

Exhibit B:

Miller Deposition Transcript

IN THE UNITED STATES DISTRICT COURT
FOR THE METROPOLITAN DISTRICT OF MIDLAND
SOUTHERN DIVISION

HAROLD FINCH, et al.,

Plaintiffs,

Case No. 2:24-cv-08912

vs.

Hon. Marcus T. Reynolds

CITY OF METROPOLIS, et al.,

Defendants.

DEPONENT: ANTHONY MILLER

DATE: Thursday, March 14, 2025

TIME: 1:15 p.m.

LOCATION: 500 Capitol Boulevard, N.W.

Metropolis, Midland

REPORTER: Sarah J. Vance, RPR, CSR-8821

Page 28 1 the watch commander, who is a lieutenant, and after 2 the lieutenant, it would be the captain. After 3 captain, it would be chief. 4 Q Do you know who those people would have been back in 5 February 2023? 6 A The watch commanders I do not remember. I've worked 7 for many different patrol supervisors and many 8 different watch commanders. The captain -- or my unit 9 commander would have been Captain Miller, and the 10 chief would have been Chief Davis. 11 Q Would you have had the same patrol supervisor in 12 January 2023 as in February of 2023? 13 A Yes, it should have been Sergeant Hayes. 14 Q What about in September 2022? 15 A Sergeant Hayes, yes. 16 Q During your initial training with the Metropolitan 17 Police Department, was there anything specific to 18 enforcing trespass statutes or ordinances? 19 A I'm sure it was touched on. We went over many of the 20 city ordinances. I'm confident that trespassing was 21 one of them. Can I remember the actual body of that 22 instruction? No, I don't. 23 Q When I talk about a no trespass letter, do you know 24 what I mean? 25 A Yes.	Page 30 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 29 1 Q What does that mean? 2 A To me a no trespass letter is a document signed by a 3 business owner, a business manager, or a merchant extending 4 or expressing to the Metropolitan Police Department that 5 they do not want people at their business or on their 6 business parking lot that are not there patronizing them for 7 business. If they're loitering, hanging out, doing anything 8 but being a customer, for any unreasonable amount of time, 9 then by signing that no trespass letter, I feel that's an 10 explicit expression from management and from the owners that 11 they want police involvement. 12 Q Were the no trespass letters part of your initial training 13 with the Metropolitan Police Department? 14 A Yes. 15 Q What do you recall specifically about the training back in 16 March of -- this would have been in March of 2016, right -- 17 March of 2016 about what you were told in terms of the 18 utilization of the no trespass letters? 19 A Specifically, sir, I don't remember specifics. I remember 20 being taught it. I remember them saying that to enforce it, 21 to look at the totality of the situation, to look at all the 22 different factors that go into it, and being taught how to 23 verify if an address has a no trespass letter on file, so 24 finding the information as well as the correct way of 25 applying it to certain situations.	Page 31 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

Page 36 1 A Yes, of course. 2 Q And to enforce laws the way that your superiors expect you 3 to enforce laws, correct? 4 A Yes. 5 Q Deposition Exhibit 3 is a statute, correct? 6 A Yes. 7 Q It's MCL 750.552 Trespass Upon Land, correct? 8 A Yes, sir. 9 Q Are you familiar with that statute? 10 A Yes. 11 Q Is that a statute that you have enforced as a member of the 12 Metropolitan Police Department? 13 A Yes and no. The bulk of what we enforce as a police officer 14 are the city ordinances. The city ordinances, for the most 15 part, will mirror state law, but when I'm enforcing, I'm not 16 enforcing 750.522; I would be enforcing the City of Metropolitan 17 adopted ordinance of it, which inherently is very similar, in 18 my opinion. 19 Q I've handed you what's been marked as Deposition Exhibit 20 A Yes, sir. 21 Q Which is a Metropolitan ordinance, correct? 22 A Yes. 23 Q And that ordinance, specifically 9.133, Subpart 1, is the 24 trespass ordinance, correct? 25 A Yes.	Page 38 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 37 1 9.133 (1), it says: No person shall, colon, paren one, trespass 2 upon the premises of another or unlawfully remain on the 3 premises of another to the annoyance or disturbance of the 4 lawful occupants, correct? 5 A Yes. 6 Q Reading this ordinance, have you been taught what trespass 7 means in this context? 8 A Yes, I think it's been conveyed to me and other police 9 officers what behavior -- you know, the reasonableness of 10 behavior versus other behavior, absolutely. 11 Q So what have you been taught trespass means? 12 A I believe it's been conveyed to me that trespassing is a 13 person who is on another person's property, whether that be 14 private residential or business, who is either not leaving 15 does not have the right to be there. 16 Q So let's talk about a business then. If I'm lost and I pull 17 off at a gas station and ask for directions with no intent 18 purchase anything at the gas station, gas or food or anything 19 else, am I trespassing? 20 MR. STERLING: Before you answer, I'm going to object to the 21 of the question. I think it's an improper hypothetical. Go 22 ahead. 23 BY MR. CONNER: 24 Q Can you answer the question? 25 A In my opinion, no, I don't think so, nor do I want to live	Page 39 1 as a society where if you pull into a business parking lot to 2 ask for directions, you're construed as trespassing. I think 3 there's some human nature behind it. I think I need to be 4 reasonable and pragmatic. Given the limited circumstances 5 that you gave me, in my opinion, no, I don't think you're 6 trespassing by simply removing yourself from the roadway to 7 try to reorient yourself. 8 Q And you wouldn't argue that I don't have a right to be 9 somewhere if the business is open to the public, correct? 10 MR. STERLING: Same objection. 11 THE WITNESS: Can you repeat that again? 12 BY MR. CONNER: 13 Q Sure. If I go to a business during the day -- and I'll try 14 to make it more specific, and we'll make the business a gas 15 station. If I go to a business and it's open, whether or not 16 I intend to buy anything, as a police officer, do I have the 17 right to be there? 18 A In my opinion, I think there's an understanding that if 19 you are on the business -- if you're in the gas station, if 20 you're there in the parking lot or you're walking inside, I 21 think there's an understanding, albeit if it's signed with 22 no trespassing or they explicitly say no bathroom use for 23 non-paying customers, I think that there's an understanding 24 that if you're there that you're going to be a customer. 25 If there are a whole lot of businesses that will --

12 (Pages 36 to 39)

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Page 40 1 that have signs that say, "Bathrooms for customer use 2 only." I can go further and say coffee shops. We have a 3 problem with coffee shops with people utilizing free wifi 4 on the internet, especially at nighttime, people going to 5 the parking lots at the closed coffee shop and utilizing 6 the wifi system so that it saves on their data bills for 7 their cell phones or their mobile devices. So back to your 8 instance, if you go to a gas station and you walk inside 9 and you have absolutely no intention to buy anything, 10 there comes a time that I think you go from it's probably 11 not that big of a deal to, yes, you are trespassing. 12 Q And would you agree with me that whether or not -- you 13 indicated that a trespass to you is someone on another 14 person's property not leaving with no right to be there? 15 A Yes. 16 Q A person having no right to be there is, to a large 17 extent, going to be based on whether the property owner 18 wants them there, right? 19 A Yes. 20 Q So as a police officer, you need -- if you're trying to 21 determine if someone is trespassing, you need to make a 22 determination whether the property owner actually wants 23 that person there, right? 24 A Yes, on both an individual basis, but also on an overall 25	Page 42 1 it, you know the intent or the feeling of the property owner, 2 right? 3 A Yes. 4 Q Have you made arrests of these people using wifi without the 5 owners intending or wanting them to use their wifi? 6 A None that I can think of off the top of my head. The caveat 7 could be I may have, but none come to mind immediately. 8 Q In that situation -- and since you don't have a specific 9 memory, we'll just use a hypothetical that someone is at a 10 coffee shop, they're in the parking lot, they're using the 11 wifi. Is there any way for that person to know whether or not 12 the property owner wants them to use the wifi? 13 A The one sticking in my head is there is a Metro Coffee on 14 Grand Avenue between Oak Boulevard and River Drive. This is 15 one that I had responded to on more than one occasion, and I 16 believe there's lettering in the front facade of the window, 17 white lettering, that I think says, "Wifi and bathrooms for 18 paying customers," something to that effect, some verbiage of 19 that, but on one of the occasions that I responded, the 20 business had closed, or just recently closed, and there were 21 still staff members there. The staff called the police to say 22 this person was out in the -- they were calling because they 23 were fearful that this person was casing the business for a 24 potential robbery. Once we arrived, that's when it was also 25 relayed to us that they had been
Page 41 1 basis, and I think that's what the no trespass letter affords 2 us is a business owner or management expressing to the police 3 department they've had problems of whatever nature, and -- 4 it's establishing a rapport and a trust from that business 5 saying, I'm empowering you and entitling you to enforce this 6 when you see fit, when you think this person is not 7 legitimately a customer of mine. 8 Q You can enforce a trespassing ordinance without a no 9 trespassing letter, correct? 10 A Yes. 11 Q We're not to the trespassing letter yet. Let's talk about 12 your situation with the wifi. When you say we have a problem 13 have any coffee shops complained that people are using their 14 wifi without actually coming in and being inside the coffee 15 shop and being a paying customer? 16 A Yes, I have personally policed those calls. 17 Q So, in other words, the property owner has let you know 18 they object to the people being in their parking lot and using 19 their wifi without being a customer, correct? 20 A Yes. 21 Q So without signing a no trespass letter, they've informed 22 you, I want you to look out for this specific type of person 23 correct? 24 A Yes. 25 Q And you know as a police officer when you see someone doing	Page 43 1 experiencing problems with people during the day when they're 2 open, but also at nighttime of utilizing their wifi. 3 Q I guess my question is do you know -- and maybe you don't, 4 but do you know how a person is supposed to tell other than if 5 there is a sign up? Is there any way for a person to know 6 they're not supposed to use the wifi? 7 A Again, I would say yes and no. In my own experience, if I go 8 to a business, a Corner Bakery or something -- many 9 businesses, and I think Corner Bakery is one of them, change 10 their wifi password on a daily basis, so you could show up and 11 have strong wifi signal in the parking lot; however, you won't 12 get the password unless you go inside and purchase something, 13 and then once you actually make your purchase, printed on your 14 receipt will be the password for the wifi, or you ask for it, 15 or there's a sign that says, "Wifi password available upon 16 purchase." So, again, in that situation, would a person 17 necessarily know they can't do that? No, but I think it's 18 reasonable for a person who is using a mobile device, that if 19 a password is required on free wifi, then it's probably not 20 free, that they're not just broadcasting this band out for 21 anyone to use, that there's, again, some type of an 22 understanding, we will allow the use of our wifi if you 23 purchase something from our business. 24 Q So that I understand how the enforcement of a trespass 25 works,

13 (Pages 40 to 43)

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Page 44 1 today if I pulled up to a Starbucks and was in the parking 2 lot using their wifi, I had no idea that the business 3 owner didn't want me using that, but I'm clearly there, 4 I'm not buying anything, and I'm just there using free 5 wifi, would the policy and practice of the Metropolitan 6 Police Department be to issue me a warning that I need to 7 stop using the wifi or I need to get off the property? 8 A I would say the policy and practice of the MPD would be 9 to investigate the crime thoroughly -- investigate the 10 situation thoroughly. If I were to respond to that 11 situation with the presumption that, one, there is not a 12 no trespass letter, and, two, the wifi is not password 13 protected, when I arrived, I would contact whoever called 14 the police, and if they said it's the gentleman in the 15 blue blazer and the red tie sitting in that vehicle, he's 16 been there for this long, we're confident he's using our 17 wifi, and he has not bought anything, I would ask, "Do you 18 want this gentleman to leave your parking lot?" If the 19 answer is yes, I would say, "Okay, sit tight." I would go 20 out, I would then contact you, "Sir, my name is Officer 21 Miller from Metropolis Police. The Starbucks' employees 22 have called the police. They think that you're utilizing 23 their wifi and you haven't bought anything. Do you plan on 24 purchasing a cup of coffee or a donut or a danish or 25 something?"	Page 46 1 Q And it sounds like one of the important factors is whether 2 or not there is a no trespass letter on file, correct? 3 A Or a standing agreement that you have from management or 4 from the owners that they don't want people on their 5 property who are not customers. 6 Q A standing order makes it abundantly clear in your mind, 7 correct? 8 A Yes, they've expressed to the police department that if we 9 have people here and I'm not profiting from them and my 10 business is not profiting, I don't want them here. 11 Q And you're in a position now where you get to know some of 12 the people, the business owners, in your neighborhood, 13 correct? 14 A Yes. 15 Q And so you even, beyond that, have an understanding of 16 what exact problems may be occurring, what times of day, 17 what types of activity to be looking out for? 18 A Yes. 19 Q And what the business owners' wishes and desires are in 20 terms of people on their property, correct? 21 A Yes. 22 Q During the entire time that you've been with the 23 Metropolitan Police Department has the manner in which you 24 enforce the trespass ordinance changed? 25 A Recently, I would say within the last year, as a result of
Page 45 1 If your answer is no, I would say, "Sir, then you need to 2 leave. The employees have told me that they don't want you 3 here and the wifi is for paying customers. I'm sure if you 4 inside, they'll be more than happy, if you buy a cup of 5 coffee, to let you use the wifi." Depending on what our 6 interaction was, if you said, "Sure, no problem, I will go 7 inside," then problem solved, if you were to go inside and 8 a cup of coffee or whatever. If there is a backlash and you 9 tell me you're not doing anything wrong, then my next step 10 would be -- assuming, of course, that I've identified you 11 to go get management from the Starbucks, ask management to 12 come out, and in my presence say, "Sir, our wifi is for pay 13 customers. If you don't leave our parking lot right now, I 14 want you arrested for trespassing." At that point, if you're 15 still not obeying what the management has said, it is in my 16 presence that you are refusing the management's directives 17 leave being that you're not a paying customer, and at that 18 point I think you would be subject to arrest for trespass. 19 Q It sounds to me like you're saying, when we investigate a 20 potential trespass, we look at a number of factors, right? 21 A Yes. 22 Q And any one of those factors can be important in determining 23 whether or not an arrest should or should not be made? 24 A Yes, I would agree with that. 25	Page 47 1 maybe this lawsuit, and I think it was Judge Lawson, but a 2 District Court ruling, I think we've taken another look at 3 the issue of trespassing and clarified some of the things 4 that a police officer should be doing to encompass a quality 5 investigation and report. I wouldn't necessarily call it a 6 change, but it may be revisiting what we're looking to do. 7 Q What do you mean what you're looking to do? 8 A Me, personally, I'm looking to solve problems. In the 9 instances we have here, I'm looking to obey the wishes of 10 the business owners. I'm trying to help them to not have to 11 clean up the messes that people leave in their parking lots. 12 I'm also trying to show them that their concerns do not fall 13 on deaf ears. That even though it's 3:00 in the morning and 14 they might not see us doing it, police officers are 15 concerned about their property, we are concerned about their 16 business, and we want them to thrive, and that we're willing 17 to work with them and follow through with what their wishes 18 are. 19 Q At the same time -- and I think it goes without saying, 20 but let's be clear -- you're also trying to respect the 21 rights of the people who may be on the property, correct? 22 A Absolutely, absolutely. I need to be reasonable, 23 approachable, and use common sense, and be pragmatic about 24 it. For the most part, I think being able to communicate 25 some of the concerns to the people will almost always gain

14 (Pages 44 to 47)

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Page 48 1 compliance. 2 Q So what is it recently that -- you said it wasn't a 3 change, but what is it that's different recently in terms of 4 enforcing trespass? 5 A Now, more so than ever, we're stressing signage. There are 6 some signs -- there's a small plastic sign that I help 7 distribute, and then there's also an exterior metal sign 8 that I will help distribute, which, again, I think clarifies 9 to customers or non-customers what a particular business -- 10 what their intentions are. With the posting of these signs, 11 I think it's making it abundantly clear that if you're not 12 here to do business with me, then I don't want you here. 13 Again, I'm paraphrasing that in laymen's terms, but that's 14 the way I interpret that. 15 Q Is there a way to devise a sign that really uniformly 16 expresses a business owner's intent with regard to who they 17 want on the property? 18 A I don't think so. I don't think there's a blanket sign 19 that says this will be allowed and this will be allowed, but 20 this will not be allowed. 21 Q Anything other than stressing signage that's any different 22 in this recent, not change, but area of emphasis, or 23 whatever you want to call it? 24 A I think from the training unit there was a re-emphasis on 25 conducting a quality investigation. I think it underscores	Page 50 1 for. 2 Q So it was one facet before this new emphasis and one 3 facet after this new emphasis, correct? 4 A Yes. 5 Q Before we mark this, I'm going to hand it to you to make 6 sure that we know what it is and how many pages it 7 actually is. I've handed you a two-page document, correct? 8 A Yes. 9 Q Or I've handed you two pages? 10 A Yes. 11 Q Can you tell if they go together? 12 A Yes. 13 Q Have you seen those documents before? 14 A Yes. 15 Q Tell me, are there any other pages that are missing from 16 that package? 17 A Not that I remember. 18 Q So let's take a second and go off the record and mark it 19 as an exhibit. 20 (Deposition Exhibit No. 14 marked) 21 BY MR. CONNER: 22 Q I've marked as Exhibit 14 a two-page document, correct, 23 or two documents that are bound together? 24 A Yes, sir. 25 Q And the cover sheet is an e-mail, correct?
Page 49 1 the importance of interviews, of getting statements, of 2 putting down all the dynamics that you're seeing, all the 3 nuances of the scene. Instead of just one litmus test of, 4 this is the element I saw and therefore I took this 5 approach, I think it's important that officers -- though 6 trespassing might be on the very low end of the scale as 7 far as criminal behavior, it is still a crime and still 8 can be approached with a quality and thorough 9 investigation, which would include interviews, documenting 10 what you're seeing, what you're not seeing, and then also 11 producing a quality, thorough, accurate police report. 12 Q In terms of a re-emphasis on a quality investigation, 13 you're not testifying that it was ever the policy to not 14 do a quality investigation, correct? 15 A No. 16 Q I mean, that's the same. You wanted to do a quality 17 investigation before this new emphasis and you still want 18 to do a quality emphasis, right? 19 A Absolutely. 20 Q When you say that it's not one litmus test, are you 21 saying that in the past if someone was on property and 22 there was a letter of intent that all of a sudden that was 23 justification for an arrest? 24 A Not at all. That would be one facet of what I would look 25	Page 51 1 A Yes. 2 Q It's an e-mail from Dan Lind. I'm trying to read it 3 upside down. Why don't you read it to me? 4 A It is from Dan Lind. Lieutenant Lind is the commander of 5 the training unit. I see Katie Hefner's name along the 6 top. I don't know if that means that Lieutenant Lind first 7 sent it to Katie Hefner who then distributed it to us, or 8 Katie, being that she's currently assigned to the training 9 unit, printed it from her e-mail. Regardless, it was sent 10 Monday, January 14, 2024, at 12:17 in the afternoon. It is 11 sent to Police Sworn Personnel. Courtesy copies went to 12 Margaret Bloemers and Karen Chadwick. The subject heading 13 is a forward message of trespass update with attachment of 14 final 011024.pdf file. 15 Q So are you police sworn personnel? 16 A Yes. 17 Q Did you get a copy of this e-mail? 18 A Yes. 19 Q Did you get the PDF that came with it? 20 A Yes. 21 Q Is the PDF the second sheet attached to Exhibit 14? 22 A Yes, the one I remember getting was in color, but I 23 think this is an accurate memorial, a black and white, of 24 what I received. 25 Q Why don't you read the text of the e-mail?

15 (Pages 48 to 51)

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Page 52 1 A "Trespassing is a valuable proactive enforcement tool 2 and the attached Training Bulletin should ensure 3 consistency and continuity in the enforcement of 4 trespassing complaints and/or arrests." 5 Q Do you know what is meant here by "valuable proactive 6 enforcement tool"? 7 A I interpret that as it is a mechanism I can utilize to 8 solve problems. It is something that can be used as a 9 police officer, as a patrol officer, to address some of 10 the problems we deal with night in and night out. It is 11 useful in solving problems that are small before they 12 become major, violent crimes. 13 Q As a patrol officer you told me that you think you had 14 less opportunity to solve problems and more you just 15 were dealing with things after they occurred, correct? 16 A Yes. 17 Q Does the term valuable proactive enforcement change if 18 you were a patrol officer as opposed to a community 19 police officer? 20 A No, not in my opinion. 21 Q Did you read the training bulletin dated January 2024 22 attached in the e-mail as part of Exhibit 14? 23 A Yes. 24 Q After reading that, did anything change in the way 25 that you enforce the trespassing ordinance?	Page 54 1 obviously talked about the fact that you've made arrests for 2 trespass, correct? 3 A Yes. 4 Q What types of circumstances or factors help you as a police 5 officer determine if there is probable cause to make an arrest 6 for trespass? 7 A What I would look for is the location, the history at that 8 location, directives from my unit commander, but also my 9 supervisor, input from fellow officers, from not only my team 10 but the corresponding other patrol team. I would also look at 11 what I think the occupants are doing. I look at the -- as I'm 12 talking to them, I'm kind of taking stock of if what they're 13 telling me makes sense. Does it pass the proverbial smell 14 test. I will also factor in what are my experiences in the 15 past dealing with this establishment wherever the location may 16 be. There are so many different nuances that go into it with 17 ultimately trying to determine whether or not probable cause 18 exists here to effect an arrest. 19 Q Of the factors that you've given me, do any of those 20 encompass the property owner's desires or whether or not they 21 agree or want a person on their property or don't want a 22 person on their property? 23 A Certainly, I would say that would qualify under my past 24 experiences with that establishment, if we're talking about a 25
Page 53 1 A No, I felt like I was hitting on all of these bulletins. 2 Q I want to go back when you -- and maybe it makes no 3 difference, but I'm thinking in the context of when you were 4 working patrol. If you see someone in a parking lot and the 5 business is closed, is one of the things you want to do to 6 determine whether there is a no trespass letter in place? 7 A That would be helpful, yes. 8 Q How do you go about doing that? 9 A Are you asking me now or are you asking what I did then? 10 asterisk on that would be we have changed. We, the police 11 department, have gone to a new dispatching system. With the 12 former system it was much easier to access information. The 13 new system, though technologically advanced in some areas, 14 not as user friendly for patrol officers. So if you're asking 15 me today right now, there's one way of doing it. How I did 16 back during these instances, it was different. Now, again, 17 not trying to be argumentative, I promise. 18 Q No, you're not. How do you do it now? 19 A By utilizing either my mobile phone and calling the dispatch 20 center or radioing in and asking about a particular business 21 and their address. 22 Q You don't have a way to access it on your own? 23 A There may be, but I'm not familiar with it. 24 Q You talked about -- let's go back to talking about trespassing 25 in general. To enforce the trespass ordinance -- we	Page 55 1 business. If I can say last week I spoke to the 2 manager of whatever business, Apex Hardware, and if 3 the manager told me, I'm having a lot of problems with 4 people using my parking lot to smoke marijuana, then 5 the following Saturday I probably don't have to talk 6 to the manager of Apex Hardware if the drug problem 7 still persists. I'm going to presume that seven days 8 later that's a standard communication from them. 9 Q Is the no trespass letter a factor in determining 10 whether or not there's probable cause? 11 A Yes. It would be a slice of the pie, sure. 12 Q In the nine years that you've been working for the 13 Metropolis Police, do you have an estimate of how many 14 arrests you've made for trespassing? 15 A I really don't. That's something that is accessible 16 through our FileMaker system, but off the top of my 17 head, I don't know. A ballpark presumption figure, I 18 would say, would be between 100, maybe 200. 19 Q Do you have a ballpark of how many of those involved 20 a no trespass letter? 21 A I would say probably the bulk of them did with, of 22 course, each instance having its own set of 23 circumstances that I would have taken enforcement 24 action on and dealing with all of those, you know, 25 with the big picture on each and every one of those.

16 (Pages 52 to 55)

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Page 56 1 Q In any of those cases do you recall there not being a no 2 trespass letter in place? 3 A Oh, yeah, sure. 4 Q How many? 5 A I have no idea. I know I've made a trespassing arrest at 6 business where there is a no trespass letter, but the manager 7 or merchant, the agent, has said, "I want this person gone, 8 and said person has not complied. 9 Q In each one of the cases that you recall making an arrest 10 without a no trespass letter, there was a business owner 11 telling you, "I want this person out of here"? 12 A Or some form of communication. There are times where some 13 our police officers are close friends with business owners. 14 There are times where people have communicated through church 15 groups and neighborhood association groups that -- a certain 16 person might own a carpet store, they may own a tile shop, 17 though they may not send the letter, it's been communicated 18 relayed to me somehow that the owner of whatever this business 19 is, Widgets Inc., has relayed to us, to the police, they don't 20 want people there, so would I utilize that in the same manner 21 and would I take that into effect just like a no trespass 22 letter, sure, I would. 23 Q So in a business setting, a business that's open to the 24 public, we can agree that if a business owner asks someone 25 leave and that person doesn't leave, they're trespassing?	Page 58 1 Training Manual, right? 2 A Yes. 3 Q And you're actually now a field training officer, correct? 4 A Yes. 5 Q So if we look at "Trespass," it cites the ordinance, correct? 6 A Yes. 7 Q It says: "No person shall trespass or unlawfully remain upon 8 the premise of another to the annoyance or disturbance of the 9 lawful occupants." 10 A Yes. 11 Q And then it says you should conduct a brief preliminary 12 investigation or questions with the suspect to determine if he 13 or she is trespassing, right? 14 A Yes. 15 Q And then it says complainant and, slash, or valid no trespass 16 letters are necessary to arrest, correct? 17 A Yes, sir, and it looks like in mine it's highlighted. I don't 18 know if it was on yours. 19 Q It is on mine. I don't know who put it there, but it is. In 20 other words, you either need to have a physical complaint from 21 the owner or occupant or you need to have a no trespass letter 22 to make the arrest, correct? 23 A Or both, yes. 24 Q Or both? 25 A Yes.
Page 57 1 A Yes. 2 Q Do you have a memory of receiving specific training, other 3 than what you've told me about when you first came to 4 Metropolis in March of 2016 -- any specific training with 5 regard to how to enforce the trespass statute or ordinance? 6 A In the seven-week in-house training, I'm confident that 7 review that and train us in that. As far as the specific 8 training that was given to us, no, I don't know, but I do 9 remember it being taught to us. 10 Q Let me hand you a document marked as Exhibit 5. Can you 11 me what that is? 12 A This looks to be a photocopy from the Field Training Manual 13 from the Metropolitan Police Department. 14 Q And it has a date in the lower -- I think it's the lower 15 left-hand corner of the pages, correct? 16 A Yes. 17 Q And can you tell me what that date says? 18 A Reading it correctly, it would say, Revised 04 of 20, so 19 would read that as revised in April of 2020. 20 Q There's multiple pages there. Can you turn to Page 72? 21 A Okay. 22 Q If you look toward the bottom of Page 72, it talks about 23 "Offenses Against Property," correct? 24 A Yes. 25 Q I assume this is a document you're familiar with, the Field	Page 59 1 Q And that's been the case from April of 2020 until today, 2 correct? 3 A Yes. 4 Q And that was the case when you hired in in March of 2016, 5 right? 6 A Yes. 7 Q It also says always attempt to contact the property owner or 8 the person controlling the property to verify the suspect's 9 unlawful presence, correct? 10 A Yes, and I interpret that as if there is a no trespass 11 letter on file, my attempt to contact the property owner would 12 be the verification of that no trespass letter. 13 Q Why is that? 14 A The no trespass letter is valid for one year. I interpret by 15 signing that document that that is a standing expression from 16 them that they will cooperate with trespassing prosecutions. 17 Q But isn't the determination of whether someone is 18 trespassing in part the state of mind of the business owner or 19 the person controlling the property? 20 A If we're talking about what I'm capable of doing now during 21 the day versus what I did at night, the bulk of the work that 22 we did with no trespass letters were at night at closed 23 businesses with a lot of the problems, though, arising out of 24 open businesses, albeit nightclubs and liquor stores. 25 Q So you're referencing it only in terms of someone at night

Page 60 1 with a closed business? 2 A Correct. 3 Q All right. It says in situations where enforcing a no 4 trespass letter, confirm the letter's existence and validity 5 through dispatch, radio, or FileMaker, correct? 6 A Yes. 7 Q So contact dispatch and they'll let you know whether there 8 is a valid no trespass letter on file, right? 9 A Yes. 10 Q Tell me about FileMaker. How do you do that? 11 A There are two different FileMaker programs that we utilize 12 at the MPD. The first one would be what the patrol officer 13 uses, and that is one loaded onto your computer, and that's 14 the one that is accessible for your daily log. It has your 15 police reports in there. It also has a list of the most recent 16 wanted people, access to the manual procedures, state law, 17 city ordinance, things like that. It's a condensed, almost 18 truncated version of what would be the other FileMaker system 19 which is generally run in the network at headquarters. That 20 would be the larger of the databases, and to verify it through 21 FileMaker, it would be possible for me to do it in my cruiser 22 but that would require me to shut down the mobile or the file 23 version of FileMaker only to open up, then, the other version 24 of FileMaker. That would take anywhere from a half-hour to 25 minutes to load that program because it is	Page 62 1 there's a no trespass letter on file? 2 A Under the new system there's probably a means; I don't 3 know how to do it. 4 Q You've told me that. What about under the old system? 5 A Under the old system very readily available, very 6 easy, just a matter of a few keystrokes. 7 Q When you enter in the keystrokes, what do you see? 8 A Under the command line, I would type in P, then I, 9 then a bracket, and then I could either list the address 10 of the business that I'm looking at or the name of it, 11 and as long as the name was precise, the computer system 12 would tell me whether or not a letter is on file. The P 13 and the I were abbreviations for premise information, so 14 if I'm running a PI and a bracket, it would tell me not 15 only about the no trespass letter, but it would also 16 yield other information. The fire department utilizes 17 the premise information like at carwashes for chemicals 18 that are caustic. At Meijer it would give a schematic of 19 the facility. It isn't just for the no trespassing. 20 Q I understand. But in terms of the no trespassing 21 letter, would it give you the effective dates of the no 22 trespass letter? 23 A Yes, on the old system. 24 Q Under the old system? 25 A Yes, it would.
Page 61 1 such an immense database of information. Once I had it open, 2 it would probably be another 20 to 30 minutes of my checking 3 an address. If I were to utilize that same program back at 4 headquarters while plugged into the network, it would be 5 nanoseconds if FileMaker is run efficiently. 6 Q So it's not really practical, that second type of FileMaker 7 you're talking about, when you're out in the field? 8 A Correct. When I'm radioing into the dispatch center, it's 9 understanding that that's what they're doing. They're checking 10 FileMaker, the databases of no trespass letters, that are 11 file. 12 Q And you have the ability to look at an abbreviated FileMaker 13 when you're in the patrol car? 14 A Yes. 15 Q Does that give you the ability to determine if there is a 16 trespass letter on file? 17 A No. If it's accessible through the truncated, smaller mobile 18 version, I'm not aware of how to find out. 19 Q You talked about how there's been some changes in the 20 system, and it's actually tougher today to find out whether 21 not someone has a no trespass letter on file without making 22 call into dispatch than it used to be, correct? 23 A Yes, but that's not FileMaker. That would be our CAD system 24 our computer-aided dispatch system. 25 Q So under the CAD system, can you determine whether or not	Page 63 1 Q It's my understanding that the no trespass letters have 2 changed over time; is that fair? 3 A I think there's an updated version of it now. 4 Q Has it been updated more than once since you've been with 5 the Metropolitan Police Department? 6 A If it has, I'm not aware of it. I do know the way an old 7 trespass letter used to look, and I know what they look like 8 now. 9 Q Was there ever -- do you know when the letter changed? 10 A No, I do not. 11 Q Was it when you were still able to use the CAD system to 12 determine whether or not there was a no trespass letter in 13 place? 14 A It may have been, but I have no idea. 15 Q When you call in now and try to find out from dispatch if 16 there is a no trespass letter in place, do you ask whether 17 it's the old letter or the new letter? 18 A No, I do not. 19 Q Does it make a difference to you? 20 A No. 21 Q Is that information offered to you when you call in, whether 22 it's the old letter or the new letter? 23 A No. 24 Q One of the things you mentioned was important in determining 25 probable cause for a trespass was the previous history of the

Page 64 1 location, correct? 2 A Yes. 3 Q Why is this important or relevant? 4 A I think if there is a history of problems at a certain 5 location, again, gas station, liquor store, nightclub -- if 6 there's a history there and I'm familiar with that, and I 7 know that allowing some behavior -- if I allow this to go 8 on, if we allow as a patrol team this conduct to continue, 9 what it could potentially turn into, then, yes, I think the 10 area or the business specific -- I think it's pivotal, 11 because if you allow some conduct to go unaddressed, it can 12 very rapidly turn into very volatile situations. I guess to 13 best answer your question, it's a case-by-case basis and 14 it's taking everything into account, because if I go to a 15 certain club or a certain gas station and it's isolated, I 16 might not be as concerned about addressing that behavior if 17 I think it's been quelled right then and there, or am I 18 going back to the same location again and again and again 19 for very similar circumstances. 20 Q Continuing on, it talks about community policing, correct 21 on Exhibit 5, Page 165? 22 A Yes. 23 Q Actually, let's go back to Page 72, I apologize. If you 24 look at (g) at the bottom of Page 72, "For business 25 applications of no trespass letters, 'No	Page 66 1 I've utilized, and ultimately it's upon them. By and large, 2 I will not tell somebody, "Please sign this right now in 3 front of me." I also generally hand out -- there's a 4 corresponding packet, and I will hand that to them. For the 5 most part, I give them my business card, write down my 6 mobile number, and say, when you have this signed, feel free 7 to text, e-mail or text or call me, and I will come back. 8 That way, they don't feel I'm pressuring them into it, and 9 they're making an independent and informed decision on 10 whether or not they want the letter. 11 MR. CONNER: Let's take a five-minute break and we'll come 12 right back. 13 (Deposition Exhibit No. 15 marked) 14 (Recess held from 4:50 p.m. until 5:00 p.m.) 15 BY MR. CONNER: 16 Q While we were off the record I marked as Exhibit 15 17 another -- actually, what are there -- three pages, four 18 pages? 19 A Three. 20 Q Three pages? 21 A Fifty-eight, 59, and 60 are the pages at the bottom. 22 Q At the top it says, "Metropolitan Police Department, Field 23 Training Manual," correct? 24 A Yes. 25 Q Does this look like another version of the Field Training
Page 65 1 Trespassing' signs must be posted and visible," correct? 2 A Yes. 3 Q So the requirement that there be posted visible signs was 4 place back in 2009, correct? 5 A Yes. 6 Q Was that -- is that required now? 7 A Yes. 8 Q Has the requirement changed at all? 9 A Not that I'm aware of, no, sir. 10 Q Under "Community Policing" on Page 165, it talks about under 11 enforcement -- do you see where it says, "Utilize Letters of 12 Intent to Prosecute for Trespassing"? 13 A Yes. 14 Q Is this explaining that part of community policing is 15 getting business owners to sign letters of intent? 16 A I interpret that as putting business owners on notice that 17 they're available. I have had business owners tell me, "No, 18 don't want them," so I think as part of community policing 19 as a community policing officer, I think it's my 20 responsibility to make business owners and management aware 21 this service, and ultimately it is on them, so it's not my 22 position to stress to them. It's not my position to try and 23 force them into it. It's my position to tell them about it, 24 answer their questions, to talk to them about some of the 25 utilities of them, maybe to cite some of the examples that	Page 67 1 Manual you've seen or been familiar with? 2 A Yes. 3 Q At the bottom corner of all three pages it says that it was 4 revised in August of 2017, correct? 5 A Yes. 6 Q Do you know if there were any revisions in August of 2017 that 7 were specific to the enforcement of trespassing? 8 A No. 9 Q During the time that you've been a police officer with the 10 Metropolitan Police Department, are you aware of any revisions 11 in the Field Training Manual specific to trespassing or 12 enforcement of trespassing? 13 A No, I'm not. 14 Q Just kind of looking at Page 58 of Exhibit 15, again, it says: 15 Always attempt to contact the property owner to verify the 16 suspect's unlawful presence, correct? 17 A Yes. 18 Q Or the occupant? 19 A Yes. 20 Q It also says, "In situations where enforcing a no trespassing 21 letter, confirm its existence." We went through that? 22 A Yes. 23 Q And it's your testimony that number one and two there under 24 Part "c" are an either/or; you can do one or the other or both? 25

Page 68 1 A I interpret this, which is essentially from our manual 2 procedures -- my interpretation of that is if the trespass 3 is being enforced under the no trespassing letter, then it's 4 appropriate to verify the validity of the no trespass letter 5 to ensure that it is not expired and that you're at the 6 correct address, along with obviously a number of other 7 dynamics that would go into an investigation. Or, if there 8 not a no trespass letter, then I am contacting the merchant 9 and speaking with the business owner or management to ensure 10 that whatever person with whom I'm dealing that they are 11 unlawfully there or that they are the subject of their call 12 that they are the reason why I'm there. 13 Q You mentioned this -- actually you mentioned Corner Bakery 14 I stopped at a Corner Bakery on my way here and had a hard 15 time getting a seat because there's people using the wifi. 16 had no idea that there was this daily change of password that 17 you talked about. 18 A That's at some locations. I'm not sure if it's corporate 19 wide. 20 Q Regardless of where it happens, if someone goes into a 21 Corner Bakery and they get a cup of coffee or lunch and then 22 they use their wifi password, how long before it's not 23 authorized for them to be on the property anymore? Can they 24 stay there and take up my seat for five hours or 30 minutes? 25 A I would say that's up to whatever business is enforcing.	Page 70 1 behalf of Corner Bakery at that point, right, because 2 you've not spoken with anyone? 3 A Right. If we're presuming that there's no staff there, 4 it's a dark, empty business, it's just myself, the wifi, 5 and whoever this person is and their mobile device, I 6 would be very comfortable, after hours and hours and 7 hours, of telling that person, "It's probably time for 8 you to leave. I think you've gotten your money's worth, 9 and I don't think that this agreement of one purchase of 10 a cup of coffee -- I would fairly say it's probably not 11 meaning that you get to use unlimited data under this 12 wifi plan for hours and hours and hours." Personally 13 would I effect a trespassing arrest on that? Probably 14 not if I was dealing with someone that was cooperative. 15 Q But, again, to get to that point, in speaking with the 16 person, you're taking that letter and expressing what 17 you believe the belief would be of the property owner or 18 occupant, correct? 19 A Yes. 20 Q And that's what you're always doing when you use the 21 no trespass letter, right? 22 A Yes, it's one part of the arrest that I feel like I am 23 enforcing what has already been expressed to the police, 24 which is if you're not a customer, then I don't want you 25 here.
Page 69 1 Q So you would have to actually get information from the 2 property owner? 3 A Correct. 4 Q And if the business is closed and I'm still there using 5 the wifi -- 6 A If you're inside the building, then we wouldn't be talking 7 trespassing; we would be talking burglary. 8 Q And if I'm outside the building, if I'm in Corner Bakery's 9 parking lot after business hours, I've still got my code, 10 I'm able to use the wifi, do you contact them to find out 11 I'm still allowed to be there after I bought my lunch ten 12 hours ago or -- 13 A And there's no trespassing letter on file? 14 Q Let's say there is a no trespass letter on file. 15 A If I arrive at a scene and I'm dealing with somebody at 16 Corner Bakery and they show me the receipt saying that they 17 purchased a coffee at nine o'clock, which gives them the 18 wifi access code, and if I'm a night shifter and it's now 19 eleven o'clock and Corner Bakery has long since closed and 20 you're in the parking lot, and if all you're doing is 21 utilizing the wifi, I would be very comfortable telling that 22 person -- I would be comfortable speaking on behalf of 23 Corner Bakery and saying, "You've gotten your money's worth 24 It's time for you to leave." 25 Q But that's what you're doing really is you're speaking on	Page 71 1 Q Sometimes it's not so easy to define who is a customer 2 and who is not a customer, correct? 3 A Yes. 4 Q So that letter allows you to then make assumptions 5 about what the business owner's belief is about who is a 6 customer and who is not a customer? 7 A Yes. 8 Q If we look at the ordinance -- and maybe you still 9 have it in front of you, I don't know. 10 A I do. 11 Q Exhibit 2. Would you agree that to be unlawfully on 12 the premises it has to be an annoyance or disturbance to 13 the unlawful occupant? 14 MR. STERLING: I'm going to object. I think it calls for 15 a legal conclusion. 16 THE WITNESS: If we read parenthetical number one under 17 9.133, yes, it reads that it has to be to the annoyance 18 or disturbance of the lawful occupants. In my years of 19 experience, I think a disturbance can be small, but it 20 can also be incredibly large and flare up into absolute 21 chaos. So if we're talking just a mere disturbance of I 22 don't like the fact that this person is tapping their 23 foot, certainly, but I would interpret this as what are 24 the factors. We have this disturbance. What other 25 fallout issues are we going to have? What is a minor

20 (Pages 68 to 71)

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Page 72 1 disturbance presumably going to lead to if left unaddressed 2 BY MR. CONNER: 3 Q So what may disturb one person or occupier of land may not 4 disturb another person, right? 5 A Yes. 6 Q If the person's there, the occupant of the land is there, 7 and you can talk to them, you can gain an understanding of 8 what is a disturbance or annoyance to them and what is not 9 annoyance, right? 10 A Yes. 11 Q Even though it may sound ridiculous to you, if a property 12 owner says that guy is out there in my parking lot tapping 13 foot and it's driving me crazy and I've asked him to leave 14 he won't, you know what the intent of the property owner is 15 right? 16 A Correct. 17 Q And you're going to enforce -- either ask the person to 18 leave or arrest them. Well, what would you do? What would 19 do if a property owner said, "That guy is in my parking lot 20 it's my property, he's tapping his foot, and I don't like 21 way he taps his foot, get him out of here"? 22 A I would contact the person and tell them, "You're on private 23 property. I've spoken to the owner, the manager, and they 24 don't want you here. You need to leave now, because if you 25 not leave, you're going to be arrested for trespassing."	Page 74 1 BY MR. CONNER: 2 Q You just mentioned some business owners are not trusting of 3 police. In your experience is that one of the reasons that 4 some business owners have told you they don't want no trespass 5 letters on file for their property? 6 A Yes. I've also had some business owners tell me, "I don't 7 care who's here." That knowing who and what their clientele 8 are does not bother them, because they would rather deal with 9 some minor issues of loitering in parking lots, littering, 10 public urination, sometimes unruliness. They would rather deal 11 with that as long as that person is still making purchases in 12 the store. Other business owners say, I'm more than willing to 13 lose that small amount of business from that person such that 14 my other paying customers who are sober, who are not 15 disturbing others, who are acting in, I guess, a normal and 16 civilized manner such that they're not disturbed while they're 17 here. 18 Q Have any business owners ever told you, "I don't want you to 19 arrest someone if you find them urinating on my property"? 20 A I've never been told that. 21 Q Has anyone told you, "I don't want you to arrest people if 22 you see them littering on my property"? 23 A I've never been told that, no. 24 Q Have they given you any other reasons why they wouldn't want 25
Page 73 1 Q If the same person is tapping his foot with a letter of 2 intent in place, do you make an arrest? 3 A I can't say that as a blanket response yes or no. 4 Q Because the letter of intent doesn't tell you what 5 behavior the property owner objects to, correct? 6 A Correct. 7 Q The letter of intent is just a vague statement that 8 they're going to cooperate with a prosecution of a 9 trespasser, correct? 10 MR. STERLING: Object to the wording of the question, 11 particularly to the word vague. Go ahead. 12 THE WITNESS: I would say in my interpretation of a signed 13 no trespass letter from a business owner -- one portion of 14 that is an agreeability of cooperating with trespassing 15 prosecutions, but I also think it shows a collaborative 16 effort that the businesses are willing to work with us, 17 that by signing a no trespass letter they will be willing 18 to post no trespassing signs on their property, that they 19 may be willing to have police cars in their parking lot 20 during normal business hours but also during off hours. 21 Some people are not trusting of the police. Some 22 businesses don't want a marked police cruiser anywhere 23 near their front door, so I think showing a willingness to 24 cooperate with the prosecution -- yes, I think that's one 25 facet, but I don't think it's the only facet.	Page 75 1 a no trespass letter on file? 2 A Some have expressed to me, similar to what I just 3 answered, they are leery that they will lose some of their 4 business. To be candid with you, many people are aware of 5 the no trespass letters, they're aware of the no trespassing 6 ordinance. 7 A lot of our image and population in our Heartside area, in 8 our mission areas -- they're well aware of what businesses 9 have no trespass letters and actively want those enforced. 10 They avoid buying anything there. And whether or not that's 11 a cup of coffee, a pack of cigarettes, rolling papers for 12 their own cigarettes, they won't go there. Some business 13 owners would, again, say, I'm willing to deal with some of 14 these quality-of-life issues knowing full well that they 15 could explode in volatility because I'm not willing to lose 16 out on that business. 17 Q Why would someone not go to a business and conduct 18 business at a certain establishment just because there's a 19 no trespass letter on file for that property? 20 A I have no idea. To speculate, maybe they don't agree with 21 the no trespass letters. It might be a political thing. It 22 might be a protest thing. Some might not trust the fact that 23 once they're there -- they don't trust the fact that they 24 will not be willing to leave if they know that some things 25 could happen there. Just to put it out there, I've had

21 (Pages 72 to 75)

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Page 76 1 people tell me I won't go there, because if I do, I know I'm 2 going to smoke crack cocaine. They have said flat out, "If 3 go there, I will smoke crack cocaine," so maybe that's a 4 reason. 5 Q But that has to do with crack cocaine, not a no trespass 6 letter, right? 7 A Well, that has to do with the fact of a location and its 8 history and knowing the accessibility of narcotics. I know 9 that seems like a huge leap; I'm just telling you the way 10 is. 11 Q Would you agree for someone to be trespassing they have 12 be aware the property owner doesn't want them on the 13 property? 14 A Yes. 15 MR. STERLING: That's your opinion, that's fine. 16 BY MR. CONNER: 17 Q In what ways can the general public learn -- for example, 18 we talked about no trespass letters. Some people know 19 they're there you said, right? 20 A (Nods head affirmatively) 21 Q Correct? 22 A Yes. 23 Q You have to answer out loud. But even you as a police 24 officer have to check to see whether they're updated, right? 25 A Yes.	Page 78 1 A Yes. 2 Q Or to the person who is on the land unwanted? 3 A Yes. 4 Q When you do that, is it fair to say you don't show up and 5 arrest people? You let them know they're not wanted and you 6 give them a chance to leave, right? 7 A Yes. 8 Q But when there's a no trespass letter, do you give them 9 that same opportunity to leave? 10 A Are you asking me personally? 11 Q Yes, you personally. 12 A I would give them the opportunity to leave. If all they're 13 doing is simply their presence and it's a situation where 14 we're not leading into greater problems, we're not having a 15 week-in-and-week-out-type issue -- if I arrived and a person 16 is literally standing in a parking lot, and I know that 17 there's a no trespass letter there, if it's the middle of 18 the day, I would give them that opportunity to leave. Other 19 times, based on what my supervisors have directed me to do 20 or what my unit commanders have done, some of the 21 expectations of my teammates and expectations of myself, as 22 well as enforcement of what business owners have told or 23 expressed to us, then, yes, there would be occasion where 24 maybe I would effect an arrest immediately. 25 Q Without giving notice?
Page 77 1 Q There's no way for the general public to know whether or 2 if they have a general understanding that there once was a 3 trespass letter on a certain piece of property whether on a 4 specific day it's a valid no trespass letter, correct? 5 A Correct. 6 Q Obviously they can be told by the owner that they're not 7 wanted on the property and that would let them know they're 8 not wanted, correct? 9 A Yes. 10 Q What other ways can give them notice that they're on the 11 property against the will of the owner? 12 A I would say a glaring one would be signs, no trespassing 13 signs. Another one would be they're calling the police and 14 utilizing the police as a spokesman by saying -- you know, 15 they called the police because they see this person -- 16 sometimes it's not uncommon for residents but also business 17 owners to not want to look like the bad guy, for lack of a 18 better word, so they'll call the police and say, "Will you 19 please go deal with this person?" They may not want the per 20 to know they themselves were the ones that called the police 21 ergo using us as a mechanism. We end up being the bad guy, 22 the problem is resolved and they get to save face. 23 Q In other words, the police are the mechanism to give notice 24 to the occupier of the land? 25	Page 79 1 A Correct. 2 Q And is this your practice or is it the practice and policy 3 of that's been instructed to you by the Metropolitan Police 4 Department? 5 A I think that would be my practice, and I would speculate 6 to say that's what my partners do, too, and are doing. 7 Q With regard to a sign giving a person notice that they 8 shouldn't be on the property, how specific does the sign 9 have to be? 10 A Again, I have no idea. I think two simple words, no 11 trespassing. I think that's pretty much a universal sign to 12 anyone saying -- with the understanding that you can come to 13 my business and be in my parking lot if you are a customer, 14 if you're a paying customer. 15 Q And if there's a sign up that says no trespassing, you 16 haven't bought anything and you're on the property, you're 17 considered a trespasser at that point? 18 A You're giving me pretty limited circumstances. If you want 19 to give me a little more detail, I'll be happy to answer the 20 question. 21 Q Sure. I get a text. I don't want to read my text while I'm 22 driving, so I pull into a gas station that has a sign that 23 says no trespassing. I read my text message. I move on. Have 24 I just violated the law? Am I trespasser? 25 A To the absolute letter of the law, I would say yes. As far

Page 80 1 as being reasonable, I mean, a practicality there, what I 2 before, I don't want to live in that world, I really don't 3 where we're that rigid and we're that structured. If I were 4 see that scene, what's the greater -- what's the lesser of 5 two evils, a distracted driver and trespassing for a minute 6 prevent that distracted driver? I'm very comfortable with 7 saying I don't have a problem with that. 8 Q So when you talk about the trespass potentially escalating 9 into something more, are you saying that you're intervening 10 before something worse than a trespass occurs? 11 A Yes. 12 Q So if I pull over and I'm reading my text message and you 13 come and say, "Hey, there's a no trespass sign here, what 14 you doing?" and I say, "I'm just reading a text message. I' 15 be on the road, Officer," it's reasonable to let me go, right? 16 A Yes. 17 Q There's not really a perceived risk of this text reading 18 escalating into something bigger than that, correct? 19 A Correct. 20 Q Even though I may be a trespasser, there's no perceived 21 that I'm going to engage in some more serious offense while 22 I'm on that property, right? 23 A Correct. 24 Q So what types of things tell you whether or not a trespass 25	Page 82 said there, and I'm utilizing -- with all the circumstances, 2 addressing the individual behavior, though it's on a larger 3 scale -- you know, I can only address the individuals, but by 4 these several officers addressing the individuals' conduct, I think 5 we can have an impact on violence. 6 Q In other words, by addressing a trespass, you're actually 7 trying to address a more serious offense? 8 A Absolutely. 9 Q Is the no trespass letter a tool that allows you to do that? 10 A Yes. 11 Q Let's talk about. Let me see what we've marked as exhibits 12 real quickly before they get too unorganized. Let's see if I 13 can put them in place here. I'll hand you Exhibit 13 and we're 14 going to talk about this incident for awhile, all right? 15 A Yes, sir. 16 Q Exhibit 13 involves the arrest, as we said, of David Thomas, 17 right? 18 A Yes. 19 Q The arrest happened what day? 20 A February 19, 2024. 21 Q What time? 22 A Approximately 8:40. 23 Q And then you prepared the report about 45 minutes later, 44 24 minutes later? 25
Page 81 1 is going to then turn into a drug dealer or a rapist or a 2 murderer or something more severe? 3 A Time of the day, weather, as far as actual temperature 4 outside. What type of event said person is attending, the 5 number of people who are attending, whether or not those 6 attending all have similar concepts culturally, religiously 7 or gang members. If you have an event -- if you have 25 gang 8 members who pull into a parking lot to read a text and in 9 same parking lot 25 rival gang members pull in to read a text 10 though independently each one of them is only reading a text 11 I'm very comfortable telling you there will be a problem. 12 one individually, probably not that big of a deal, but when 13 you've got 25 gang members reading their texts and on the 14 opposite side of the parking lot 25 rival gang members reading 15 their own text messages, based on the time of the day, 16 temperature, event they're attending, I'm very comfortable 17 saying there's a strong possibility for violence. 18 Q Whether they're trespassing or not, there's a strong 19 possibility for violence there, right? 20 A Absolutely. And then by me intervening and preventing them 21 from being in that area and stopping the congregation and 22 stopping the loitering by addressing the trespassing, then 23 feel like I'm stemming that a little bit, I'm curtailing that 24 behavior. I am not allowing this to occur. My presence is 25	Page 83 1 A Yes. 2 Q I'm sorry -- 34 minutes later, correct? 3 A (Shakes head) 4 Q You can't shake your head. You have to say yes or no. 5 A Forgive me. Yes. Customarily we finalize the reports which 6 are done on our laptop computers within our cruiser. The 7 report date/time can be misconstrued because the moment I 8 begin the report, it would then be time/date stamped at 2114 9 hours. I'm very confident on that evening I finished the 10 report after releasing Mr. Thomas, but I could have gone 11 through -- under our reporting system, I could have gone 12 through and inserted all of Mr. Thomas's information, his 13 phone number, the Crown Security Supply information, and 14 then not typed the narrative until three or four hours 15 later. If that's the case, my report would still read that I 16 began at 2114 hours, but that's because that's when I 17 started it. That doesn't necessarily mean that's when the 18 narrative was completed, but I'm quite confident the 19 narrative and the parties involved and location was all 20 completed in uniformity. 21 Q If we look at your report, in the narrative section, which 22 is the second page, correct? 23 A Yes. 24 Q It indicates that you were on patrol on South Main Street, 25 approaching Central Avenue, S.E., when you saw a male

23 (Pages 80 to 83)

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Page 84 1 sitting in the driver's seat of a parked vehicle in the 2 parking lot of Crown Security Supply, correct? 3 A Yes. 4 Q And that's at 2004 South Main? 5 A Yes. 6 Q So you were just on patrol, not going any particular 7 place, and that's when you observed Mr. Thomas, correct? 8 A Correct. 9 (Deposition Exhibit No. 16 marked) 10 BY MR. CONNER: 11 Q Let me hand you a photograph I've marked as Exhibit 16. 12 Does that depict the Crown Security Supply establishment? 13 A Yes. In a much warmer climate, too, regrettably. 14 Q Looking at that photograph, can you show me where Mr. 15 Thomas's car was parked when you first observed him? 16 A If I'm right, he's going to be in one of these spaces 17 right here (indicating). 18 Q So you're kind of indicating a general area where he may 19 have been, correct? 20 A Correct. 21 Q And that area is the area closest to -- is this Main 22 Street? 23 A Yes, this is an actual -- the photographer here is facing 24 north-northeast. This being South Main, which is a true 25 cardinal north-south avenue -- this street over here, right	Page 86 1 area (indicating). 2 Q All right. Let's right now focus on what you have in 3 your report and we'll come back. 4 A I haven't circled it. Should I do that? 5 Q Let's be clear what you're circling. 6 A I'm circling -- 7 Q I'm going to tell you what to circle. This says: I 8 was on patrol northbound on S. Main Street approaching 9 Central Avenue, S.E., when I saw a male sitting in the 10 driver's seat of a parked vehicle. That's what your 11 report says, right? 12 A Yes. 13 Q So I'd like you to circle the area where you saw him 14 sitting that you've referenced in your report. 15 A Sitting in his car, correct? 16 Q Sitting in his car. 17 A (Indicating) 18 Q And you've now circled the area where you saw him 19 sitting in his car at the time referenced in your 20 report on Exhibit 16, correct? 21 A Yes. 22 Q And you've done that with a blue circle? 23 A Yes. 24 (Deposition Exhibit No. 17 marked) 25
Page 85 1 here, this is Central Avenue, S.E. Main is the divider, so 2 the opposite side of Main would be Central Avenue, S.W. This 3 Central Avenue, S.W. and that's a cardinal east-west divider 4 Metropolis. 5 Q So this photograph was taken basically standing on Main 6 looking at the lock shop, correct? 7 A Yes, and the photographer -- again, the direction of the 8 photograph is north-northeast. 9 Q And you're saying that Mr. Thomas was parked in one of the 10 spots closest to Main Street, correct? 11 A Yes, sir. 12 Q Why don't you -- in fact, use my pen just because I have 13 blue pen and you have a black pen and blue might be easier 14 see -- circle the area where you think Mr. Thomas was parked 15 when you first observed him. 16 A Well, where I first observed him was -- I saw his car ear 17 in the shift, probably about an hour prior to. I'm certain 18 I saw Mr. Thomas's car in the Crown Security Supply parking 19 I didn't reference this in my police report because I can't 20 for certain. I'm confident that it was he, but I'm not con 21 to the point that I'm going to testify to it. 22 Q Isn't that what you're doing right now? 23 A What I will say is I believe I first saw his car over in 24 area (indicating). What I will say, without question, at the 25 onset of this police report is I saw him in this	Page 87 1 BY MR. CONNER: 2 Q Now I'm going to hand you what I've marked as Exhibit 3 17, which is -- I'll tell you my understanding -- an 4 overhead view of this same property. Does that look to be 5 a good overhead view of the same property? 6 A Yes. 7 Q Can you show me on Exhibit 17 that same area, the area 8 you first saw Mr. Thomas when you -- the area that you 9 have referenced Mr. Thomas was sitting in when you wrote 10 in your report that you saw him sitting in his vehicle? 11 A It would be in this area right here (indicating). 12 Q Can you do the same thing, circle it in blue ink on 13 Exhibit 17 where Mr. Thomas was sitting at the time 14 referenced in your report? 15 A Yes. 16 Q You've done that, you've put a blue circle? 17 A Yes, sir. 18 Q Again, this is the area leading up to -- or the area 19 closest to Main Street, correct? 20 A Yes. 21 Q The area of the parking lot closest to Main? 22 A Yes. 23 Q I'm going to take my pen back. The area closest to Main 24 in the parking lot actually has parking meters, correct? 25 A Yes.

24 (Pages 84 to 87)

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Page 88 1 Q And then there's also spots that look like they're 2 kind of close to Central Avenue, correct? 3 A Yes. 4 Q Are those metered spots also? 5 A I believe they are, but I'm not certain. 6 Q Then there's spots that actually are right up against 7 or very close to the Crown Security Supply, correct? 8 A Yes. 9 Q And there are not meters in those spots, are there? 10 A No. 11 Q Do you know whether or not the metered spots are 12 actually the property of Metropolis? 13 A Do I know for certain? No, I do not. I would presume 14 so, but I don't know so. 15 Q When you arrested -- did you arrest Mr. Thomas? 16 A He was issued an appearance ticket so he was detained 17 for a time, issued a summons to come to court. 18 Q For trespassing? 19 A Yes. 20 Q Was he, in your opinion, trespassing on the property 21 of Crown Security Supply? 22 A Yes. 23 Q Was it because he was sitting in a car in the area 24 that you have circled? 25 A That was one factor, yes, sir.	Page 90 1 MR. STERLING: Thank you. I'll just place an objection 2 on the record to the difficulty of synchronizing 3 whatever's on the screen and what we're talking about 4 without any definitive marks. I appreciate the 5 procedure, and I presume that we can remedy it in the 6 future because we won't be using this procedure. 7 MR. VANCE: We do have the -- I don't know if this can 8 be noted in the transcript, but we do have the -- we 9 can identify the point in time right at which a 10 certain thing happened. 11 MR. STERLING: When we start this, can we note where we 12 start and end? 13 MR. CONNER: I'll just put on the record that my 14 intention here is that we start at 3:03. Is that what 15 you've got? 16 MR. ROSS: Yes. 17 MR. CONNER: What I would propose is we play it from 18 3:03 to 5 minutes. 19 MR. ROSS: I'll start at 3:00 because that's where I'm 20 at. 21 MR. CONNER: So we'll do it from three minutes to 22 roughly five minutes, and that will give us all the 23 ability to go back and take a look at it again. 24 (Whereupon a portion of the videotape was played and 25 transcribed. However, due to the poor quality of the
Page 89 1 Q When you watched the videotape in preparation for today, 2 was your memory confirmed where he was parked or as to where 3 he was parked? 4 A It didn't change -- from the vantage point of the in-car 5 cruiser video, you can't see his car from the footage that 6 have unless there's more video out there that I'm not aware 7 of. 8 MR. CONNER: We've got, I think, some of the video from that 9 incident cued up. I would like to watch it with you, just 10 that segment, and then we'll come back and we'll talk about 11 what we see, and I'll have some follow-up questions. We can 12 watch it off the record. We don't need to watch it on the 13 record. 14 (Discussion held off the record.) 15 MR. CONNER: What I'm going to propose is that we stay on the 16 record and we're going to show just a portion of the video 17 that's been produced through this litigation regarding this 18 incident. We'll try and transcribe it if for no other reason 19 to have a frame of reference and some context, understanding 20 we might run into trouble doing that, because it's not as 21 controlled as you and I talking. If there are any objections 22 to this unique procedure, we'll allow the defense to 23 preserve those objections. If for no other reason, I would 24 like to preserve it as a frame of reference for when we go 25 back and read the depositions.	Page 91 1 audio, many inaudibles occurred.) 2 * * * 3 (Inaudible) Car -- convenience store (inaudible) -- 4 Hi, Nettie. Go ahead Central. Caller is in the area 5 there trying to retrieve, slash, restrain their 6 15-year-old. What's this guy's story? (Inaudible) -- 7 at any one time. Is he a favorite of the intern? I 8 don't know. Does he like riding with him? I have no 9 clue. I just rode with him, but, you know -- yeah, I 10 think he's really annoying when I ride with him. 11 (Inaudible) Wow. (Inaudible) We've got some control 12 issues at this light. I. wouldn't say issues. You 13 haven't signed up for Spanish yet. No. Why don't we 14 have a letter at Crown Security Supply? I don't know. 15 They're used to be one. Not now. Is it good? What's he 16 saying? What's his story? Oh, there it is. They got it 17 back up and running. It says 1911 prior to 1912. 18 Perfect. Sure was wiggling around in there a lot. 19 (Inaudible) Do you speak Swahili? No. You're going to 20 have to learn it.) 21 MR. CONNER: I think we're beyond five minutes. We can 22 stop. 25 23 24 25

25 (Pages 88 to 91)

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Page 92 1 BY MR. CONNER: 2 Q When we get to the point on the video, we're no longer in 3 the parking lot, correct? 4 A When this started, correct. 5 Q Just the portion I've just shown you, correct? 6 A Yes. 7 Q So let's go through your report and get to there before we 8 talk. You indicate that you saw this white Oldsmobile Cutlass 9 in the parking lot and that the business was closed, correct? 10 A Yes. 11 Q And you indicated that you knew that the owners and 12 management had expressed to the Metropolitan Police Department 13 that they don't want people there in their lot during 14 non-business hours, correct? 15 A Yes. 16 Q Is that from conversations with the owners? 17 A Not personal conversations of my own. Through information 18 expressed to us from the unit commanders. Also, the 19 cooperation of the Crown Security Supply owners signing in 20 succession no trespass letters, once it expires, signing 21 another one, once it expires, signing another one. 22 Q But you were told by unit commanders that Crown Security 23 Supply didn't want people in their parking lot once business 24 was closed? 25 A And through communication with the southeast service	Page 94 1 of panic, albeit small, and that he began to leave only 2 because of my about to approach him. That's my opinion. 3 Q At what point did you make eye contact or did he make 4 eye contact with you? 5 A As I was driving north, seeing this car in the parking 6 lot substantiated some earlier feelings I had. As I was 7 driving, I looked over, saw that the vehicle was 8 occupied, applied my brakes, began backing up on South 9 Main. As I began backing up with the intention to pull 10 in behind him, that's when the Cutlass backed up and 11 then pulled out onto Central Avenue. 12 Q We know from portions of the Field Training Manual 13 we've seen before that it's important to be detailed in 14 your report, right? 15 A Yes. 16 Q And to list all factors that are relevant to your 17 actions and arrests, correct? 18 A Yes. 19 Q And one of the things that you're saying was important 20 is your previous suspicion of this vehicle, correct? 21 A Yes. 22 Q And that's not listed in your report, is it? 23 A No. 24 Q And you're now telling me that the eye contact was one 25 of the factors, correct?
Page 93 1 community police officers. 2 Q Explain that to me. 3 A This is at the intersection of Central and Main. This is 4 area that I've personally policed a number of shootings, a 5 number of robberies, it's inundated with prostitution and 6 narcotics trafficking. Some of the fallout to that is the 7 owners of Crown Security Supply, after a busy weekend, will 8 cleaning up used condoms from the parking lot, hypodermic 9 needles, litter, things along that nature, so the owners meet 10 with the community police officers similar to the capacity 11 working in now, only down in this area of the city, and then 12 through conversation, e-mails, and overall just hanging out 13 with some of my friends saying, "The owner of Crown Security 14 Supply was furious because he arrived to work Monday morning 15 and found an entire trash bag of litter as well as a number 16 broken crack pipes or broken liquor bottles." 17 Q Your report goes on to say as you were trying to position 18 your cruiser behind the white Oldsmobile, you saw the driver 19 abruptly back out of the parking space and exit the lot onto 20 eastbound Central Avenue, S.E., correct? 21 A Yes. 22 Q By abruptly backing out, what do you mean? 23 A It seemed to me that as soon as he saw my marked cruiser, 24 soon as there was eye contact, and he saw that I was backing 25 up to contact him, I believe that's when there was a moment	Page 95 1 A Well, the eye contact coupled with my stopping my cruiser, 2 backing up, and then beginning to pull into the parking lot, 3 is correct. 4 Q Your report doesn't mention anything about eye contact, does 5 it? 6 A No. 7 Q It actually doesn't mention about stopping the cruiser and 8 backing up, does it? 9 A No. 10 Q It says after he left the parking lot you executed a traffic 11 stop, correct? 12 A Yes. 13 Q And the reason that you made the traffic stop was because 14 the registration lights were not functional? 15 A That was part of it, yes. 16 Q And the license plate was completely dark, correct? 17 A Yes. 18 Q As I read your report, not based on anything else, but just 19 based on your report, it's that plate light that's out that is 20 the reason for the traffic stop. Is there any other reason? 21 A Yes, I felt he was trespassing. 22 Q You felt he was trespassing before you pulled him over? 23 A Yes. 24 Q Is there anything in the video when you watched it several 25 --

26 (Pages 92 to 95)

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Page 96 1 I think you said four to five times over the last week or 2 or just now, that confirms whether or not that plate light 3 working? 4 A Just my testimony. 5 Q Independent of your testimony, something that we can 6 actually physically see in the video? 7 A I don't know if I did it on this one. I can't remember 8 looking for it, but as a practice, I will dim my headlights 9 turn my headlights completely off, thereby allowing -- if the 10 registration lights are -- if they're just dim, I would be 11 able to see them more readily. I don't remember if I did it 12 this, nor do I remember looking for whether I did this on 13 video. 14 Q If your headlights are on while the camera is rolling, it 15 going to interfere with your ability to see? 16 A Not only the headlights, but also the emergency equipment 17 with the flashing front lights and then the overhead strobe 18 lights. 19 Q So at this point in your report we're now to where we were 20 in the video, not necessarily at that exact moment but the 21 location on the street, correct? 22 A Yes. 23 Q He told you that he intended on buying something across 24 street, he changed his mind, and he speculated he had been 25 the parking lot for approximately two minutes, correct?	Page 98 sa, business when Mr. Thomas is a resident of Metropolis. was He's actually a resident of the southeast side of 3 Metropolis in Oak Heights, and there's a much more 4 viable option of parking behind Plaza Liquors, so that's 5 what I took into account. Certainly it's not against the 6 law to park further away, but I would say what's 7 practical and more logical is most people are going to 8 park as near to their destination as possible. 9 Q So the fact that he is parked further away but parked 10 legally makes it more likely that he's committing a 11 trespass? I'm not sure if I understand what you're 12 saying. Is that what you're saying? 13 A It is unusual, and based on the years that I've worked 14 in that area, knowing that that's a point for narcotics 15 trafficking and prostitution, I was leaning more towards 16 the high visibility of that being a rendezvous point 17 versus what I was told, that he was going to the liquor 18 store across the five lanes of traffic, being parked 19 kitty-corner. So in and of itself would that make it 20 trespassing? No. Is it unusual? Is it against the grain 21 of what most people are going to do? I would say yes. 22 Q And that's the reason you pulled him over? 23 A Coupled with the fact of the equipment violation on 24 the vehicle, yes. 25 Q Did you write him up for equipment violation?
Page 97 1 A Yes. 2 Q Was there a store open across the street? 3 A Yes. 4 Q If there is a store open for business across the street, 5 is there anything that prevents someone visiting the city 6 Metropolis or a resident of the city of Metropolis from 7 parking in a public parking space and walking over to that 8 business? 9 A No. 10 Q And that's what he was doing if what he's telling you is 11 true. You saw him in a public parking space, correct? 12 A Correct. 13 Q And he told you that he had been across the street at a 14 business that you knew was open, correct? 15 A I thought he said he was intending on going there. 16 Q Parking at a metered city parking space because you intended 17 to go to a business that is open is not trespassing in and 18 of itself, is it? 19 A No. Looking at this situation, however, Mr. Thomas was 20 suggesting that he was going to go, in my opinion, to Plaza 21 Liquors. That's what I interpreted him saying, the liquor 22 store, which would have required him -- now, granted, again 23 we're in Midland, and we're in the third week of February, 24 so it's not 70 degrees outside, so he's causing himself to 25 park kitty-corner across five lanes of traffic to go to the	Page 99 1 A No, I don't think I did. I think the citation was trespass and 2 then no proof of insurance. 3 Q If we go on in your report, you say, back in my cruiser you 4 file checked David, and then going on, you said you checked with 5 CAD to determine if Crown Security Supply had a no trespass 6 letter, correct? 7 A Yes. 8 Q You found the valid no trespass letter and the order was 9 signed by the business owner on 10-19-23 and expired on 10 10-18-24, correct? 11 A Yes. 12 Q So when I was watching the portion of the video that we just 13 played, I heard what I assume is you and someone that's referred 14 to as Nettie talking, correct? 15 A Yes. 16 Q Is that what happened, you and Nettie were talking? 17 A Yes, myself, Officer Vance, and then police intern, Matt 18 Bartus. Forgive me, and then one additional officer, Officer 19 Brent Stuart. 20 Q There's dialogue that may be relevant, may not be relevant, 21 but my memory and my best understanding of what I heard was I 22 think your voice, and I'm asking you to tell me whether this is 23 true or not. Your voice said, unfortunately, I think the letter 24 for Crown Security Supply is expired. Do you recall saying that, 25 or do you recall hearing yourself say that when you

27 (Pages 96 to 99)

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Page 100 1 reviewed the tape? 2 A No, and I couldn't distinguish because it was kind of 3 disjointed. If we played it again, I could tell you whether 4 not that was my saying it. However, I was trying to access 5 information. As I was trying to access the information -- 6 a wireless system, so much like a cell phone call will drop 7 your service on the computer will drop. I couldn't find it. 8 Being that I was not getting a response for Crown Security 9 Supply, if I was unable to verify a trespass letter, I would 10 not have taken enforcement against Mr. Thomas. However, I 11 find the letter. I think you can hear me say, oh, there it 12 and I said something to the effect that I'm back up on line 13 something, again, being that my wireless connection from my 14 cruiser and my laptop is now talking again to our wireless 15 server at the police department. 16 Q So, in other words, you -- at this point you've observed 17 park in an unusual spot, correct? 18 A Correct. 19 Q You've already in your mind determined that I'm going to 20 pull this person over because of a trespass, correct? 21 A Yes. 22 Q Or a potential trespass? 23 A Yes. 24 Q So in your mind when you're pulling this person over because 25	Page 102 1 A Absolutely. 2 Q You told me the history of the property, right? 3 A Uh-huh. 4 Q Yes. I'm sorry, you said uh-huh but that's not going to 5 translate well. 6 A Yes, based on what has been conveyed to police officers 7 from our unit commander and community officers, based on the 8 expectations of patrol supervisors, teammates, and myself, 9 knowing the issues, the quality of life, but also the 10 violence that has been at and immediately surrounding Crown 11 Security Supply, I was leaning toward Mr. Thomas not only 12 trespassing but making a rendezvous for another crime. 13 That's what I believe. As I sit here right now, I'm still 14 convinced of that. Whether or not it's true, I don't know, 15 but I know what I saw and I know what I experienced. I also 16 know -- I've been in that situation before. Being that he 17 was by himself, being that he was parked where he was 18 parked, being that the moment that he saw a fully marked 19 police cruiser about to make contact, he leaves the area 20 abruptly, and the response to his questions -- yes, I'm very 21 comfortable that he was trespassing. 22 Q But yet you would not have given him a trespassing 23 citation if not for the letter of intent? 24 A Had the letter expired -- you know, you're asking me that, 25 but I wasn't -- that's such a hypothetical, because I could
Page 101 1 of a potential trespass, are you doing it because in your 2 mind you have probable cause that the trespass has been 3 committed, reasonable suspicion, or neither? 4 A Well, in my mind I have something formulated in my head, 5 of course. More so, I want to talk to him. I want to ask him 6 what he's doing. If his response was, I'm meeting a friend 7 from Capital City and they've never been to Metropolis 8 before, and this was the only business that I could think 9 to meet me here -- if that story rang true and I felt like 10 that's a legitimate one, and I felt like this person was 11 being completely candid with me, then, yeah, I may have 12 taken a different approach on this one. Honestly, I did not 13 completely believe what Mr. Thomas was telling me. 14 Q So once you pulled him over -- so you saw him parked in 15 unusual position, you thought, for a closed business? 16 A Right, the followup dialogue afterwards, sure. 17 Q If there was no trespass letter, you would not have cited 18 him for trespassing, correct? 19 A If a no trespass letter did not exist for that property, 20 then I would not have cited him, correct. 21 Q And only because there was one, you did cite him, correct? 22 A Yes. 23 Q Looking at the totality of the circumstances, are there 24 any other factors that led you to believe that there was a 25 trespass?	Page 103 1 have accessed or had a dispatcher access FileMaker system to 2 contact the owner of Crown Security Supply or the manager, 3 Rob, the owner, and I could have said, "Rob, my name is Tony 4 Miller. I work night shift for Metropolis Police. Your 5 trespass letter has expired. Are you still interested in 6 pursuing trespassing against people in your lot after hours 7 that are not there for business?" If on the phone Rob said, 8 "Man, I should have renewed that. Yes, absolutely, Officer, 9 please take enforcement action," that would have been another 10 situation. Had Rob said, "You know what, Officer? I think 11 those trespass letters are foolish. It did nothing to help or 12 hinder my business, so the heck with it, no harm, no foul," 13 then obviously I would have treated it differently. 14 Q In this case we agree you or no other police officer made an 15 effort to contact the owner of Crown Security Supply, correct? 16 A Correct, because we had the no trespass letter, which to me 17 is a standing cooperative effort. 18 Q Does the no trespass letter extend beyond the property of 19 Crown Security Supply? 20 A No, it would cover 2004 South Main, but then we also had the 21 issue of the city parking spaces and the city no trespassing. 22 Q Who signs no trespass letters for city property? 23 A I don't think the City has no trespassing. I know the city 24 ramps are marked for trespassing issues, and I know that the 25

Page 104 1 parking lot surrounding there -- whether or not there are 2 signs up in this area, if these are city spots, which I am 3 certain they are -- the parking lots immediately next to or 4 across the street behind Plaza Liquors -- there are signs 5 from the City of Metropolis of no trespassing. 6 Q I'm sorry, there are signs where? 7 A They would not be visible on this map. If we were to pull 8 this back, it would be across the street, so on the west 9 side of Main, still south of Central, but north of Cutler 10 there's a City of Metropolis lot. 11 Q We went through two versions of the Field Training Manual 12 that I'm not sure were any different but had two different 13 dates on them, correct? 14 A Yes. 15 Q And both required that there be signage if you were going 16 to rely on the no trespass letters, correct? 17 A Yes. 18 Q Was there any signage in this parking lot? 19 A For Crown Security Supply, yes. Whether or not it was 20 there for the city parking, I don't know. 21 Q Where is the sign for Crown Security Supply? 22 A I don't know where it's at. 23 Q Do you know whether it was visible to Mr. Thomas? 24 A No, I don't. 25 Q Even if there was a sign that Mr. Thomas could see telling	Page 106 1 property was City of Metropolis that extended maybe one or two 2 spots in here. I don't remember them extending all the way 3 down into the throat of this driveway. 4 Q If back in February -- or on February 19, 2024, those spots 5 were city property and you knew they were city property, would 6 you have cited Mr. Thomas for trespassing on Crown Security 7 Supply? 8 A No. But if we go back and look at the video, I think the 9 footage shows that as I'm backing up, I don't think we see Mr. 10 Thomas's vehicle, and I'm quite certain that as he's backing 11 up, a portion of his vehicle then goes into Crown Security 12 Supply. Again, this is ambiguous. There's no fence, there's no 13 line drawn, there's no difference between one form of asphalt 14 versus another. If a portion of a vehicle lands on property 15 that is protected by a trespass letter because the driver of 16 that vehicle is trying to evade police, I'm very comfortable 17 saying that person is trying to trespass. 18 Q Trying to evade police is a crime in and of itself, right? 19 A How about we scratch evade and I say avoid? I like the word 20 avoid better. 21 Q So trying to avoid police is not an element of the crime of 22 trespassing, is it? 23 A No. 24 Q The elements for trespass remain the same. There may be 25 factors that help you in analyzing whether a trespass has
Page 105 1 him not to trespass on Crown Security Supply's property, 2 would it be reasonable to expect him to think that he also 3 was not allowed to park at a city metered parking space? 4 A I can't speak for Mr. Thomas. That, I don't know. I can 5 say that there's no distinction. This is an ambiguous line 6 between the city-owned and privately-owned Crown Security 7 Supply. In the time that I spent working in this service 8 area, I never saw a city worker maintaining these lots; I 9 never saw a city plow removing snow through here. 10 Q Who emptied the parking meters? 11 A I have no idea. I don't know if they're functional to be 12 honest. I'm not saying that to be argumentative. I honestly 13 don't know if they work. 14 Q Regardless of what Mr. Thomas knew, you knew that the spot 15 where he was parked was city property, right? 16 A Well, looking at this, I can see the meters through here. 17 I was under the impression that these along the north side 18 were city lots. I do not remember these meters being through 19 here. Do we know when this picture was taken? I don't know 20 if I'm supposed to ask questions, but this area of Main has 21 been redone. That actually does look like newer concrete. 22 I don't know if those are new meters, but I've -- I remember 23 meters being along the north side of the property and not 24 the west side of the property. That's not to say they 25 weren't there, but my memory is the north end of the	Page 107 1 been committed, but the elements of trespass are always the 2 same, right? 3 A Yes. 4 Q Simply because you skim over the corner of property when 5 it's closed doesn't necessarily mean you're a trespasser, does 6 it? 7 A Depending on the circumstance, in my opinion, I would say, 8 yes, sometimes, and other times, I would say no. 9 Q One of the major factors is whether or not the owner of that 10 property wants you to be skimming over the corner of their 11 property line, correct? 12 A Yes. 13 Q At the end of what we played there was a comment about 14 language, correct? 15 A Yes. 16 Q Did you make any determination as to whether or not or take 17 any steps to make a determination as to whether or not Mr. 18 Thomas understood English? 19 A Yes. As referenced in my report, while interacting with Mr. 20 Thomas, it's clear that English is his second language, or 21 maybe even fifth language for all I know. I asked him what his 22 native language is, and he said Dinka, I believe it's 23 pronounced. I was comfortable interacting with him though his 24 responses were in broken English. I was confident that I was 25 able to convey the message of why I stopped him and also what

Page 108 1 his responsibilities were of the citations that I issued 2 him. I guess by pure default, he has to have some working 3 knowledge of the English language based on the fact that the 4 State of Midland issued him a driver's license. So it's not 5 that -- I don't think I was dealing with a foreign national 6 or a resident alien who has no concept of the English 7 language or our culture and that as I'm communicating with 8 him he has absolutely no idea of the words I'm speaking. 9 Q When you are in your vehicle, do you have a way of 10 determining where a property line starts and ends -- 11 specifically, let's say, for this property, Crown Security 12 Supply? Are you able to determine where their property ends 13 and the city property starts? 14 A If there is one, I'm not aware of it. If you're asking if 15 I have a Geospatial Service, no. There is internet access 16 available, but it's disabled to maybe only a dozen websites. 17 It's restricted. 18 Q You have to find a Corner Bakery, right? 19 A No. I can't jump -- from my cruiser, day or night, I 20 cannot jump onto GoogleMaps and plug into 2004 South Main, 21 Metropolis, Midland, to see a plot line, nor could I access 22 County surveyors or the tax assessor to determine what 23 parcel of land is Crown Security Supply versus another, or 24 if you and I were neighbors, what our fence line is, what 25 divides my front yard from your backyard.	Page 110 1 arrest or citing him for trespassing? 2 A Forgive me, I don't understand. 3 Q Sure. Assume that Thomas never stepped foot -- his car never 4 touched the property of Crown Security Supply. Does Crown 5 Security Supply having a notice of intent letter on file make 6 any difference at all in your mind? 7 A No. If Crown Security Supply's property played no role in 8 this situation, then, no, I would not utilize any of my 9 knowledge or any of the trespass notices from management of 10 Crown Security Supply as an enforcement tool on someone if 11 they were not involved directly with Crown Security Supply. I 12 don't know if I answered your question correctly or if that's 13 what you were looking for. 14 Q And in this case, even though there were many factors, the 15 factor that allowed you to draw the conclusion, okay, we're 16 going to cite this guy for trespass is when it was, oh, yeah, 17 we have one, we have an active notice letter, correct? 18 A That was a portion of it, yes, verifying it was there and it 19 was valid. 20 Q And that's not unusual that you have various factors, and 21 then when you confirm that you've got the notice letter, or 22 the letter of intent, then you cite someone or arrest them, 23 correct? 24 A Sometimes you cite them, sometimes you arrest them, or there 25 are times where you can give them an ultimatum and say,
Page 109 1 Q Is there anyone you can call to find out that information? 2 A During the daytime, I'm certain we could. At 8:40 at night, no 3 one working for the city treasurer's office or city assessor's 4 office would have been working, that I'm aware of. 5 Q Is 8:40 at night in that area considered to be late enough 6 that there's going to be the type of activity that you 7 described, prostitution, drug use? 8 A In the Central Heights neighborhood? 9 Q Yes. 10 A That's still relatively early in the evening, definitely 11 early. 12 Q Is there a certain time that you would expect people to start 13 using IV drug use in Crown Security Supply parking lot or 14 prostitution in the Crown Security Supply parking lot? 15 A I would say that area -- that business is susceptible any time 16 outside of business hours, and even including during business 17 hours. I know that officers have responded to Crown Security 18 Supply when it's open of complaints of prostitution and drug 19 use. Is there a steadfast time that I could say all the 20 prostitutes and drug dealers can start working an area? No. I 21 would say bar closing, right around 2:00 a.m., is when I would 22 say there's much more activity in the Central Heights area as 23 far as the criminal element. 24 Q If Thomas was never on Crown Security Supply's property, does 25 the letter of intent make any difference at all in terms of his	Page 111