end of the day, you've just got to write what you write. And – and I think if I –
966 if I was – if you were going to ask me that question about pressure, I would say it was probably he was
967 having the emotional pressure to not find what he – he was reading this and going down a path,...

968 **SEVERE:** Um hm.

969 **VIRTUE:** ...but I think he was feeling the emotional pressure not to go down that path, so that would
970 be my assessment.

971 **SEVERE:** Okay.

972 **VIRTUE:** It's kind of the opposite of what most people have interpreted, but...

973 **SEVERE:** So KING'S, I guess, analysis of the circumstances, in looking at the facts and looking at
974 the different training materials, led him to believe that FRASHOUR and LEWTON were acting
975 inconsistent with their training. Did you agree with that?

976 **VIRTUE:** Yeah, I had found that.

977 **SEVERE:** Okay.

978 **VIRTUE:** That was my assessment also. There were a variety of factors. Like I said, it's pretty
979 complex,...

980 **SEVERE:** Um hm.

981 **VIRTUE:** ...you've got to look at the total incident.

982 **SEVERE:** Okay.

983 **VIRTUE:** So I think some people oversimplified it to that one – that one decision.

984 **SEVERE:** Um hm.

985 **VIRTUE:** It would take a book. Yeah, but I felt that.

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986 **SEVERE:** So everything that was in the training analysis, did you agree with what was in it? I
987 mean...

988 **VIRTUE:** I don't know, I'd have to go back and reread it.

989 **SEVERE:** Okay.

990 **VIRTUE:** I agreed with that very analytical point. I agreed with my part. No, I'd have to read it in
991 whole and go back and then look at every decision point. The ultimate, kind of big – big decision
992 points, yes.

993 **SEVERE:** Okay.

994 **VIRTUE:** How it was analyzed, I think, you know, everybody could look at something – people
995 could look at mine and say, well, that's, you know, how did you see that. That's just – everybody
996 could have a different opinion about that.

997 **SEVERE:** Fair enough. Just kind of, you know, when you're done with doing this training analysis
998 kind of June or July of 2010, you – you felt comfortable enough putting your name or...

999 **VIRTUE:** Oh, definitely,...

1000 **SEVERE:** ...attaching your name to the training analysis?

1001 **VIRTUE:** ...definitely.

1002 **SEVERE:** Okay.

1003 **VIRTUE:** Like I said, all the general, where we landed, yes. How you did the specific analysis I
1004 think is all that mattered.

1005 **SEVERE:** I believe that those are all my questions.

1006 **ACCORNERO:** I just have a couple I want to – closing questions. First of all, regarding the
1007 meetings you had with A/C O'DEA, was Lieutenant KING present during all of those meetings?

1008 **VIRTUE:** I am going to say, yes.

1009 **ACCORNERO:** Okay.

1010 **VIRTUE:** Because, typically, we – I just recall there's a couple times where ROBERT couldn't be
1011 there and we'd just cancel the whole thing.

1012 **ACCORNERO:** Okay.

1013 **VIRTUE:** Because he only had limited time.

1014 **ACCORNERO:** Okay, are you aware of, personally, if Lieutenant KING had any private meetings
1015 with A/C O'DEA?

1016 **VIRTUE:** I am not aware of any.

1017 **ACCORNERO:** You were served with an order to produce documents and a communication
1018 restriction order. You e-mailed me that you had no new documents,...

1019 **VIRTUE:** Right.

1020 **ACCORNERO:** ...other than anything had previously been turned over to IA, City Attorneys,...

1021 **VIRTUE:** Yeah.

1022 **ACCORNERO:** ...things of that nature. Have you – any other documents turn up since that e-mail?

1023 **VIRTUE:** No, nothing I found, no.

1024 **ACCORNERO:** Okay. Are you aware of any – any info related to this investigation that has not
1025 been covered during this interview?

1026 **VIRTUE:** No. Well, what was the question?

1027 **ACCORNERO:** Anything else you want to bring forward that we haven't covered?

1028 **VIRTUE:** No.

1029 **ACCORNERO:** Okay. Any questions of us?

1030 **VIRTUE:** No.

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1031 **ACCORNERO:** Captain, is there any follow-up questions or anything you'd like to say?
1032 **PARMAN:** Just a clarifying question. I think it's pretty clear from the record, but just to kind of put
1033 it in context, you talk about, you know, the meetings you had with Lieutenant KING over the course
1034 and kind of what you characterize as jury deliberations, are we talking dozens of conversations,
1035 hundreds, I mean just to kind of put it in context. I mean just so that folks who are reading this later in
1036 the record get a feel for a number of times you guys met and talked.
1037 **VIRTUE:** It would be probably dozens,...

1038 **PARMAN:** Okay.
1039 **VIRTUE:** ...if not more. Like I said, we kind of lived and breathed this thing for however many
1040 months that was, four months.
1041 **ACCORNERO:** Yeah, because – oh, I'm sorry, go ahead, Sir.
1042 **PARMAN:** No, just one thing, and this is the Laborer in me coming out, it says we've been provided
1043 an opportunity, reasonable information to be reasonably apprised and, you know, Lieutenant VIRTUE
1044 has testified virtually from memory, so if you have other documents you would like in review or any
1045 other clarifying questions, we would be happy to come back, but, at this time, there's, you know, he
1046 came in here having done the review and has testified from memory.
1047 **ACCORNERO:** Sure, and – and, as you know, this is somewhat of a unique situation.
1048 **PARMAN:** This case continues to be.
1049 **ACCORNERO:** Yes, and for that reason, normally, we would have produced a worksheet...
1050 **PARMAN:** Right.
1051 **ACCORNERO:** ...and things of this nature. We don't even have an IA worksheet because it's not an
1052 IA investigation, we're just here to assist Mr. SEVERE. So that's kind of where we're going. And to
1053 follow-up to the Captain's question, this was about a four month project?
1054 **VIRTUE:** Yeah.
1055 **ACCORNERO:** And I know in many cases I've worked, and I'm sure everyone else here, if you're
1056 involved in a complex case, it's not unusual to converse with your coworkers about this, like if I have
1057 a partner in an investigation. In this case, Mr. SEVERE and I have had a fair number of conversations
1058 just to discuss interview plans and things of that nature. Is that what you were basically making
1059 reference to?
1060 **VIRTUE:** Yes, and that – that was my understanding of how we were working was together
1061 (indecipherable).
1062 **ACCORNERO:** Does anyone have anything else before we go off tape?
1063 **SEVERE:** No.
1064 **ACCORNERO:** It is approximately 3:43 p.m. and I am going off tape.
1065
1066 12b0021trs-virtue, Fldr 320.doc
1067 Transcribed 07/23/2012 @ 1:00 p.m. Laura Martinson (0720lm06)

Officer Paul Meyer
Interviewed July 19, 2012

1 **PORTLAND POLICE BUREAU**
2 **INTERNAL AFFAIRS**
3 **Confidential Taped Statement**
4 **Investigator William Accornero/#91743**
5
6

7 **Interview Date:** 07/19/2012
8 **IA #:** 2012-B-0021
9 **IA File Name:** 12b0021wmp-meyer
10 **Complainant:** Portland Police Bureau
11

12 **Interviewed:** Officer Paul Meyer #26651
13
14

15 **ACCORNERO:** This is WILLIAM ACCORNERO, Internal Affairs Investigator, #91743. Present
16 with me is IPR Assistant Director CONSTANTIN SEVERE. Today is July 19, 2012. It is
17 approximately 3:15 p.m. at the Internal Affairs Division interview room. Also present is Officer
18 PAUL MEYER, #26651, and his attorney, ANIL KARIA. This is regarding Internal Affairs case
19 number 2012-B-0021, regarding Portland Police Bureau case number 10-8352. Officer MEYER has
20 been advised that his conduct and/or the conduct of any other Bureau members present, this is
21 regarding an incident that occurred on January 29, 2010 to the present, is subject to this investigation.
22 Officer MEYER has reviewed information necessary to be reasonably apprised of the nature of the
23 allegations of the complaint. Prior to going on tape, I explained to Officer MEYER and Mr. KARIA
24 that there is no information to present, or worksheet. Officer MEYER has been informed that he is a
25 witness in the case and that Captain DAVID A. FAMOUS is in charge of the investigation. I advised
26 Officer MEYER that he could have representation present during the interview and Mr. KARIA is here
27 in that capacity. Officer MEYER has been provided a copy of the Advanced Notice of Waiver form
28 and will be signing it momentarily. Officer MEYER, under the authority of Captain FAMOUS, I am
29 ordering you to answer all my questions fully and truthfully. If you fail to respond fully and truthfully,
30 you may be disciplined up to and including dismissal. Do you understand sir?

31 **MEYER:** Yes I do.

32 **ACCORNERO:** Okay, if I can just get you to sign your affidavit now. Portland City Auditor
33 LAVONNE GRIFFIN-VALADE, is conducting an independent investigation into the circumstances
34 surrounding the Training Division's review and analysis of the shooting of AARON CAMPBELL by
35 Officer RONALD Frashour, and the subsequent arbitration hearing regarding Officer Frashour's
36 discipline in the case. The auditor has assigned Independent Police Review Assistant Director
37 CONSTANTIN SEVERE to collect and review all information related to the Training Division's
38 review and analysis of the shooting. Chief Reese has assigned Internal Affairs to assist the auditor in
39 gathering information relevant to the auditor's investigation. On January 29, 2010, the shooting of
40 CAMPBELL occurred as reported in Portland Police Bureau case 10-8352. As required, IA conducted
41 an investigation in our case 2010-B-0004, and Training Division conducted a review and analysis of
42 the shooting. Homicide detectives, IA investigators and Training attempted to gather all the
43 information collected to the Use of Force Board. The purpose of this interview is to get an
44 understanding of your involvement, if any, in the preparation and editing of the training analysis
45 prepared by Lieutenants KING and VIRTUE, during their review of the OIS investigation. The
46 interview is going to be conducted by Mr. SEVERE and I'll assist, as a representative of Internal
47 Affairs. Okay sir.

48 **SEVERE:** All right. As I said before, my name is CONSTANTIN SEVERE. I'm with IPR. We're
49 doing this review, all the stuff that the Mayor and the Chief asked us about, asked us to do. Um, just
50 start with some easy questions. How long have you been a Portland Police Bureau member?

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51 **KARIA:** CONSTANTIN, before you get started, can I...

52 **SEVERE:** Oh yeah, yeah, yeah. You actually told us about this before we got on the record, that you
53 wanted to talk on the record about something. Go ahead.

54 **KARIA:** Right. So for the record, this is ANIL KARIA and on behalf of the PPA, I wanted to note
55 two concerns or objections if you will, to this investigation. The first is that it appears that this
56 particular investigation is retaliatory towards PPA members who testified at Officer Frashour's labor
57 arbitration. Secondly, it also appears that IPR is improperly using Internal Affairs to compel PPA
58 members to this investigation, to make up for the fact that IPR lacks subpoena power over PPA
59 members. That's all I wanted to note for the record and sorry to interrupt you, CONSTANTIN.

60 **SEVERE:** Oh heck no, I was droning on. Um, how long have you been a PPB member?

61 **MEYER:** Uh, a little over 19-and-a-half years.

62 **SEVERE:** Okay. What's your current assignment?

63 **MEYER:** Currently assigned to the Training Division full-time, as the Special Weapons Lead, which
64 means I am the lead instructor for the Taser Program, the Beanbag Shotgun Program, as well as the
65 AR-15 Program. And then I have also some side duties as an armorer for the Police Bureau.

66 **SEVERE:** Um, what percentage of your duties would be instructing?

67 **MEYER:** Probably 30% would be my guess, give or take a little bit

68 **SEVERE:** Okay, so the armorer slot takes up a lot of your time?

69 **MEYER:** Preparation for classrooms, those kinds of things. There's a lot of things that go with those
70 programs. And then also a member of the Special Emergency Reaction Team, so that takes up some
71 duties, also.

72 **SEVERE:** Okay, okay.

73 **MEYER:** So kind of a hold on a whole lot of different ways.

74 **SEVERE:** I hear that. How long have you been at the Training Division?

75 **MEYER:** I came up in February of 2000.

76 **SEVERE:** Have you taught classes at Training that you don't teach now, in the past?

77 **MEYER:** Yes. I came up to the division and initially went to Patrol Tactics Lead for In-Service. I
78 taught that for a short time and then took over the lead Patrol Tactic position for the Academy. And
79 then did that just for a short time then became the lead for the Firearms Program for the Academy. And
80 then left that and came up to the armory, where I was the armorer and then kind of at the same time
81 took over the Rifle Program, as well as the Beanbag Shotgun Program.

82 **SEVERE:** Okay. Um, so how long have you been instructor on the beanbag?

83 **MEYER:** Uh, the first class that I taught was in 2004.

84 **SEVERE:** Okay. Um, how do you develop the expertise or the specialty to be able to teach that?

85 **MEYER:** So I attended numerous instructor courses. The first one I think was in 2000 through an
86 individual named Ken Hubbs, who was teaching on behalf of MK Ballistics. He is, I think, the
87 president of the California Association of Tactical Officers and has been teaching that for a long, long
88 time. IDC Instructor Development courses, other instructor courses throughout, just throughout the
89 years to keep updated on what's happening.

90 **SEVERE:** And what about the AR-15?

91 **MEYER:** Um, that program was part of the initial start of that program in '99-2000. Larry Baird
92 started that. He brought in some instructors from Gun Sight, as well as some satellite instructors from
93 Thunder Ranch and taught an instructor's school. It was two or three weeks total.

94 **SEVERE:** Okay.

95 **MEYER:** And then I've also continued education on that.

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96 **SEVERE:** Okay. Was that instruction on-site, or did you go to kind of like an 8-hour a day kind of
97 thing, like you would still go home, or did you go somewhere?
98 **MEYER:** Correct. Um, some of it was here, and then I did attend a class in Thunder Ranch down in
99 Texas.
100 **SEVERE:** Um, and you helped develop the curricula for the AR-15 class?
101 **MEYER:** Uh, that was already, well yes, there was some. Yeah. The initial instructors did help
102 develop the curriculum for that, yes. Larry Baird had the biggest role in that.
103 **SEVERE:** Okay. How often is AR-15 taught? The class.
104 **MEYER:** So there's two things. There's the basic operator class that's taught and then there's an in-
105 service. And in-services are every year. It's a, starting before last year, it was a one day in-service.
106 And then starting last year it became a two day in-service.
107 **SEVERE:** Why the change?
108 **MEYER:** Uh, we've been wanting more time. Part of that is range issues. Downstairs in our basement
109 range you can only shoot to 25 yards.
110 **SEVERE:** Uh huh.
111 **MEYER:** Our rifles are zeroed, meaning that's where we aim to hit where we're aiming, the bullet
112 impact we are aiming at 50 yards. So the range that we are able to use is out at Tri-County Gun Club
113 down in Tualatin-Sherwood area and one day a year to do that, we've always wanted two, just to push
114 the program a little bit farther and then also to incorporate scenario-based training, which we started
115 doing.
116 **SEVERE:** Okay. Um, and how often do you have I guess the basic class, or the class that qualifies
117 folks to use the AR-15?
118 **MEYER:** So initially it was quite a few classes when it first started in 2000, to get as many officers
119 up to speed, and then it has slowed down since the numbers have grown. I think we've done one class
120 this year. We did one in 2010 and I think maybe it was one in 2008. And then a couple, three a year
121 before that for a few years.
122 **SEVERE:** Okay. Um, so is there a regular schedule, or just as need arise or interest evolves.
123 **MEYER:** As need. And that's based on coverage at the precincts, how many officers they have at
124 each shift and each set of days off. And as the need arises. Cause there's a significant cost to put the
125 classes on. So as need arises, if there is no coverage on a shift, and that's kind of going on around the
126 Police Bureau a little bit, then we'll do another class. So we have two scheduled for this year. We just
127 got done with one this last week, or actually finished Monday, and then we'll do another one in
128 October.
129 **SEVERE:** How many students are there in the AR-15 class?
130 **MEYER:** Ten. For a basic operative class, we limit to 10. And in-service we will go up to 12. It's
131 cause they know how to use the rifle already. It's not a basic class. Basic class is just 10.
132 **SEVERE:** And how many instructors?
133 **MEYER:** Six total. So there's a lead and five instructors. So it's – the officer-to-instructor ratio is
134 two-to-one, so one instructor for every two officers on the line.
135 **SEVERE:** Um, have you helped develop or kind of start up from the ground floor, any other trainings
136 at the Bureau?
137 **MEYER:** From the ground floor, no. The Beanbag Program was pretty established when I started
138 taking it over. There is obviously updates that go on as the years go on with different court rulings or
139 different tactics, or you know, best practices. The Taser Program was part of the, well no not really, I
140 came in a few years after that started.

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141 **SEVERE:** Okay.

142 **MEYER:** So the AR Program is one where I was part of from the inception of it.

143 **SEVERE:** Okay. Um, on the beanbag, are there any other instructors of the beanbag to students?

144 **MEYER:** So are there more instructors to teach? Yes, there are a number.

145 **SEVERE:** How many are there?

146 **MEYER:** There are probably four or five that we use on a regular basis.

147 **SEVERE:** And are you the lead on that, as well?

148 **MEYER:** On the Beanbag Program, yes.

149 **SEVERE:** Okay. And as you probably guessed, I'm not a police officer and I don't have expertise in

150 this particular area, so when folks are being – when someone has a question to you about let's say the

151 beanbag or the AR-15, um, are you the go-to person in the Bureau for that question to be asked to, or

152 are there other people in the Bureau that, um, that question could be asked to, as well?

153 **MEYER:** For beanbag specifically?

154 **SEVERE:** Yeah, for the beanbag.

155 **MEYER:** Yeah, I'm the go-to guy. Just a question came up today and so if there's somebody at the

156 precinct saying operator, who's certified on it, can't answer that question, then the potential is that they

157 will come as me. So it kind of depends on the question, too.

158 **SEVERE:** Okay.

159 **MEYER:** If it's a simple question, you know, what kind of round are you using, an operator, you

160 know, somebody who is certified, can answer that. Or how far can you shoot this thing. You know,

161 what's its effective range. An operator can answer that. If it's something a little more technical, or a

162 bigger picture thing, it would probably come to me, yes.

163 **SEVERE:** And what about the AR-15? Like if I had a question about, you know, trying to figure out

164 how to zero-out my weapon, or whatever...

165 **MEYER:** Yep. They can ask another instructor, or myself, yeah.

166 **SEVERE:** Okay. Um, so leading to this Frashour-CAMPBELL training analysis, um, what role did

167 you play in the training analysis.

168 **MEYER:** So ROBERT KING and Lieutenant VIRTUE, I don't know if he was a sergeant or a

169 lieutenant then, he was a lieutenant.

170 **SEVERE:** I think he was a lieutenant.

171 **MEYER:** Yeah. They were doing the review and during the course of it, I had three conversations

172 maybe, somewhere in there, give or take one in either direction, with ROBERT. And most of what I

173 remember, it's been some time now, is just talking about the training and what was provided in the

174 program. What do we train. How do we teach. Those were kind of the scope of the, the conversations.

175 And we had, like I say, maybe three, maybe four over the course of months from what I can recall.

176 **SEVERE:** Did you provide him any course materials or anything like that?

177 **MEYER:** I think so. I thought I recalled giving him lesson plans, PowerPoints, those kinds of things.

178 And if I didn't, they had access to it.

179 **SEVERE:** Uh, was there any discussion with either KING or Lieutenant VIRTUE on what their, either

180 like what their analysis was or where they were at in developing the training analysis?

181 **MEYER:** No, it was more, from what I remember, more of a kind of a one-way street. It was more of

182 just they were asking questions on what, what was being taught. Not so much helping with the decision

183 of what was going to be written.

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184 **SEVERE:** Um, you know, so I mean I think you basically answered this questions already, but there
185 weren't any conversations about, well I believe Frashour is either, his actions were consistent with
186 training or outside of training. Were there any questions like that.

187 **MEYER:** No, not that I recall, no.

188 **SEVERE:** Um, so you, at the time that this training analysis was going on, spring, early summer
189 2010, you'd been at training for about 10 years, right?

190 **MEYER:** Yes.

191 **SEVERE:** Okay. In that time, had you been consulted on other training analysis or Use of Force
192 reviews?

193 **MEYER:** I think there might have been some. Not all. Cause it really depends on what happened, if
194 it's a system that I'm using or not. I think I recall being asked on a few, but what those specifics are, I
195 just can't remember at this point.

196 **SEVERE:** Um, have you ever reviewed, um, the training analysis or Use of Force reviews in prior
197 cases, lets say like either drafts or, or even the completed product before it would go to like a board or
198 something like that?

199 **MEYER:** I don't recall ever seeing them before they were finished, no.

200 **SEVERE:** Okay. And in this case, I believe I read one of the things that you had to sit down for
201 during this investigation of this case, a review of this case. Um, I believe you said you weren't given a
202 copy of the training analysis before it was completed.

203 **MEYER:** Correct.

204 **SEVERE:** Okay. Um, let's see, um, just I'm trying to figure out how training does these training
205 analyses. What is the role of trainers in the training analysis. Like kind of, you know, lead instructors
206 or instructors at training, but you know, they are not the sergeant or lieutenant who is doing the
207 training analysis. What is the role for the trainers there, just based on what you know.

208 **MEYER:** My understanding is that we are the subject matter experts on whatever instruction it is. So
209 if it's patrol tactics or defensive tactics, or firearms, or less lethal, or AR, so we're kind of the subject
210 matter experts to talk about what we teach.

211 **SEVERE:** Um, just based on what you know, do you have any knowledge on whether there's like a
212 required way in doing things for these training officers, either like something written down, or kind of
213 just the tradition of just like having the internal practice of how the office, or training office would
214 contact a subject matter expert on doing a training analysis?

215 **MEYER:** If there is one I don't know of it. So I don't know one way or the other on that.

216 **SEVERE:** Okay.

217 **MEYER:** There's been a number of people who have done them over the course of the years, so I
218 don't know if there is or is not.

219 **SEVERE:** Have you ever done one?

220 **MEYER:** No.

221 **SEVERE:** Okay. Have you seen the way training analysis, just again from your own perspective,
222 have you seen the way training analysis have been done? Have you seen that kind of shift over time at
223 training, or has it always kind of been the same, or has it evolved, or has it just kind of, depending on
224 the individual who does it?

225 **MEYER:** I think it depends a little bit on who's doing it and again, if there is a specific process they
226 take, I just don't know what that is. My role usually is just a subject matter expert. So obviously with
227 ROBERT and VIRTUE there was conversations in the past. I think I remember there being

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228 conversations, but that's kind of the extent that I have is just, here's what we teach. Or providing them
229 some material. So the actual process on how it takes place, I have a pretty limited role in that.

230 **SEVERE:** Okay. Um, after this, after the training review, um, in the Frashour case was completed in
231 September of 2010, that's like an E-mail that went out to it seems like it was sent from Lieutenant
232 WARREN to a lot of the trainers at training about discussing Use Force review in the Frashour case.

233 Do you remember seeing an E-mail about that?

234 **MEYER:** Say it again? What was it? I'm trying to remember.

235 **SEVERE:** It was an E-mail from Lieutenant WARREN to the trainers at training about discussing, I
236 believe, the Frashour review at a subsequent staff meeting.

237 **MEYER:** The staff meeting at the Water Bureau?

238 **SEVERE:** You know, I don't know where it was, but I just, I've seen an E-mail about that and that's
239 the only kind of reference that I've seen, um, to it and I just wanted to know if 1) you remember that
240 E-mail. I mean it's about two years ago at this point, but...

241 **MEYER:** If there was, I don't know. I mean I think there was an E-mail saying that we're going to
242 have this meeting at the Water Bureau, but, you know, the substance of it I just don't – short of, yeah,
243 short of, I just don't remember now. Sorry.

244 **SEVERE:** No, that's fine. Um, do you remember going to a staff meeting where the Frashour Use of
245 Force review or the training analysis was discussed?

246 **MEYER:** Yes. That was the one at the Water Bureau.

247 **SEVERE:** Okay. Um, what was the subject, not subject, but what was discussed at this meeting? Was
248 it just what the training review was about, or what was the kind of context of the meeting?

249 **MEYER:** I think they presented what the final thing was, is my understanding.

250 **SEVERE:** Okay. Did you attend that?

251 **MEYER:** Yes.

252 **SEVERE:** Okay. Um, was that usual that after a case goes to the Review Board, that the Office of the
253 Training Analysis would present the training analysis at a subsequent training meeting,
254 (indecipherable) staff meeting.

255 **MEYER:** That's the first that I remember.

256 **SEVERE:** Okay. Um, do you have an idea why that occurred?

257 **MEYER:** I don't, no.

258 **SEVERE:** Was there any, was the training analysis done in this case a subject of controversy at the
259 Training Division at the time that it was done, or afterwards?

260 **MEYER:** At the meeting I remember there was some individuals that didn't agree with what was
261 said.

262 **SEVERE:** Okay. Um, do you remember before this meeting there being any kind of controversy or
263 anything like that?

264 **MEYER:** No. I mean it was just the conversations that I had with ROBERT was my only thing that I
265 remember from what was going on.

266 **SEVERE:** Do you remember just what the controversy was. I think you made a reference to they
267 weren't happy with some of the things said in there. Do you remember what in particular?

268 **MEYER:** Uh, the one I remember was NATE VOELLER and I think he was not, he didn't agree with
269 one of ROBERT's conclusions in the, in the review and I think it regarded, I think it regarded the use
270 of the beanbag.

271 **SEVERE:** Okay.

272 **MEYER:** I think.

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273 **SEVERE:** Okay.

274 **MEYER:** I mean that was really there was only two conclusions why. But those were the two big
275 ones, the use of deadly force by RON and then the use of the beanbag by RYAN. I think it was one of
276 those two that he disagreed with.

277 **SEVERE:** Okay.

278 **MEYER:** NATE VOELLER I said, right?

279 **SEVERE:** Okay. Um, so at this staff meeting, was it, was the staff meeting basically dominated by
280 this particular Use of Force Review, or were there other issues discussed?

281 **MEYER:** I think we discussed some other things, but that was the biggest one.

282 **SEVERE:** Okay. Um, let's see. Were you aware of any pressure on either Lieutenant KING or
283 Lieutenant VIRTUE from either, well from command staff, from either AC O'DEA or yeah
284 Commander DAY to find Officer Frashour acted inconsistently with his training, or consistently?

285 **MEYER:** ROBERT never talked about it, so one way or the other, I don't know. But he, I don't think
286 he would talk about something like that to me as an officer, so I don't know.

287 **SEVERE:** Okay. Um, I don't have any further questions.

288 **ACCORNERO:** Okay. You were served, I served you with a communications restriction order and
289 an order to produce documents. And you responded that you had not located any of the documents.

290 **MEYER:** Correct.

291 **ACCORNERO:** Have you found anything since then?

292 **MEYER:** No I haven't.

293 **ACCORNERO:** Are you aware of anything related to this investigation that you would like, that we
294 haven't covered, that you would like to comment about?

295 **MEYER:** No.

296 **ACCORNERO:** Any questions of us?

297 **MEYER:** Nope.

298 **ACCORNERO:** Sir, do you have anything in follow-up?

299 **KARIA:** A couple of questions if you don't mind.

300 **ACCORNERO:** Please go right ahead.

301 **KARIA:** PAUL, you mentioned subject matters, in reference to subject matter experts. And so
302 there's firearms trainers who are subject matter experts and whatever platform. So, for instance,
303 beanbag operators.

304 **MEYER:** Yes.

305 **KARIA:** AR operators.

306 **MEYER:** Yes.

307 **KARIA:** And as I understand it, KING and VIRTUE are consulting you during the time of their
308 Training Division Analysis with respect to your expertise as both a beanbag and an AR platform
309 operator.

310 **MEYER:** Correct.

311 **KARIA:** Okay. And also within this sphere of subject matter experts, there is patrol tactics
312 instructors.

313 **MEYER:** Yes.

314 **KARIA:** And there are lead patrol tactic instructors.

315 **MEYER:** Yes.

316 **KARIA:** And then there's also defensive tactics instructors and specifically also lead defensive
317 tactics instructors, right?

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318 **MEYER:** Yes.

319 **KARIA:** Uh, were either KING or VIRTUE consulting you as either a patrol tactics or defensive
320 tactics instructor?

321 **MEYER:** No.

322 **KARIA:** In the past you said that you may have been, but you can't recall, any specifics about being
323 consulted for Training Division reviews of deadly force encounters.

324 **MEYER:** Right. I think I have, but the specifics I just can't remember.

325 **KARIA:** Do you recall in any of those if you were consulted as a defensive tactics or patrol tactics
326 expert? Or would it have been more as a platform expert in particular.

327 **MEYER:** More by platform. I think those reviews that I remember were kind of formally started with
328 KEITH HATTORI. He was a sergeant at the time and I am trying to remember my role at the time, but
329 I think I was more of a platform instructor at that point and away from the other ones.

330 **KARIA:** And then do you know one way or the other if former lead trainers who did these analysis
331 like Sergeant KEITH HATTORI would have consulted defensive tactics or patrol tactics subject matter
332 experts when preparing his reports?

333 **MEYER:** I would think that they would, yeah.

334 **KARIA:** Okay. That's all I have.

335 **ACCORNERO:** Okay. Okay, it's approximately 3:40 p.m. and we are going off the tape.

336

337 12b0021trs-meyer, Fldr 333.doc

338 Transcribed 07/30/2012 @ 2:45 p.m. Susan Henderson (0730sh07)

Lieutenant Robert King
Interviewed July 26, 2012

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PORTLAND POLICE BUREAU
INTERNAL AFFAIRS
Confidential Taped Statement
Investigator William Accornero/#91743

7 **Interview Date:** 07/26/2012
8 **IA #:** 2012-B-0021
9 **IA File Name:** 12b0021wmp-king
10 **Complainant:** Portland Police Bureau

11
12 **Interviewed:** Lieutenant Robert King, #21075
13
14

15 **ACCORNERO:** This is WILLIAM ACCORNERO, Internal Affairs Investigator, #91743. Present
16 with me is IPR Assistant Director CONSTANTIN SEVERE. Today is July 26, 2012. It's
17 approximately 2:10 p.m. at the Internal Affairs Division interview room. Also present is Lieutenant
18 ROBERT KING, #21075, and Captain BRYAN PARMAN, #28328. This is regarding IA case 2012-
19 B-0021, regarding Portland Police Bureau cause number 10-8352. Lieutenant KING has been advised
20 that his conduct and/or the conduct of any other bureau members present, this goes back to January 29,
21 2010 to the present, is the subject of this investigation. Lieutenant KING has reviewed information
22 necessary to be reasonably apprised of the nature of the allegation of the complaint. It should be noted
23 he was given some sample of the...

24 **SEVERE:** The training analysis.

25 **ACCORNERO:** ...training analysis by CONSTANTIN SEVERE. There is no IAD worksheet or
26 anything, other than that, that he can review. Lieutenant KING has been informed that he is a witness
27 in the case and that Captain DAVID A. FAMOUS is in charge of the investigation. I have advised
28 Lieutenant KING that he could have representation present during the interview, and Captain
29 PARMAN is here in that capacity. Lieutenant KING has been provided a copy of the Advanced
30 Notice and Waiver form and has signed it. Lieutenant KING, under the authority of Captain
31 FAMOUS, I am ordering you to answer all of my questions fully and truthfully. If you fail to respond
32 fully and truthfully, you may be disciplined up to and including dismissal. Do you understand, Sir?

33 **KING:** Yes, I do.

34 **ACCORNERO:** Okay. Portland City Auditor LAVONNE GRIFFIN-VALADE is conducting an
35 independent investigation into the circumstances surrounding the Training Division's review and
36 analysis of the shooting of AARON CAMPBELL by Officer RONALD FRASHOUR, and the
37 subsequent arbitration hearing regarding Officer FRASHOUR'S discipline in the case. The auditor
38 has assigned Independent Police Review CONSTANTIN SEVERE to collect and review all
39 information related to the Training Division's review and analysis of the shooting. Chief REESE has
40 assigned Internal Affairs to assist the auditor in gathering information relevant to the auditor's
41 investigation. On January 29, 2010, the shooting of AARON CAMPBELL occurred, as reported in
42 Portland Police Bureau case 10-8352. As required, Internal Affairs conducted an investigation, as
43 reported in IA case 2010-B-0004, and Training Division conducted a review and analysis of the
44 shooting. The Homicide detectives, IA investigators and Training then presented all the information
45 collected to a Use of Force Board. The purpose of this interview is to get an understanding of your
46 involvement and Lieutenant VIRTUE'S involvement in the preparation and editing of the Training
47 Division analysis of the officer-involved. The interview will be conducted by Mr. SEVERE and I will
48 be assisting him as a representative of Internal Affairs.

49 **SEVERE:** Good afternoon, Gentlemen. Lieutenant KING, how long have you been a Portland Police
50 Bureau member?

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51 **KING:** On April the 26th of this year, I began my 23rd year here in the Portland Police Bureau.

52 **SEVERE:** Do you have any prior law enforcement experience?

53 **KING:** I worked for one year previously, from May of 1989 until April of 1990 as a Portland Public
54 School police officer, and then before that I was actually hired in I believe November of 1987 with the
55 Lake Oswego Police, and worked there for about a year and a half or so, until I went to work for
56 school police. And, prior to that, I was selected while still at Portland State University as a minority
57 student intern at Portland State, through Portland State University, to work for a summer at the Oregon
58 Police Academy. It was the summer of 1987. I'm Hispanic. So that – but that goes back to, you
59 know, back to my PSU days.

60 **SEVERE:** Where were you assigned when you were assigned to do the training analysis?

61 **KING:** To the Training Division.

62 **SEVERE:** Okay, and what was your function there?

63 **KING:** I had a number of different responsibilities. I was the lieutenant in charge of the advanced
64 academy and it's curriculum. I had a sergeant and numerous officers who worked for me, and the
65 delivery of all the curriculum to advanced academy students. I oversaw the field training and
66 evaluation program. I had, prior to my leaving, three officers who worked as a sergeant and three
67 officers who worked as the coordinators of that program. I was also assigned by Captain DAY as the
68 lieutenant in charge of the assault rifle or the patrol rifle program, the Taser program, the beanbag
69 program, and so those were my three primary responsibilities during the time I was assigned to the
70 Training Division.

71 **SEVERE:** Prior to that stint in Training, had you ever been in Training before?

72 **KING:** In '95-'96, I was assigned to the Training Division for two years as a full-time trainer. I was a
73 defensive tactics instructor, patrol tactics instructor, firearms instructor. I taught a number of other
74 courses, survival – survival attitudes for officers who had been through deadly force encounters.
75 Emotional survival is a program developed by Dr. KEVIN GILMARTIN, we taught that to the entire
76 Police Bureau, a suicide prevention program called QPR, and developed, during that time, while in
77 Training, developed with Sergeant LARRY BAIRD the less lethal program, the beanbag program.
78 And so taught at the basic police academy and our advanced academy and our citizen's academy, as
79 well as our in-service training in the Police Bureau.

80 **SEVERE:** Okay. Who requested that you participate in the training analysis in the AARON
81 CAMPBELL case?

82 **KING:** You know, as I recall, during the time I was in Training, in addition to the duties and
83 responsibilities I've already described, I also would be assigned to do training reviews or a training
84 analysis of different incidents and, you know, during my time there, I did a review of the KEATON-
85 OTIS shooting, of the CHRIS HUMPHREYS, the use of the beanbag on the MAX platform. I assisted
86 Sergeant VIRTUE – lieutenant, he's now Lieutenant VIRTUE, but, at the time, Sergeant VIRTUE, in
87 Training with a training review that he did involving RUSS CORNO. It was a use of deadly force. I
88 was actually the sergeant on scene of that particular police shooting, and it called for SERT, so – and
89 that was prior, of course, to my assignment at Training, so I had knowledge of that incident. So, in
90 addition to the responsibilities that I mentioned, I also was assigned a number of different training
91 reviews and assisted Sergeant VIRTUE in conducting reviews as well. So, in this case, this, of course,
92 was a, you know, officer use of deadly force. It was a voluminous record. There were multiple
93 officers that were involved and it was a case that he asked for, as he had in the past on other cases,
94 asked for my assistance with, and I'm sure – I think Chief O'DEA would have ultimately authorized
95 my participation or involvement in assisting, just because of how large it was, how many people were

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96 involved, how many documents there were to review and how difficult it would be for just one person.

97 So, essentially, he requested my assistance and I – and I provided it.

98 **SEVERE:** Back when you were in Training in the mid 90s, had – did you have any role in any
99 training analysis during that time or use of force reviews or whatever the title was back then?

100 **KING:** Really nothing at all. The training reviews or the training analysis is a product of the Police
101 Assessment Resource Center making its recommendations to the Police Bureau for how it should
102 review its training, and so that was beginning in the early 2000s. So, previous to that, the Portland
103 Police Bureau in its review of officer use of deadly force had the Detective Division interview and may
104 have only relied on that as the record for making the decision about whether or not it was consistent
105 with policy or not. So, no, no I didn't participant in any reviews,...

106 **SEVERE:** Okay.

107 **KING:** ...as there really were none at that time.

108 **SEVERE:** Just as someone who is in the union and also just as an experienced officer, outside of your
109 being in Training, have you ever reviewed training analyses?

110 **KING:** Well, during the time I was assigned there, I was elected to the Portland Police Association. I
111 went to numerous officer-involved shootings between the years 2000 and 2008, was an advocate for
112 officers through that process, through the investigative process, Detectives, grand jury, Internal
113 Affairs, and so I became familiar with facts of various cases and familiar with bureau review of police
114 officer use of force and deadly force.

115 **SEVERE:** Okay. What do you think were some of your positive attributes that you brought to this
116 training analysis?

117 **KING:** Well, I was a, I believe, objective, neutral, you know, unbiased reviewer of the facts that were
118 available. Had experience both as a officer on the street who had been involved in the use of deadly
119 force. Was a trainer myself. Was, you know, was intimately familiar with both the force policy,
120 deadly force policy, bureau training, the review – the review of that force, as a result of my
121 experiences in the association, so I felt like I had a combination of training education and experience
122 that qualified me to look at the facts of this case and, basically, come to a conclusion about whether or
123 not Officer FRASHOUR acted consistent with his training.

124 **SEVERE:** When you were given this assignment, did you give – did you get any instructions either
125 from A/C O'DEA or from folks in command about what the training analysis was supposed to look
126 like?

127 **KING:** No, when – this was a little bit unique, in that, typically, the captain of the Training Division
128 is the RU manager who is responsible for or coordinates the – the training analysis. And, of course, in
129 this case, Captain DAY was the captain who was on scene at the AARON CAMPBELL shooting, so,
130 therefore, he was unable to play a role in the review of the case and was left completely out of the
131 discussions and review of the case, so Lieutenant VIRTUE and I reported to Assistant Chief O'DEA
132 and, you know, we met with him on numerous occasions and never provided – never told us what to
133 write, never told us what the direction of the review should take. In fact, he was very explicit with
134 both of us that, in the course of our discussions and the review of all of our material, that he didn't
135 want us writing anything that we were not individually personally comfortable with or confident about.
136 And so he basically assisted, but left Lieutenant VIRTUE and I to craft and to develop the analysis as
137 a result of our review of the information available, and told us in no way what to conclude.

138 **SEVERE:** Okay. When you were doing the training analysis in this case, did you feel any political
139 pressure either from folks in the mayor's office or just from I guess the wider community of how you
140 were supposed to have your information in this training analysis, like your determination?

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141 **KING:** No, I felt no pressure whatsoever. It was a – it was a formidable task, you know, just by
142 virtue of the fact that there – it's very – every police officer use of deadly force is very serious for that
143 individual and, obviously, for the person that's shot and for their family and the community, so these
144 are hugely impactful events that there's a huge record. I mean there's, you know, for us today there's
145 probably more documents available to review than ever before. There's the Detective, the grand jury,
146 the Internal Affairs, and so it was a – it was a very large task. It required a lot of work, but, ultimately,
147 it was – we were left to arrive at our own conclusions and decisions about – about this particular case,
148 without direction, without regard to political pressure, pressure of any kind. You know, Lieutenant
149 VIRTUE and I were never told by anybody, by the mayor, anyone that represents the mayor, by the
150 chief, anybody who represents the chief, Chief O'DEA or anyone else what we ought to conclude or
151 what – what direction the review ought to take. We were left to do a very rigorous review of a difficult
152 case and arrive at our own conclusions.

153 **SEVERE:** Since the CAMPBELL training analysis, have you done another training analysis since
154 then or participated in...

155 **KING:** It seems to me that the KEATON-OTIS review followed this, of course, and I did prepare that
156 review. Actually, Lieutenant MCGRANAHAN and I prepared that review.

157 **SEVERE:** Just kind of stepping back and looking at things a little bit broader, what do you think the
158 purpose of the training analysis is?

159 **KING:** I think that it is to evaluate the actions that the officer took, the mindset, the actions that they
160 took, and compare that against the training that we provide them. Our – our training, you know, there
161 are several reasons why we provide officers with training. We provide them with training to prepare
162 them to be able to respond to, you know, any number of different incidents on the street. We also train
163 them so that their actions can be consistent with policies that the Portland Police Bureau has in place
164 for their actions, and so, ultimately, I think it's to look carefully and closely at what the officer or
165 officers did, compare that against the relevant training that we provided to them in their basic academy
166 training, their advanced academy training, their in-service training, and arrive at a conclusion about
167 whether or not they acted in a way that was consistent with that training or not consistent with that
168 training, and I think that, by and large, that's done to make a determination about whether our training
169 is where it ought to be, whether or not our officers are getting the messages the Portland Police Bureau
170 is sending them through that training process, whether they adhere to it or not, so – but, ultimately, I
171 think it's to look at the individual officer's actions and compare it against the training we provided
172 them and – and arrive at a conclusion about whether it was consistent with or it was not consistent with
173 and, ideally, that's so that we can validate the training we provide, learn from these various incidents,
174 improve the training that we want to provide to officers, and so I guess it's a combination of those
175 things. So evaluation of the actions of an individual, but also look at the training we're providing and
176 see where we can make changes and improvements.

177 **SEVERE:** Okay. Do you believe the training analysis is part of the disciplinary process? Is it
178 removed from it or like there's kind of an overlap into the disciplinary process?

179 **KING:** You know, the disciplinary process, ultimately, is – is left to the Use of Force Review Board
180 or the Police Review Board now, the chief of police and the commissioner of police, so they'll rely
181 on, you know, a variety of different materials. They – they can be informed about the facts on the case
182 on the basis of the Detective investigation, the grand jury, Training as well. And so it's really, I think,
183 up to those various bodies and individuals to decide what role the training analysis will play in their
184 decision about whether or not a person violated bureau policy or not, and if they did, then what
185 sanction or discipline should come from that. So – but from my standpoint, it's really sort of an

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186 internal review for the purposes of, you know, determining whether they acted consistent with training
187 and to, again, to improve relevant training.

188 **SEVERE:** So are the authors of the training analysis, are they speaking for themselves, are they
189 speaking for Training or are they speaking for the bureau collectively when they produce a training
190 analysis?

191 **KING:** Well, I think, you know, obviously, in this case, we're – we're providing our view based on
192 our assessment of the situation, review of the facts. I believe it is the Portland Police Bureau's training
193 analysis and – and can then be used by the Portland Police Bureau in the way that it determines is
194 necessary.

195 **SEVERE:** How much ownership of the training analysis do the authors have?

196 **KING:** Well, in this particular case, Lieutenant VIRTUE'S name and my name appear on the
197 document, and so, you know, speaking for myself, I have ownership of all of the information,
198 conclusions that are in it. You know, it's – it's – in a case like this, again, it's a little bit unique,
199 because Chief O'DEA is playing a role as this sort of sounding board in our discussions about it. But
200 – I'm sorry, what was the – what are you asking? What is the...

201 **SEVERE:** Just how much ownership do you have of it?

202 **KING:** Yeah.

203 **SEVERE:** Just – this is a little bit...

204 **KING:** Yeah.

205 **SEVERE:** ...a step back from the particular facts of this particular case, but just looking at it broader,
206 one of the issues in trying to review this case is if – let's say, hypothetically speaking,...

207 **KING:** Yeah.

208 **SEVERE:** ...let's say there's a case where the authors of the training analysis kind of had a draft of
209 the training analysis and somebody – like somebody in the shoes of Captain PARMAN said you need
210 to change this particular portion of the training analysis, I'm speaking to you as the captain or the
211 commander of Training, you need to change this, do you – would you think that's something
212 appropriate to do?

213 **KING:** I would. I mean the captain of the Training Division or Chief O'DEA in this case, obviously,
214 is the RU manager who's responsible for overseeing the, you know, the process of development. So
215 working with Captain DAY in the past on some of these reviews, we would discuss it, but those
216 changes wouldn't be made if we disagreed. I mean, you know, so we're looking – I mean one of the
217 advantages that we have, Lieutenant VIRTUE and I in this particular case, is we've read every single
218 word of every single interview. We've listened to the audio tapes. We are better informed about the
219 facts of this case than – than Chief O'DEA was because, you know, he simply doesn't have the time to
220 review it in the way that we did. So I think that they, you know, in a bureau like ours, there's always
221 somebody who's in charge, and so there's going to be somebody who's in charge of both the Portland
222 Police Bureau, of course, and these reviews, but, in the reviews I've done and in this review, yes, the
223 captain or Assistant Chief O'DEA would have the authority to say, you know, I think this should be
224 different, but, typically, that's not how these are done. That's not how this particular review, the
225 CAMPBELL review was done. I think – I think we – I think we're in need of – of a Training Division
226 SOP that outlines in details some of this in greater detail. You know, at the time that this particular
227 review was written, that had been a discussion that we were having about – more about kind of the
228 procedure and the process and who was in charge and how practically it would be done, so, yeah.

229 **SEVERE:** Okay. Just taking that example that I've given you and moving it a step up the chain, and,
230 again, kind of outside the immediate facts of this particular case, let's say A/C O'DEA had – had a role

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231 as the acting commander of Training, but he was just the A/C of Services, would it be appropriate for
232 him to say, you know, I've reviewed a draft of this training analysis, I do not agree with your
233 conclusions, Lieutenant KING, Lieutenant VIRTUE, I want you folks to change your conclusions or
234 some of the – or the way you're interpreting some of the facts or the record in this case?

235 **KING:** Would it be okay to do that?

236 **SEVERE:** Yes, in your opinion.

237 **KING:** Well, I mean, again, that's not what happened in this case. I think that, like in this review,
238 you know, there's different opinions in the room when Lieutenant VIRTUE and I and Chief O'DEA
239 met, but in the course of those discussions, I think the fact that we were better informed about this case
240 than he was actually helped us kind of inform him. Could – you know, certainly, the captain of the
241 Training Division can play a role in what the final training analysis should contain. Yes, I mean I
242 think, as a practical matter, that, you know, two lieutenants can't tell the captain necessarily what can
243 be in the – because it's the Training Division review, so, yes, I suppose he could say that, because I
244 think we had, you know, obviously, we had a version of that in this particular case, where we have a
245 view of this case based on our review of the material, but the trainers have a different view than we do,
246 so at the end of the day, our review led to these conclusions that we came to on our own.

247 **SEVERE:** Okay. So and one of the things that I've tried to figure out as I've been reviewing this case
248 and as somebody who's reviewed training analyses, but, you know, not from the perspective of this
249 particular case,...

250 **KING:** Um hm.

251 **SEVERE:** ...of – of what – how much independence there is in the training analysis. Is it something
252 that is purely the product of the Training Division and the authors of the training analysis or is it a
253 product of the bureau? So just I guess looking kind of prospectively,...

254 **KING:** Yeah, yeah.

255 **SEVERE:** ...would your work have been helped by having, and you've kind of said this already,...

256 **KING:** Yeah.

257 **SEVERE:** ...but would your work have been helped by having some sort of SOP or guidelines that
258 kind of cover what the, I guess, the role of the authors of the training analysis is in doing these things?

259 **KING:** You know, one of the – obviously, one of the – one of the goals for us in training is that we
260 learn from things so that we do better on the street, we're safer, we provide better service. One of the
261 things that we've – that I – one of the things I think we've learned out of this is that we do need a
262 codified SOP that spells out in detail all – and includes answers to all of the relevant questions. Some
263 of them you've asked because, like for example, when I was in the arbitration and I was asked why I
264 didn't include the trainer's points of view around action-reaction in the review itself, I indicated that I
265 regretted that I hadn't included those, but, at the time that this was written, it – there was not an SOP in
266 place that provided for what I – what I thought would be like a minority report and, in some cases,
267 when like reports are written in the City, there's a majority report and say a dissenting point of view, a
268 minority report that's written, and the way that our process was structured, it didn't really – it didn't
269 spell out how those dissenting points of view would be, you know, would be captured, and I thought
270 that it would make sense for the Training Division to have – maybe even if – even if it didn't go in the
271 final Training Division review, but to have memos written by the various trainers, if they have a
272 different take on the facts, if they think differently about the training, so that that's captured in some
273 way. So I think, you know, I think this particular case is a product of, you know, of this particular
274 situation where we're reviewing this. It's – it's not – it's not common, it's not routine rather, in that
275 it's the captain of Training is not overseeing it, and I think having something spelled out so that the

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276 Training Division analysis and review has the rigor that it needs to have, but spells out in some detail
277 or captures these different points of view, is – is really – I think is needed today kind of more than
278 ever, because, you know, cases like this one are difficult, obviously, for everybody involved, but when
279 – when people’s lives are at stake, when we as police kill other people and we use deadly force, we
280 have to review those and make the tough call about whether or not it was appropriate or not, consistent
281 or not, in policy or not, and so in order to do that, we have to be, I think, very well informed. We have
282 to be able to take a really hard look at these incidents and I think – and we did that in this particular
283 case, but I think, going forward, that we need to learn from this particular review and others like it, and
284 really spell out in some detail how these ought to be done so that they answer those critical questions
285 about is this a bureau review, is this a training review, what about the role of the trainers, you know, all
286 of those questions I think need to be answered to a greater degree. This is – this is a – it’s an iterative
287 process. I mean since PARC came out with the recommendation to write the training analyses, it’s, as
288 you look at the reviews, I’ve looked at every review, in preparing for this particular review, I looked at
289 all available Training Division reviews, and they appeared to me to be more summaries of – of
290 shootings and uses of force than they did a training analysis or a critical look at what happened out
291 there and comparing it against training. So I think this is one step in a process that hopefully takes us
292 closer to really codifying and spelling out and an SOP that turns into a practice how these will be done
293 so that it’s understood by all and it’s – and you get the predictable quality product.

294 **SEVERE:** So while you were working on your training analysis, were you aware of – well, did you
295 consult with the other trainers – or did you consult with training officers on it?

296 **KING:** You know, I did. There – there are obviously – this – this went through drafts and – and by
297 draft I mean, you know, obviously, Lieutenant VIRTUE and I were working on it together. There’s
298 different component pieces in it. There’s a chronology timeline. There’s – there’s the initial officer
299 response. There’s a supervisory response. There’s less lethal. There’s the deadly force. There’s the
300 review and recommendations. So a lot to review and – and I think it was very involved in the writing
301 of it and we were working on it together, so I had never written – I never reviewed this much material
302 before and written as much as we did in this particular case, so I would – at the time we were doing
303 this review, we really didn’t have any explicit instruction on should you rely on exclusively the
304 Detective interviews to arrive at your conclusions, should you also – should you look at the grand jury,
305 should you look at the IA, should you look at all three. Because if you looked at all three, it meant
306 reading the statements made by each individual officer in each of those three documents. So I don’t
307 think we were very, you know, I think we were trying to make our way through the process as best we
308 could, never having to review this much material before or write this much, so – what was your
309 question again, I’m sorry?

310 **SEVERE:** Did you, just to boil it down,...

311 **KING:** Yeah, yeah.

312 **SEVERE:** ...did you consult with some of the officers at Training?

313 **KING:** So – so in the course of this – of preparing for the reviews, yes, we provided drafts to trainers.
314 In the arbitration, I testified to having provided them to a number of different trainers, and it was – it
315 was the earlier drafts, and it was clear to me that in those discussions that while – while I had concerns
316 about the actions of the officer with the beanbag – use of the beanbag say, or the use of deadly force,
317 that in providing them with drafts and then talking with them about the case, that they believed that it
318 was consistent with training what had happened, both the use of the beanbag as well as the deadly
319 force. And from, you know, my review of all this material over time, I became more and more
320 concerned about the use of deadly force. Now, obviously, there’s – all of this is happening kind of on

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321 a timeline, so – but, yes, we did – I did – I know that Lieutenant VIRTUE did talk with trainers and the
322 Training Division. I also talked with, you know, a number of other people as well.

323 **SEVERE:** Did you feel that – or did you ever feel that if the trainers disagreed with what your
324 ultimate conclusion would be that you would have to change your conclusions as to whether Officer
325 FRASHOUR'S actions or LEWTON'S actions were consistent with training or not?

326 **KING:** Did I feel like if their...

327 **SEVERE:** If they disagreed with you, did you have to – would you have had to change your opinion?

328 **KING:** No.

329 **SEVERE:** Has there ever been, just based on what you know,...

330 **KING:** Yeah.

331 **SEVERE:** ...has there ever been a tradition at training of the trainers getting, for lack of a better
332 word, a veto over what the authors of a training analysis do?

333 **KING:** I'm not – I'm not aware of that, that they have a veto or that they have.

334 **SEVERE:** Or even – or that they have a say on what the authors ultimately write.

335 **KING:** Well, I think they – I mean they're trainers, so they're knowledgeable, they're trained, they're
336 experienced, they provide training, so it's important to have them involved in the discussion and be a
337 part of the review itself. I think that, as a bureau, we have – I mean I think a couple of things have
338 happened. I think we've defaulted to having trainers, officer trainers become more subject matter
339 experts over time than – than the supervisors or command staff, which I think is problematic to some
340 degree, and then we haven't had command level people doing these reviews historically, and I think
341 it's important for a supervisor, a sergeant or above, to be conducting these reviews, because you have
342 to look at the – through the lens and kind of the various facets of these cases I think differently than an
343 officer would, than a trainer officer would. But, no, I don't think they have had – I think they have to
344 be involved, but I don't think they have a veto. And, again, I think that's where having an SOP that
345 spells out how they're done would answer that question for the – for the future, or the author, for the
346 Training Division, for the Portland Police Bureau, that at the time we prepared this just wasn't – we
347 just weren't at a place as an organization where we had spelled that out.

348 **SEVERE:** Um hm. You kind of mentioned in your previous response, but, traditionally, from – from
349 what I've reviewed...

350 **KING:** Yeah.

351 **SEVERE:** ...of prior training analyses, they were done by sergeants,...

352 **KING:** Yeah.

353 **SEVERE:** ...and it seems like the shift has been to have them done with lieutenants, either at
354 Training or a collaboration with...

355 **KING:** Right.

356 **SEVERE:** ...an outside lieutenant. What – what benefit does it bring having a lieutenant or above
357 work on these training analyses, as opposed to a sergeant who's at Training, who, you know, that's
358 basically all that they do?

359 **KING:** Well, you know, when I was assigned to Training, the – the lesson plans for the advanced
360 academy had not been reviewed and updated for some period of time. It's the command staff of the
361 Portland Police Bureau that, you know, develops and implements the policies of the organization, and
362 holds officers, sergeants accountable to those policies and procedures in training. So I think having a
363 command person there provides a management perspective that – that's important and that's been left
364 out, and so I think it's – I think it's positive for us as an organization to have command staff,
365 lieutenants and above, doing the reviews themselves, as opposed to an officer or a sergeant.

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366 **SEVERE:** Okay. One – I guess one criticism of the way the bureau does these that I've heard in my
367 conversations with folks is that the people that do the training aren't necessarily a subject matter expert
368 in the particular areas or just because the way officer-involved shootings are, usually there's multiple
369 areas, that they aren't subject matter experts over at least several of the areas that they have to cover,
370 and – and it produces a weaker product as a result. Do you think that's accurate or not, or is that a
371 valid criticism rather?

372 **KING:** That they're – well, that they're not subject matter experts in all areas?

373 **SEVERE:** Well, yeah, or they're not subject matter experts over areas that they have to write and
374 explain what the bureau's training is and whether the officer's actions are consistent with those
375 trainings, and it would be a better product if it was more of a collaborative effort of basically all the
376 different subject matter experts of the bureau kind of coming together on these training analyses, and
377 then producing a product.

378 **KING:** Well, I think that's what you've described there was really what I think we attempted to do by
379 involving them, you know, we did talk with – because this involved defensive tactics and patrol tactics
380 and the use of deadly force and the use of the less lethal and the K9, we did talk with all those various
381 subject matter experts. I don't know what to say about that as a criticism. I mean I think, you know,
382 as lieutenants in this particular case, we obviously reviewed all the facts of the case and compared it
383 against all the training. We talked with trainers. You know, it became clear to us early, I think, that
384 the trainers were, pretty consistently among the group, felt that this was consistent with training, the
385 various aspects of training we asked them to look at. I – I had hoped that we would have a more – a
386 better conversation about it, because there were still – I mean, you know, like in this case, for example,
387 you have CAMPBELL beanbagged and then he's running and reaching. The trainers say, well, that's
388 where we train officers that guns are kept in that area, when he reaches, that's consistent with training.

389 Well, yeah, but explain to me how if you're watching him being beanbagged right in front of you, and
390 he's reaching for an area where he was just beanbagged, help me, you know, weigh those two different
391 factual scenarios so that I understand how you can so firmly come to this conclusion that he's acting
392 consistent with his training. So I think that's one of the advantages of having a lieutenant involved in
393 doing the review, you can not only review all the facts, have discussions with all the subject matter
394 experts, but you can come to conclusions about these cases I think – I think in a way that's more
395 rigorous than has been done before.

396 **SEVERE:** Fair enough, thank you. Just kind of stepping back just a little bit, how – how did you and
397 Lieutenant VIRTUE decide to divide up this training analysis?

398 **KING:** I think that he – I think we sat down at the beginning of it and just talked about which pieces
399 we'd be responsible for. We divided up the work and, in the course of that conversation, he was
400 responsible for the chronology timeline, the initial officer response, the supervisory response on scene.
401 Because of my experience with the development of the less lethal program, I had the less lethal and the
402 deadly force. So I think that largely just came out of a conversation that the two of us had at the
403 beginning of it about who was going to do what.

404 **SEVERE:** Okay. So you've got less lethal and I guess the use of the AR-15, and you just said that
405 since you developed the less lethal training that it kind of made sense for you to have the less lethal
406 portion of it, and the AR-15, how did that develop?

407 **KING:** I think it was just a – I don't think there was any – there was any particular reason behind it. I
408 think it was just there was, you know, a lot of work to be done, and we divided it up, so...

409 **SEVERE:** So when you were working on your portion of the training analysis, which trainers did you
410 consult with?

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411 **KING:** I talked to TASHA HAGER, I talked to TODD ENGSTROM, I talked to TRACY
412 CHAMBERLIN, I talked to PAUL MEYER, I talked to SCOTT REASOR, I may have talked to BOB
413 PIPPEN. Yeah, just from my recollection, those are some of people that I talked to in the division.
414 **SEVERE:** And you said earlier that you provided trainers with drafts of the training analysis. Did
415 you provide each of those individuals with drafts?
416 **KING:** Yes.
417 **SEVERE:** Okay.
418 **KING:** I know that – I know that I provided TODD ENGSTROM, TASHA HAGER, SCOTT
419 ELLIOTT and there was one other person I know that I met with, I gave a draft to, I believe it was on
420 the deadly force too. We met and talked about it in my office. DAVID VIRTUE and I met and talked
421 with SCOTT REASOR and PAUL MEYER on I believe separate or different occasions over the time
422 we did the review, and I don't recall whether or not we gave them drafts or not. We may have, I just
423 don't recall.
424 **SEVERE:** So in between giving drafts and having meetings with the respective trainers at training at
425 the time, did you feel that you had a good idea of where they each stood and what, you know, their
426 respective subjects – subjects that they were experts in, that you understood their perspective and – and
427 what, you know, basically what...
428 **KING:** Yeah.
429 **SEVERE:** ...whether they agreed with you or disagreed with you on...
430 **KING:** Oh, yeah, it was – yes, it was clear to me in our discussions that, from their different points of
431 view, whether it's defensive tactics or patrol tactics, that they believed that it was consistent with
432 training. Both the use of the beanbag at the moment and for the reasons that Officer LEWTON fired it
433 and the – and the use of the patrol rifle, the use of deadly force was also consistent with training. I
434 don't – there wasn't anybody in the group who said I believe that Officer FRASHOUR'S use of deadly
435 force was – was consistent – was inconsistent with training. And that's, I guess, you know, when you
436 – when you read these materials, you know, I had concerns about the use of the beanbag, for the
437 reasons that LEWTON used it at the moment he used it, from the beginning. Over the course of this
438 review, I became more and more concerned about the use of deadly force. That was – there were a
439 number of drafts, and I have couple here in front of me, that indicated, because this was sort of a
440 factual summary of what Officer FRASHOUR said where I found that he was consistent with training.
441 It was really in the listening to and the much more thorough read of the IA investigation where I
442 became more and more concerned about kind of the mind of the shooter and whether or not he de-
443 escalated his mindset, so – but in answer to your question, in meeting with trainers, it was clear to me
444 that they – they believed that the actions of the officers on scene were consistent with training, and I
445 didn't feel like they were willing or that they were willing to kind of struggle through the complexity
446 of this to help me arrive at a conclusion about whether it was consistent with training or not, as it
447 relates to the beanbag and the – and the deadly force. I mean, just for example, when talking with
448 PAUL MEYER and SCOTT REASOR, looking at the lesson plan and talking about CAMPBELL
449 standing in front of the officers with his hands on his head, that they believed that it was aggressive
450 physical resistance by standing there with his hands on his head and saying going fucking shoot me or
451 whatever it was that CAMPBELL uttered. And I never understood how somebody standing with their
452 hands on their head, not putting their hands in the air, is aggressive physical resistance. So that's a
453 part of what – I mean that's just one example where, okay, if it's consistent with his training to shoot
454 somebody with a beanbag who's standing there in front of you with his hands on his head. Well, he
455 might have wanted suicide by cop, he may have been armed. No, I'm saying he was just standing

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456 there, he walked out with his hands on his head, stopped when we told him to, kept walking back, his
457 hands remained on his head, stopped when we told him to, walked back and was stopped and –
458 stopped a third time at our verbal request, kept his hands on his head, and when we said we're going to
459 shoot you, he said, go ahead and fucking shoot me. To a guy that's despondent and so I just never
460 understood how – I value and respect the work of the trainers, I think they're very capable people, but
461 it never made sense to me how standing with your hands on your head is aggressive physical resistance
462 that is – that is justification for the use of – of a beanbag gun. I never understood that. So that's a part
463 of – in seeking counsel and advice from them, it became clear to me that a deep look into the facts of
464 this case and arriving at conclusions, where that meant that we had to go, was going to be our job to
465 do, and one that they were not willing to do, didn't – didn't want to do, I mean hadn't had to do
466 previously, maybe shouldn't have to do, maybe that's why it's a boss's job and not a trainer's job.

467 **SEVERE:** Just based on our earlier conversation today on this matter, you know, obviously, you
468 weren't required to, within your training analysis, say I've talked to six of the six respective trainers
469 and they disagree with me.

470 **KING:** Right.

471 **SEVERE:** But just looking at it now, do you think you should have had something saying I've talked
472 to the people, something within the training analysis saying I've talked to the trainers at Training and
473 they disagree with me? Do you think that is something, looking forward, that would be helpful or take
474 away from the training analysis?

475 **KING:** Well, I think that, as it relates to our review, that we were given – we were assigned,
476 essentially, a task at a certain point in time and did that job to the best of our ability. Obviously, it
477 didn't – there wasn't the – there wasn't the structure in place for how the review would be done that
478 there is and how Detective Division cases will be investigated or IA cases will be investigated. I think
479 that's an element of our review of officer action. Again, I know I've repeated myself by saying this,
480 but there's a need of strengthening in our documentation, so I think we have to, as a bureau, find a way
481 to capture or to deal with these various points of view. And what form that ultimately takes, whether
482 the captain of the Training Division makes that call, whether it's written as a minority viewpoint,
483 whether it's – whether it's a part of a packet of information that's provided. For example, you know, I,
484 ROBERT KING, would write a review, I came to my conclusions, these are dissenting points of view
485 from these various trainers and they've all written memos to that effect or we've incorporated – I think
486 finding a way to incorporate that into the discussion going forward is important, because they have
487 experience and they have a point of view. Now one of the things that – that the trainers in this case
488 didn't do that we have to struggle with is they didn't read every word of the – of the file. They didn't
489 – they didn't do the more detailed examination, so I don't know how we would deal with that, where
490 they've read a draft, but haven't read the entire case file. I think we'd have to – I mean I think that's
491 one of the things that's unique about this case, that – that Lieutenant VIRTUE and I read and – and
492 reviewed this material exhaustively in a way that a trainer, you know, would not, where we haven't
493 assigned it to them, we don't expect them to. So – but I do think – I do think finding a way to capture
494 what it is that they think going forward makes sense. I'm just not sure how we – how we would go
495 about doing that.

496 **SEVERE:** So when you and Lieutenant VIRTUE received this assignment, okay, you gentleman have
497 received the task of doing this training analysis in this case, how did you guys decide on like how
498 you're going to wrap your arms around this – I understand you guys divided it up,...

499 **KING:** Yeah.

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500 **SEVERE:** ...but did you have any, I don't know, kind of philosophical underpinnings of, okay, we're
501 looking at this, but we're not looking at that, or we know going into this that these particular officers
502 or sergeants were inconsistent with training or consistent with training and we need to develop more
503 facts for this, or like how did you guys come up with that or how did you develop that?

504 **KING:** Well, I think it was, you know, it was through our review of the material through discussions
505 that VIRTUE and I had through meetings and discussions that we had with Chief O'DEA. I think – I
506 mean the structure of it helped us, helped inform us when he was assigned to do, for example, the
507 initial officer response, then he focused on the facts of the case that related to that, and then looked at
508 all relevant training that was available as it – as it relates to our initial response. The supervisory
509 training, you know, there were – there was an advantage there, in that there are very detailed and
510 explicit lesson plans that govern how sergeants will manage tactical operations. So that left less for us,
511 VIRTUE and I, to have to think through and kind of talk about, because, really, it was a factual
512 comparison of what happened on the street, with how they were trained, and Sergeant BIRKINBINE,
513 in this case, and Sergeant REYNA, had received training on tactical incident management from Chief
514 O'DEA, and there was a detailed lesson plan that we were able to look at. So that was helpful to us.
515 The same I think was true of like the beanbag. For example, there was a – there was a pretty detailed
516 lesson plan available to look at as it related to the use of less lethal. The deadly force I think was more
517 problematic, because we – we really, in the Training Division, there is not a lesson plan that's labeled
518 or a class necessarily that's labeled deadly force decision-making. The deadly force decision-making
519 is woven in different parts of our training throughout training, but I think that the lesson plans are less
520 explicit in that particular area. I think that's another opportunity for us when OIR came and they gave
521 a presentation to the city council. One of the things that ROBERT MILLER talked about was
522 improving the training that officers got in the area of threat assessment, and so I guess as a - as a
523 practical matter, you know, after we decided what aspects of it we would have, we looked at all the
524 available material and compared it with the various lesson plans and some of that was easier to do, I
525 think, than other pieces of it.

526 **SEVERE:** What materials did you rely on in doing your training analysis?

527 **KING:** The Detective's interviews, the grand jury testimony, the IA interviews, and the various lesson
528 plans, in addition to materials that, for example, that I received from RON MCCARTHY, who is a -
529 RON MCCARTHY is a - he's a retired LAPD SWAT sergeant and was instrumental in the
530 development of SWAT in the early 70's, and so he and I talked extensively. We talked about the
531 suicide by cop component of this. He wrote a review following one of the officer-involved shootings
532 here in Portland about officer use of deadly force and incident command and communication on scene,
533 and so I reviewed his report and other materials that he provided me about suicide by cop and about
534 deadly force decision-making. We struggled with and talked through, he and I, with the difference
535 between being - between a threatening imminent and being immediate, what the various standards
536 were that were out there in the country, what the constitutional law and standard was. So it was really
537 a combination of the facts, lesson plans and other materials that were available from people like
538 MCCARTHY are all designed to help kind of inform me about, not only what had happened, but sort
539 of the - the lens to look through in making a decision about - coming to a conclusion on my own about
540 whether or not they acted consistent with their training. It was all an effort to kind of inform me to a
541 greater degree maybe than I had been before about certain areas of this review, like the deadly force,
542 so those - those were the things that we looked at.

543 **SEVERE:** Aside from the trainers at training, who did you contact - discuss this training review with?

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544 **KING:** As I said, RON MCCARTHY, Chief O'DEA, talked some with the City attorney, DAVE
545 WORBORIL and ELLEN OSOINACH. You know, I know that it's been some time ago, obviously,
546 since the review itself was done. I know I spoke with other people, but I don't recall more people at
547 this time.

548 **SEVERE:** That's fine. At what point in the training analysis did you start utilizing the IA interviews?

549 **KING:** Well, I think as - as it relates to Officer FRASHOUR'S use of deadly force, it was towards the
550 end of the review. At some point, what I had done was I wrote, basically, based on the facts that were
551 in the case, I wrote what Officer FRASHOUR had said about his use of deadly force and in - in the
552 course of one conversation Lieutenant VIRTUE and I were having, he said - he made some comment
553 about what Officer FRASHOUR had said in his IA interview. And I realized that I hadn't - I hadn't
554 relied and I hadn't paid enough attention to it, or I wasn't informed enough about the things that he had
555 said in IA, and so I went back and I listened to his IA interview and then I reread his IA interview, and
556 it was in that - it was in the listening of the IA interview. This is June sometime - sometime in June,
557 maybe July, when that really played more of a role in sort of shaping my view of whether he acted
558 consistent with his training or not, and so, at least with respect to Officer FRASHOUR, the - the
559 review of the Internal Affairs material came late in the review.

560 **SEVERE:** Did you give any more weight to any particular thing or any individual that you talked to,
561 or did you kind of weigh them all kind of equally?

562 **KING:** I think that, at least with respect to the use of deadly force, it was - it was the IA interview. It
563 was - it was - it was the IA interview where I felt like you really got a glimpse into sort of the mind of
564 the shooter, the mind of the person using the deadly force. And I found that he - that that weighed - all
565 of these - all of these discussions, the review of the material, the review of the lesson plans, the
566 discussions with RON MCCARTHY, all of it I think helped, informed me to a certain degree, but, at
567 least with respect to Officer FRASHOUR, it was in the IA interview that - it was that material, that
568 interview, what he said, the answers to those questions that - that shaped and influenced my view of
569 his use of deadly force more than anything else.

570 **SEVERE:** Okay. And just reviewing what you said at the arbitration, it's pretty clear that you had an
571 evolution of thought on this case and grappled with it and...

572 **KING:** Right.

573 **SEVERE:** ...kind of wrestled with it, and then you kind of came up with some conclusions and, today,
574 I brought with me some of - well, I brought, basically, everything you wrote...

575 **KING:** Sure, okay.

576 **SEVERE:** ...on the case.

577 **KING:** Okay.

578 **SEVERE:** But, for your purposes today, I brought a couple of samples of what you wrote and you
579 were given an opportunity to review it briefly before we started. So, in one of these, there's an
580 example of what you wrote relatively early in - in the drafts of the training analysis where you found
581 that Officer FRASHOUR'S actions were consistent with training and I - I just wanted to know why did
582 you write that at that particular time? Like where - where was your head at at that particular time
583 when you wrote that?

584 **PARMAN:** Are we talking about this - this one here? I just want to make sure we're all talking about
585 the same...

586 **SEVERE:** Yes, this one right here.

587 **ACCORNERO:** For the benefit of the tape, we're talking about - it's labeled A32, page 53 of 59.

588 **SEVERE:** Yes.

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589 **ACCORNERO:** Okay.

590 **KING:** I think that it would be, obviously, yes, the drafts in this review reflected changes in the - in
591 my thinking over the course of the review. It took a period of weeks, maybe months, and to...I think
592 just in rereading this, there - to a large degree, I simply factually stated what he said and took on his
593 point of view and did what we refer to as just sort of channeled exactly what he said, and given the
594 limits of the review at that time, that my conclusions were that, yes, it was consistent with training.
595 Again, it was - it was - this was an iterative process that took place over a period of time where there
596 was, obviously, the review of material and discussions with people and, you know, I knew, I guess,
597 ultimately, it was a draft and it wasn't until the more thorough listen and read of the IA that I came to
598 these different conclusions about his thought process and whether or not he weighed and considered all
599 of the facts that were available to him in a way that was evenhanded or objective, and so this - this
600 particular draft doesn't reflect the more rigorous read and listen to the IA interview. This is just simply
601 me stating the facts as he saw them, based on his detective interview and his grand jury testimony.

602 **SEVERE:** So, I believe on June 20th, you sent a draft to yourself where it states that the - the
603 conclusion is that Officer FRASHOUR acted consistent with training, but there were issues with the
604 training that he had received.

605 **KING:** Right, right.

606 **SEVERE:** And just, kind of again, where - where were you at when you were writing that and what -
607 what was your kind of thought process in coming up with that?

608 **PARMAN:** I know I usually go at the end, but can I – can I ask a question just to clarify?

609 **SEVERE:** Sure.

610 **PARMAN:** It just - the sentence - the second paragraph here that's highlighted and underlined,
611 there's a sentence that starts and it just drops off. Is this the copy? There's no – it appears like another
612 train of thought is starting there right after he makes this conclusion, but it's - it's incomplete on this
613 copy. So is that how it exists or...

614 **SEVERE:** That's how it exists.

615 **PARMAN:** Okay, just wanted to clarify.

616 **SEVERE:** Yeah, what we got from the City attorney's office.

617 **PARMAN:** Okay, thank you. I know there's a question hanging.

618 **KING:** I think that in the course of the process, we're looking at what he did and we're looking at the
619 training he received. And I know that - I know that later in the review, and I don't know, you know,
620 when this particular - what the date of this particular draft would be...

621 **SEVERE:** It's June 20, 2010...

622 **KING:** June 20th.

623 **SEVERE:** ...and it's a draft that you sent to yourself,...

624 **KING:** Oh, okay.

625 **SEVERE:** ...and that's all we kind of know about this. There's no kind of comment in the e-mail to
626 yourself.

627 **KING:** You know, it's hard to say. What is the specific question there? Just generally...

628 **SEVERE:** Just kind of your thought process...

629 **KING:** Yeah.

630 **SEVERE:** ...of why the change from his actions being consistent, without any kind of qualifications,
631 to that conclusion to him being consistent, but there are issues with the training that Officer
632 FRASHOUR received.

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633 **KING:** You know when you - when you read this particular excerpt of this e-mail that I e-mailed to
634 myself, it really is a - it's a - it's a sort of - this is an example, at this phase of the review, of me really
635 struggling with what happened, how we train officers, what the conclusion - I mean I allude here quite
636 a bit to what the conclusions will be, whether it's - whether it's this or whether it's, you know,
637 something else. Whether it's - is it reasonable - he says - here's what he says, he says he's reaching for
638 a gun, he's got to be shot before he gets to the front of the car because if we don't shoot him, he's going
639 to shoot us. Is that reasonable? Is it - is it - is it reasonable to conclude that he was just beanbagged
640 and he's reaching for where he was just beanbagged, is that what's reasonable? And so this is more of
641 a, you know, I think my effort to kind of struggle through those issues and it's really kind of more of a
642 discussion that I have with myself. I don't know that it appears in the final - in this format, because I
643 don't list, I don't say things like if the board chief and commissioner conclude that CAMPBELL was
644 only reaching for a part of his body. You know, again, this is likely before the listen - my listening to
645 the audio of the IA interview and really rereading that in great detail. Because what I'm struggling
646 with here is flexibility, de-escalation or adaptation, you know, one of the things that - one of the things
647 I've thought a lot about in doing this was the - the changes that we had made in our force policy back
648 in 2008, and the sort of totality of the circumstances and all the factors that officers should be using to
649 evaluate whether or not they can use force or how much force they can use, so in - in, you know, going
650 on in the review, I did look at lesson plans, one in particular, that was from the patrol tactics program
651 that said that you have to be careful in your - in your evaluation of a situation or coming to
652 conclusions, because you can - you can go down the - you can begin to go down the wrong path. You
653 can begin to have a view of something that's happening in front of you that's not objective. And so
654 that's what I'm - that's what I'm struggling with here, you know, whether or not he acted consistent
655 with his training. I do actually - I say in here, I actually do think FRASHOUR acted consistent with
656 his training, but the training he received did not - did not emphasize flexibility, de-escalation,
657 adaptation. You know, I go on to conclude that the training that we provided him and other officers
658 does emphasize flexibility, de-escalation in your mindset, being adaptable. I mean just our - those
659 basic, you know, the basic kind of have a leader, have a plan, communicate, admit mistakes, be
660 flexible and adaptive, those basic principles that we teach officers do encourage them to be flexible, to
661 de-escalate and to be adaptive. So this is just another example of, you know, either documents or
662 discussions that are a part of a review where I haven't arrive at final conclusions and where I'm
663 thinking through and talking through, in this case, in this e-mail more to myself, the various aspects of
664 this complicated case.

665 **SEVERE:** Okay. Thank you.

666 **ACCORNERO:** We're going to take a short break. It is approximate 3:15 p.m. This is WILLIAM
667 ACCORNERO, Internal Affairs Investigator. It is approximately 3:23 p.m. Continuing on with the
668 investigation, same place, same people present.

669 **SEVERE:** So, before we left, you were answering a question, and do you feel that you were able to
670 answer that question to completion?

671 **KING:** I do.

672 **SEVERE:** Okay. And then, so, June 21st - actually, I'm not going to ask you that question right now.

673 **KING:** Okay.

674 **SEVERE:** While you were giving the answer to the previous question, you kind of discussed some of
675 these drafts or things that you had sent to yourself. Well, I'll just ask you the question...

676 **KING:** Yeah.

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677 **SEVERE:** ...instead of putting words in your mouth. So some of these different versions of this
678 training analysis, at least your portions of it, were they meant for wider consumption?

679 **KING:** They were not. They were designed to be instructive to me, you know, especially this last
680 document, e-mail to myself that I mentioned from the previous question. You know, you'll notice in
681 this that it talks about what the board is going to conclude, what the chief is going to think, what the
682 commission is going to decide, and in the course of this review, at some point, and it was towards the
683 end, and this is the challenge of doing - this is the - this is the, I think, ultimately, this is the goal of
684 doing these reviews, these are not - these are, ultimately, my job was to write what I concluded on the
685 basis of the review, without regard to what the board, chief, commissioner, officer or community was
686 going to think. This was - and so that's what - that's what you see towards the end, June/July, that -
687 that is after, you know, weeks, essentially, of reviewing this material, meeting with Lieutenant
688 VIRTUE, talking with Chief O'DEA, writing - the other - the other part of it, for me, at least in arriving
689 at conclusions is the actual writing of the material to help me think through where I'm going to land
690 and so that's, I think, what - what you see here and where - and, at the end of the day, where I - I just
691 had to write what I believed based on all the information that was available, without regard to any
692 other person or fact.

693 **SEVERE:** So you wrote, I believe, January 21st - June 21, 2010 that, in a draft, that you believed
694 Officer FRASHOUR'S actions were inconsistent with training. And you - you talked a little bit about
695 the transition that you made and kind of going beyond this particular day and this particular draft, the
696 conclusion that you reached, at least towards deadly force, was that Officer FRASHOUR'S actions
697 were inconsistent with his training. What - what led you to that particular conclusion?

698 **KING:** Ultimately, in - in listening to him answer the questions in IA, answer the questions that were
699 posed to him by IA Investigator MORGAN and RENNA, and listening to his answers and - and in his
700 answers to the questions that were asked in the course of the IA, he answered all of the questions in the
701 light that was the least favorable to CAMPBELL. In other words, it didn't - it didn't appear to me in
702 his IA that he weighed the facts, that - that he, like, for example, CAMPBELL looks out, he thinks he
703 might be looking out to attack him, you know, he's walking back quickly, he's going to attack us, there
704 - there were numerous examples of answers that he gave in IA where he interpreted all of the available
705 information in a way that I didn't think was objective and, ultimately, then wasn't in a way that we had
706 trained him according to the lesson plans that were available for my review. And so I think that that,
707 you know, having my attention drawn back to the IA from Lieutenant VIRTUE, listening to that IA
708 interview and reading it was where, ultimately, I essentially changed from just writing and concluding
709 what he - writing what he said about what happened, his articulation of what happened, to more of an
710 analysis, more of an opinion or judgment on my part about whether or not what he did was consistent
711 with his training. And so, again, it was in that IA, and especially in the listening to it that really both
712 sort of changed my mind and solidified my point of view about him and his mindset not being
713 consistent with his training. And we - and we, in the course of our training, you know, we - we - we
714 ask officers in training scenarios what did you see, what did you think, what did you do, because each
715 officer who's acting is responsible for articulating why they did what they did so that you can decide
716 whether or not that was consistent with policy or consistent with training and, ultimately, it was, again,
717 in the IA where I changed my mind, arrived at a conclusion and wrote what I saw to be the case, that
718 he, in his processing of facts available to him at the scene, didn't weigh them in a way that was more
719 neutral, didn't adapt, wasn't flexible, didn't de-escalate his mindset, only saw the situation through this
720 lens of being dangerous to the point that CAMPBELL was about to launch an attack on him, where,

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721 given the facts that are available out there on the scene, my view was that that was not consistent with
722 the training he had received from the Portland Police Bureau.

723 **SEVERE:** What - what consideration did the limited facts that Officer FRASHOUR had compared to,
724 you know, what we know about the totality of the circumstances of the scene and just, kind of goes -
725 you - you and Lieutenant VIRTUE go into in your training analysis of lack of communication,
726 information not being spread, how - how did you kind of integrate that piece of, you know, there's a
727 lack of communication, there's lack of information being spread among the officers who are part of the
728 custody team versus, you know,...

729 **KING:** Um hm.

730 **SEVERE:** ...people who were on the communications team who had different information or a more
731 complete picture of information, how - how did you kind of go about trying to process that and - and -
732 and kind of having a workable product to say, okay, this officer was consistent with training or
733 inconsistent with training?

734 **KING:** Well, I think, you know, again, the different parts of the review, each of us had different parts
735 we were assigned, so we'd look at the facts and then we'd look at the lesson plans, and each - each, you
736 know, each phase of the review had different kind of points of emphasis. One had the supervisory
737 review, one had the less lethal, one had the deadly force so, you know, we were, yeah, we were aware
738 of all of the facts, obviously, in the case, aware of facts that the officers on scene may not have been,
739 but we tried to consider what they did against the training that they had received based on the facts that
740 they had available to them. That's - I think that was through - we - we tried to look at it through the
741 lens of based on all the training we provided them, here's how we would expect them to perform or
742 behave or to conduct themselves in this situation based on what they know, and so that's where, like
743 with the - with the supervisors, you didn't explicitly communicate on the air the - the - the end goal of
744 this call or that - or what you ultimately wanted to have happen. You didn't give explicit direction to
745 the communications team. You were trained to. So it was easier, I think, in the - like in the
746 supervisory section and in the less lethal section than in the deadly force section because there's, again,
747 there's not that specific lesson plan that says deadly force decision-making.

748 **SEVERE:** Okay.

749 **KING:** So, but I think we just tried to, basically, look at what they did compared to their training and
750 based on the information that they would have had at the time.

751 **SEVERE:** You mentioned earlier that DAVE WORBORIL and ELLEN OSOINACH had access to
752 reviews of drafts and, just from what I've been able to see in the record, that DAVE WORBORIL made
753 some changes to the training analysis, is that - is that something, just based on your experience in
754 doing these training analyses, is something that's happened before or after?

755 **KING:** Well, you know, DAVID WORBORIL, in particular, was a City attorney that I relied on
756 heavily in the development of the - the less lethal program when I was assigned to the Training
757 Division. DAVE WORBORIL, in particular, has played more of a role in the Police Bureau and, you
758 know, shaping I think policy and in doing training for officers as it relates to our use of force than
759 probably any other person in the Portland Police Bureau, and so it was important to me to talk with
760 him about this case and look at it from that - from that standpoint, from say 2008 on, the changes that
761 were made to policy, the messages, you know, he - he has experience in - in what information was
762 shared in in-service, for example, to officers, he has been a part of the discussions as it related to the
763 changes in the policy, so he just has an insight and perspective that I thought was valuable and he was
764 helpful as - as a person that I consulted with in doing this review.

CONFIDENTIAL TAPED STATEMENT

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765 **SEVERE:** Was - was DAVE WORBORIL reviewing the training analysis document as a whole or
766 just the less lethal portion?

767 **KING:** I don't recall. I think it may just been the deadly force, but I don't recall.

768 **SEVERE:** While you and Lieutenant VIRTUE were working on the training analysis, how often did
769 you folks communicate on this training analysis?

770 **KING:** Probably every day. We - we were in the - in the Training Division offices located in St.
771 John's. Our offices were right across from one another and so we would talk about this really probably
772 daily.

773 **SEVERE:** How often or involved was A/C O'DEA in the creation of this training analysis?

774 **KING:** Well, I think he played an important role as a - as an advisor. We met with him on several
775 occasions. I don't - I don't remember the total number. We made a number of different meetings with
776 him so that, you know, my - my experience is when you're involved in a project that has lots of work to
777 be done or lots of details, that putting more structure in place, more meetings in place is beneficial as
778 you move along, so we met with him, you know, from half a dozen times up maybe to ten times
779 somewhere. I mean I remember we met with him on a number of different occasions and talked with
780 him about the progress and about the review and about the material and about the training.

781 **SEVERE:** Did you agree with all the conclusions reached in the training analysis?

782 **KING:** I do.

783 **SEVERE:** Okay. Is there anything inside of the training analysis that you don't agree with?

784 **KING:** In the analysis that I do not agree with. No, there is not anything in it I don't agree with. I
785 think there have been more and better discussions about how Portland Police officers respond to lone
786 suicidal subjects as a result of this. Those were - those were - I think that was one of the
787 recommendations that we made, that we do a review. So, no, there's nothing in it that I don't agree
788 with.

789 **SEVERE:** Okay. That's it for my questions. Is there anything that I failed to bring up that you think
790 should be brought up right now or you would like to share with us?

791 **KING:** This was a very difficult assignment that Lieutenant VIRTUE and I - that I took very
792 seriously, I did my very best on, I stand by and, you know, it's obviously a very difficult case and
793 unfortunate for Officer FRASHOUR and others, and the family, AARON CAMPBELL and his family,
794 but I believe we took a needed hard look at this case and arrived at sincere and authentic conclusions.
795 You know, maybe someone else looking at it would arrive at different conclusions. I - I certainly
796 understand that. But, at the end of the day, this has been probably one of the single most challenging
797 and difficult things that I've had to do in my police career and something I did not ask for, frankly, in
798 some ways, but that I believe that I needed to do and do my very best on.

799 **SEVERE:** Thank you. BILL, do you have anything?

800 **ACCORNERO:** No, not a thing. Captain, do you have anything you want to follow-up with?

801 **PARMAN:** We covered this in the last interview, just that, you know, there are volumes and volumes
802 of documents relating to this. Lieutenant KING'S been on the record at least twice before, and there
803 may be others, and so we've, of course, testified to the best of our ability, but if you have questions
804 about other specific statements or other things he's done on the record in the past, we'd be happy to
805 review those and come back for more questions.

806 **ACCORNERO:** Okay. It is approximately 3:37. We're going off tape.

807

808 12b0021trs-king.doc

809 Transcribed 07/30/2012 @ 5:00 p.m. Laura Martinson (0730lm01)

Appendix B: Chronological List of Versions of the Training Analysis Draft

The following abbreviated chronology lists the versions of the Training Analysis draft provided to us. We show them in date and time-of-day order, and we match the versions on our chronological list to pertinent arbitration exhibits, where applicable. In some cases, we include additional clarifying information.

Version 1: 3-31-10 (Wed) 9:11 am (*A-25 – designated in arbitration as draft #1*): 14 pages (Virtue to King – file name = “Frashour 1.doc”).

Version 2: 4-22-10 (Thurs) 6:35 am (*A-27 – designated in arbitration as draft #2*): 17 pages (King to King – file name = “Frashour draft.doc”).

Version 3: 4-22-10 (Thurs) 8:21 am (*A-28 – designated in arbitration as draft #3*): 20 pages (Virtue to King – file name = “Frashour draft.doc”).

Version 4: 5-2-10 (Sun) 1:30 pm (*A-30 – designated in arbitration as draft #4*): 33 pages (King to King – file name = “Frashour draft.doc”); initial discussion of the use of deadly force; includes no conclusions.

Version 5: 5-12-10 (Wed) 3:20 pm (*A32 – designated in arbitration as draft #5*): 58 pages (Virtue to O’Dea; cc to King – file name = “working frashour draft 5-13.doc”).

- Note: This is the first version in which a conclusion is reached on the use of deadly force – consistent with training. The narrative in the use of deadly force section (including the section-specific training analysis) in this version appears to remain completely unchanged in the next three subsequent versions 6, 7, and 8, as well as version 10.

Version 6: 5-27-10 (Thur) 2:45 pm (*A-34 – designated in arbitration as draft #6*): 59 pages (Virtue to King – file name = “working frashour draft 5-27.doc”).

Version 7: 5-31-10 (Mon) 6:44 pm (*A-35 – designated in arbitration as draft #7*): 60 pages (King to King – file name = “working frashour draft 5-31st.doc”).

Version 8: 6-15-10 (Tue) 2:28 pm (*A-38 – designated in arbitration as draft #8*): 66 pages (Virtue to King – file name = “working frashour draft 6-1st.doc”).

Version 9: 6-20-10 (Sun) 10:23 pm: 71 pages (King to King – file name = “working frashour draft 6-19th.doc”).

- Note: The email in which this version was attached was included in arbitration exhibit A-39, along with a seven-page re-write (file name = “TRAINING ANALYSIS.docx”) of the deadly force training analysis section that was referenced in arbitration testimony. However, version 9 was not included in arbitration exhibit A-39 during proceedings.

- Note: The deadly force section in version 9 contained similar language to the seven-page re-write noted here and discussed in arbitration. Both indicated a shift from the prior four versions of the Training Analysis draft where the use of deadly force was considered consistent with training.
- Note: Also attached in the email included in exhibit A-39 was a one-page document with revised language for the use of lethal force narrative (file name = “We now know that Campbell was unarmed when he came outside despite what Frashour thought.docx”). This document was not included in arbitration exhibit A-39 during proceedings.

Version 10: 6-21-10 (Mon) 2:39 pm (*A-42 – designated in arbitration as draft #9*): 68 pages (Virtue to King – file name = “working frashour draft 6-21.doc”).

- Note: This version contains the same language in the deadly force training analysis sections as found in version 5 through version 8 on our list and also designated as draft #5 through draft #8 during arbitration proceedings.

Version 11: 6-21-10 (Mon) 3:48 pm (*A-40 – designated in arbitration as draft #10*): 65 pages (King to King – file name = “working_frashour_draft_6-19th[1].doc”).

- Note: Use of deadly force is definitively noted as inconsistent with training and remains so throughout subsequent versions.

Version 12: 6-21-10 (Mon) 5:58 pm: 65 pages (King to King; cc to Ferraris – file name = “working_frashour_draft_6-19th[1].doc”).

- Note: The email in which this draft of the Training Analysis was attached was included in arbitration exhibit A-41.
- Note: This version varies slightly from version 11 above, and it contains the eleven typographical errors corrected by Galvin in version 13 below.
- Note: While it is clear there were multiple versions emailed on 6-20-10 and 6-21-10, it is not clear if Virtue and King communicated specifically about the changed narrative regarding the use of deadly force.

Version 13: 6-23-10 (Wed) 3:21 pm (*A-64 – designated in arbitration as “The Copy I changed” draft*): 65 pages (Galvin to King and Virtue – file name = “working_frashour_draft_6-19th1.doc”).

- Note: In version 13, Galvin corrected eleven typos found in version 12 above, but those corrections were not contained in version 14 below.
- Note: On 6-23-10 (Wed) 3:30 pm, Galvin followed up with an email to Virtue and King (subject line = “The changes I made”) listing the eleven typographical errors that she had corrected in version 13.

Version 14: 6-27-10 (Sun) 5:57 pm: 68 pages (King to King – file name = “working_frashour_draft_6-22 final2 with leanns help(2).doc”) added footnotes; some minor edits; deadly force training analysis expands from 1.5 to 3 pages.

Version 15: 6-27-10 (Sun) 11:48 pm: 68 pages (King to King – file name = “working_frashour_draft_6-22 final2 with leanns help(2).doc”) varies slightly from version 14 above, primarily in the use of deadly force training analysis section.

Version 16: 6-28-10 (Mon) 2:33 pm: 54 pages (King to King – file name = “working_frashour_draft_6-28.doc”) smaller font size; minor editing changes.

Version 17: 6-28-10 (Mon) 9:11 pm: 54 pages (King to King – file name = “working_frashour_draft_6-28 almost lost it.doc”) various edits; fewer recommendations.

Version 18: 7-1-10 (Thurs) 1:05 pm: 53 pages (Morgan to King and Virtue – file name = “FRASHOURFINAL-6-29.doc”) noted as a “redline copy;” small edits and aligning of text; more extensive edits to narrative in the deadly force section.

Version 19: 7-5-10 (Mon) 9:10 pm: 57 pages (King to King – file name = “FRASHOURFINAL-7-2 with changes –pendingworborilreview.doc”); edits to narrative in the deadly force section.

Version 20: 7-13-10 (Tue) 4:54 pm: 58 pages (King to O’Dea – file name = “FRASHOURFINAL7-13-10”); major edits to narrative in the deadly force section.

- Note: Version 20 was forwarded from King to Virtue on 8-13-10 at 10:11 pm. The email exchange regarding version 20 actually began about a month before on 7-12-10 at 8:46 am with an email from King to O’Dea, and cc to Virtue and Worboril.
- Note: Additional minor revisions were discussed in the email exchange, but the only version provided to us was the one we designated as version 20.

Final Training Analysis: 7-14-10; 58 pages.

- Note: This is the Training Analysis contained in arbitration exhibits (*J-11 pages 88 – 145*) and hand-dated as 7-14-10. It was referred to as the final Training Analysis during arbitration proceedings.
- Note: The final Training Analysis contains the same text as version 20 above. The one difference is that section headings are placed in text boxes in the 7-14-10 final Training Analysis.
- Note: In addition, three of the eleven typographical errors corrected by Galvin in version 13 are still found in version 20 and the 7-14-10 final Training Analysis.

Appendix C: Independent Review Team Qualifications

City Auditor LaVonne Griffin-Valade holds a Master of Public Administration degree from Portland State University, and she has been a public sector performance auditor since 1998. She is a Certified Internal Auditor (CIA) and a Certified Government Auditing Professional (CGAP). She has served as the elected Portland City Auditor since June, 2009. In that capacity, she is the City official authorized to conduct independent audits and special reviews and to carry out myriad oversight responsibilities, including those noted above. Prior to becoming the elected City Auditor, she was the elected Multnomah County Auditor.

Constantin Severe received his law degree from Vanderbilt University, and he serves as the Assistant Director of the Auditor's Independent Police Review (IPR) division. In that capacity, he investigates alleged misconduct by Portland Police officers, participates in Police Review Boards recommending discipline, and renders independent assessments of police encounters and critical incidents. He attends the scene of officer-involved shootings and in-custody deaths on behalf of the City Auditor and the public, to observe and assess whether police procedures are followed appropriately after these critical incidents. Prior to joining the Auditor's Office, Mr. Severe was an attorney with the Metropolitan Public Defenders Office here in Portland.

Margie Sollinger received her law degree from the University of Minnesota. She serves as the City Ombudsman in the City Auditor's Office. In that capacity, she receives and investigates complaints from the public or employees regarding administrative acts of City agencies, including alleged misconduct by City employees, such as fraud and misuse of public resources. Under the independent authority of her office, she may publicly report her investigation findings and push for changes where needed. Prior to joining the Auditor's Office, she was a Visiting Associate Professor at Georgetown University Law Center's Institute for Public Representation, where she practiced environmental, administrative, and open government law.

Rachel Mortimer received her law degree from Lewis and Clark Law School. She serves as the Assistant Program Manager in IPR. In that capacity, she participates in investigations of alleged police misconduct and in Police Review Boards recommending discipline. She attends the scene of officer-involved shootings and in-custody deaths in the aftermath of such events to observe Police Bureau's actions. She also reviews Tort claims against Portland Police Bureau members to determine whether an administrative investigation may be warranted. Prior to joining the Auditor's Office, she was a juvenile dependency/delinquency attorney at a small firm here in Portland.