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Transcript of Jack Costa

Date: August 9, 2017

Case: Boyle -v- City of Chicago, et al.

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Transcript of Jack Costa
Conducted on August 9, 2017

1 The deposition of JACK COSTA, called by
2 the Plaintiff for examination, taken pursuant to
3 the Federal Rules of Civil Procedure of the
4 United States District Courts pertaining to the
5 taking of depositions, taken before Marianne
6 Nee, a Certified Shorthand Reporter of the State
7 of Illinois, CSR License No. 084-002341, taken
8 at 311 North Aberdeen Street, Suite 300,
9 Chicago, Illinois, on Wednesday, August 9, 2017,
10 commencing at 9:27 a.m.

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REPORTED BY: MARIANNE NEE, CSR, CRR, RDR
Illinois CSR No. 084-002341

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P R O C E E D I N G S :

* * *

(Witness sworn.)

JACK COSTA,

called as a witness herein, having been first
duly sworn, was examined and testified as
follows:

EXAMINATION

BY MR. TOPIC:

Q. Could you identify yourself for the
record, please?

A. My name is Jack Costa. The last name
is spelled C-O-S-T-A.

Q. And, Mr. Costa, where do you work?

A. I work for the Chicago Police
Department.

Q. What is your title with the Chicago
Police Department?

A. I'm a sergeant assigned to the Chicago
Police Department.

Q. How long have you been a sergeant at
the Chicago Police Department?

A. March of '97.

Q. And what rank did you hold before that?

1 A. Detective.

2 Q. And during what period were you a
3 detective?

4 A. I was a detective for about six months
5 from the end of '96 to March '97.

6 Q. What was your first assignment as a
7 sergeant with the Chicago Police Department?

8 A. My first assignment as a sergeant with
9 the police department was to the 11th District,
10 the Patrol Division.

11 Q. At some point were you assigned to the
12 Tech Lab?

13 A. Much later, yes, I was assigned to the
14 Tech Lab.

15 Q. When were you assigned to the Tech Lab?

16 A. September, early October of 2012.

17 Q. Where were you before the Tech Lab?

18 A. I was in the same unit on a different
19 team.

20 Q. So we're calling it the Tech Lab. Is
21 that sort of a colloquial reference to a formal
22 department or division in the Chicago Police
23 Department?

24 A. It's a team.

1 Q. And is there any other names you use
2 other than the Tech Lab for that team?

3 A. I believe that was -- the official name
4 was the Technical Services Support Section.

5 Q. And within what unit in the Chicago
6 Police Department is the Tech Lab?

7 A. 193.

8 Q. Is that Bureau of Organized Crime?

9 A. No. It's the Gang Investigations
10 Division I believe now. They've recently
11 changed the name. They changed it to the Gang
12 Investigations Division I believe. It used to
13 be the Gang Investigations Section.

14 Q. And are you still at the Tech Lab?

15 A. No.

16 Q. When did your assignment at the Tech
17 Lab end?

18 A. Spring, I'll say April of 2015.

19 Q. And where are you now?

20 A. I'm assigned to the Narcotics Division.

21 Q. During the time when you were in the
22 Tech Lab, how many people worked in the Tech
23 Lab?

24 A. I would say there was one sergeant.

1 There was I think around 11 police officers and
2 police officers assigned as police technicians.

3 Q. So that some sworn officers had the job
4 duty of a technician; is that correct?

5 A. Well, it's a title code. So they are
6 similar to detective. It's a specialist.

7 Q. Were there any people assigned to the
8 Tech Lab who were not sworn officers?

9 A. No.

10 Q. And when you said approximately 11, did
11 you mean that to be approximately 11 at any
12 given time as opposed to a total of 11 over
13 various times?

14 A. No. The numbers changed because while
15 I was there people retired and people got
16 promoted, so I would say that's a good average
17 number over the approximately two years I was
18 assigned there.

19 Q. So on average during the time you were
20 assigned to the Tech Lab, there was a sergeant
21 and approximately 11 officers at any given time?

22 A. I think that's a fair estimate, yeah.

23 Q. Okay. Are you familiar with the term
24 cell site simulator?

1 A. Yes.

2 Q. What is a cell site simulator to you?

3 A. To me it's a system that we use during
4 our job duties.

5 Q. Could you be more specific about the
6 system?

7 A. It consisted of several different
8 components and it was inside a vehicle.

9 Q. And generally speaking what does the
10 cell site simulator system do?

11 MS. SOBOTA: Object to foundation.

12 If you know, you can answer. I'll
13 caution you to stay away from the specific
14 technical capabilities of the equipment though.

15 BY THE WITNESS:

16 A. Generally speaking, a cell site
17 simulator system would assist in locating a
18 cellphone.

19 BY MR. TOPIC:

20 Q. How does it do that generally speaking?

21 MS. SOBOTA: Same objections.

22 You can go ahead and answer if you
23 know.

24

1 BY THE WITNESS:

2 A. The technical aspects of it I'm not
3 familiar with because I've never had any
4 training on the system itself.

5 BY MR. TOPIC:

6 Q. Are you aware of people who have been
7 trained about the system?

8 A. There are police techs that have been
9 trained in the system.

10 Q. Could you identify anyone that meets
11 that description that you're aware of?

12 A. The police techs assigned to the Tech
13 Lab since I would say -- well, one individual
14 was Ron Bonadurer, and then you have -- I'm not
15 sure who else has had training recently because
16 I've been gone for a couple years.

17 Q. Let's focus just on the time in which
18 you were in the Tech Lab. Could you identify
19 anyone you're aware of who had been trained
20 about the cell site simulator system?

21 A. When I was in the Tech Lab, there was
22 no training that took place while I was present.

23 Q. I understand that. Are you aware of
24 anyone who had been -- during that time period

1 had been trained?

2 A. Prior to my arriving I believe there
3 was techs that were trained; maybe Tony Green,
4 Wayne Metcalf.

5 Q. Anyone else?

6 A. I don't remember who else had the
7 training. I don't recall. Maybe Jim Norris.

8 Q. During the time in which you were
9 assigned to the Tech Lab, if the Chicago Police
10 Department or a particular officer wanted to
11 deploy a cell site simulator, what would be the
12 process for obtaining the approval to do that?

13 MS. SOBOTA: Object to foundation.

14 BY THE WITNESS:

15 A. An investigator would bring a court
16 order to the Tech Lab.

17 BY MR. TOPIC:

18 Q. And to whom in the Tech Lab would that
19 go?

20 A. Anyone who was on duty at the time.

21 Q. And then what would happen?

22 A. We would serve the court order to the
23 service provider.

24 Q. Service -- could you give me an example

1 of a service provider in that context?

2 A. Verizon.

3 Q. So in order to deploy a cell site
4 simulator system during the time you were at the
5 Tech Lab, it would require serving a court order
6 on a service provider such as Verizon?

7 MS. SOBOTA: Object to form.

8 BY THE WITNESS:

9 A. Right. We would send the court order
10 to the service provider and then they would feed
11 you the data. It's through the Pen-Link system,
12 P-e-n Link.

13 BY MR. TOPIC:

14 Q. Pen-Link like a pen register?

15 A. Correct.

16 Q. And what type of data would be provided
17 by the service provider, just generally
18 speaking?

19 A. I'm not really sure what the data would
20 consist of. For a pen register you would get
21 the phone numbers and the times the phone calls
22 went through.

23 Q. In the instance in which you just
24 described, what role would the cell site

1 simulator system play?

2 A. Well, you would need the information
3 that the service provider would send you to be
4 able to deploy the equipment because you would
5 need to know what cell tower the phone is
6 pinging off of prior to being able to deploy the
7 equipment.

8 Q. Is that the only way in which cell site
9 simulators were used during your experience at
10 the Tech Lab?

11 MS. SOBOTA: Object to foundation.

12 BY THE WITNESS:

13 A. Right. We would deploy it with a court
14 order and then...

15 BY MR. TOPIC:

16 Q. So you would take the court order to
17 the service provider, you would get a tower
18 location and then you would deploy the cell site
19 simulator in that area; is that correct?

20 A. Correct, yeah.

21 Q. How would the cell site simulator
22 actually be employed?

23 MS. SOBOTA: I'm going to object to
24 that.

1 You can give a basic description of
2 that, but again, don't get into the operational
3 aspects of it.

4 BY THE WITNESS:

5 A. We would take the equipment and go near
6 the tower that the phone was pinging off of.

7 BY MR. TOPIC:

8 Q. And the equipment was located in a
9 police vehicle?

10 A. Yes.

11 Q. Was there a specific vehicle or
12 different vehicles?

13 A. At the time I was there, it was just in
14 one specific vehicle.

15 Q. And what officers -- let me withdraw
16 that and ask a new question.

17 Would only Tech Lab officers be in that
18 vehicle when the cell site simulator was
19 employed?

20 MS. SOBOTA: Are you talking about
21 during the time he was at the Tech Lab?

22 BY MR. TOPIC:

23 Q. All my questions are limited to the
24 time that you were at the Tech Lab.

1 A. Yeah, I don't recall anybody ever being
2 deployed in the vehicle that wasn't part of the
3 Tech Lab.

4 Q. Were you ever present in the vehicle
5 when --

6 A. I was.

7 Q. How often was that?

8 A. I recall three incidences when I was in
9 the vehicle.

10 Q. And when the vehicle was -- well, let
11 me ask a different question. The vehicle that
12 contained the cell site simulator system, was
13 that the only purpose to which that vehicle was
14 deployed?

15 A. Yes.

16 Q. And if the vehicle was leaving its
17 location to be deployed, is there a record
18 that's kept of that during your time?

19 MS. SOBOTA: Object to form and
20 foundation.

21 BY THE WITNESS:

22 A. We did not have a record of when the
23 vehicle was deployed.

24

1 BY MR. TOPIC:

2 Q. Okay. Do you know of anyone who had
3 such a record?

4 A. No.

5 Q. If someone -- if a Chicago police
6 officer was deploying that car and the cell site
7 simulator system without a court order, what
8 mechanisms would be in place to determine that
9 that was happening?

10 MS. SOBOTA: Object to form and
11 foundation.

12 BY THE WITNESS:

13 A. Could you repeat the question?

14 BY MR. TOPIC:

15 Q. Sure. If a Tech Lab officer deployed
16 the car and the cell site simulator system that
17 was in the car without a court order, is there
18 any mechanism that was in place that would catch
19 that?

20 MS. SOBOTA: I'm going to object to
21 form and foundation and that it calls for
22 speculation.

23 BY THE WITNESS:

24 A. None that I'm aware of.

1 BY MR. TOPIC:

2 Q. Are you aware of anyone who would know
3 of such a process?

4 A. No, I am not.

5 Q. Are you aware of any instances in which
6 the cell site simulator was deployed during your
7 time at the Tech Lab in which there was not a
8 court order for it?

9 A. Yes.

10 Q. And how often did that happen?

11 A. One time that I'm aware of.

12 Q. Could you generally describe those
13 circumstances?

14 MS. SOBOTA: And I would caution
15 generally. At this point we're also getting
16 outside the scope of the standing discovery that
17 we are here for today.

18 MR. TOPIC: Not until we know the
19 answer to the question.

20 BY MR. TOPIC:

21 Q. You can answer.

22 MS. SOBOTA: Very generally, yes.

23 BY THE WITNESS:

24 A. We received a call from Deputy Chief

1 Schmitz that a police officer was hit on the
2 head with a baseball bat and the offender stole
3 his gun. The deputy chief was able to find the
4 phone number from the offender because the
5 initial job was a domestic and the family
6 members gave us the phone number for the
7 offender.

8 BY MR. TOPIC:

9 Q. Any other instances you're aware of in
10 which the cell site simulator was deployed
11 without a court order?

12 MS. SOBOTA: Objection; asked and
13 answered.

14 BY MR. TOPIC:

15 Q. Are you aware of any others?

16 A. None that I'm aware of.

17 Q. Okay. Your attorney might make some
18 objections. Unless you're instructed not to
19 answer, you'll have to answer the question.

20 A. Okay.

21 Q. Are you aware of a use case for a cell
22 site simulator in which the phone number of the
23 target phone is unknown to the police
24 department?

1 MS. SOBOTA: Can you read that back?

2 (Record read.)

3 MS. SOBOTA: Object to form.

4 BY MR. TOPIC:

5 Q. I think I asked it a little different.

6 Let me try to ask a different question.

7 So you described use of a cell site
8 simulator in which you knew the phone number of
9 the target phone; is that correct?

10 A. Correct.

11 Q. Has there ever been an instance in
12 which the Chicago Police Department deployed a
13 cell site simulator in which it did not know the
14 phone number of the target phone?

15 MS. SOBOTA: Object to foundation.

16 BY THE WITNESS:

17 A. None that I can recall.

18 BY MR. TOPIC:

19 Q. Are you aware of a capability of CPD's
20 cell site simulator system to do that, to find a
21 phone when you don't know its phone number?

22 MS. SOBOTA: I'm going to object and
23 instruct the witness not to answer about the
24 capabilities of the equipment.

1 MR. TOPIC: What's the basis for the
2 instruction?

3 MS. SOBOTA: The nondisclosure
4 agreement that prohibits the Chicago Police
5 Department from discussing the operational
6 capabilities of the equipment.

7 BY MR. TOPIC:

8 Q. Okay. Are you going to -- I assume
9 you're going to follow your attorney's advice
10 not to answer that question?

11 A. On the advice of my attorney, yeah, I'm
12 not going to answer it.

13 MR. TOPIC: Do you have a copy of that
14 agreement?

15 MS. SOBOTA: Not with me, no.

16 MR. TOPIC: Was it produced in the
17 litigation?

18 MS. SOBOTA: You have a copy of it from
19 the Martinez litigation. I don't know that it
20 was responsive to any requests that you've given
21 us in this case.

22 MR. TOPIC: Okay. Well, we'll ask you
23 to provide us a copy of the agreement that you
24 are specifying prohibits the disclosure of the

1 information that I've asked about.

2 BY MR. TOPIC:

3 Q. If someone wanted to know whether a
4 cell site simulator was deployed at a particular
5 date and time or at a particular location, is
6 there any recordkeeping at the Chicago Police
7 Department that would allow someone to know the
8 answer to that question?

9 MS. SOBOTA: Objection; asked and
10 answered.

11 BY THE WITNESS:

12 A. During my tenure at the Tech Lab, we
13 did not keep a log of the deployments.

14 BY MR. TOPIC:

15 Q. And the car that contained the cell
16 site simulator system, was there any GPS or
17 other location tracking on that vehicle --

18 MS. SOBOTA: Object to foundation.

19 BY MR. TOPIC:

20 Q. -- during the time that you were at the
21 Tech Lab?

22 MS. SOBOTA: Object to foundation.

23 BY THE WITNESS:

24 A. Not that I'm aware of.

1 BY MR. TOPIC:

2 Q. I'm going to go through some different
3 product names or general descriptions of
4 products and ask you whether these are products
5 that you understand to be within the scope of a
6 cell site simulator as you understand that term.

7 Are you familiar with a term called the
8 StingRay?

9 A. Yes.

10 Q. Is the StingRay a cell site simulator
11 device?

12 A. I would say it's a component to a
13 system that would allow you to track a
14 cellphone.

15 Q. And is there also a device known as a
16 StingRay II?

17 A. Not -- I'm not aware of one. It's
18 possible. I don't...

19 Q. Are you familiar with a device called a
20 Triggerfish?

21 A. I think that's referring to the whole
22 system.

23 Q. So you believe Triggerfish is a term
24 for a cell site simulator system that would have

1 various components in it?

2 A. That's my understanding, yeah.

3 Q. Okay. How about a KingFish, are you
4 familiar with that term?

5 A. Yeah. It's similar. It's -- from my
6 understanding, it's part of the component that
7 goes with the system.

8 Q. Okay. How about an Amberjack?

9 A. Another component to the system.

10 Q. A Wolfpack?

11 A. I never heard of Wolfpack.

12 Q. Are you familiar with a Gossamer
13 device?

14 A. I'm not.

15 Q. How about a DRT box or a dirtbox; are
16 you familiar with that term?

17 A. I believe I have heard of DRT before,
18 but I'm not familiar with what it does.

19 Q. How about a swamp box, are you familiar
20 with that?

21 A. I have never heard of swamp box before.

22 Q. Are there any other devices you're
23 aware of that fall within the description of a
24 cell site simulator that were possessed by or

1 owned by the Chicago Police Department while you
2 were at the Tech Lab?

3 MS. SOBOTA: Object to form.

4 BY THE WITNESS:

5 A. I can't think of any. I recall the
6 Amberjack and the StingRay, and that's all I can
7 recall. I don't remember any other individual
8 names of components.

9 BY MR. TOPIC:

10 Q. Are you aware of any cell site
11 simulator devices that are handheld?

12 A. No.

13 Q. And do you know whether during your
14 tenure at the Tech Lab the Chicago Police
15 Department had any handheld cell site simulator
16 devices?

17 A. I don't recall ever having any handheld
18 simulator devices during my tenure here at the
19 Tech Lab.

20 Q. Let me call your attention to the time
21 of approximately late 2014 into approximately
22 April of 2015. During that time period how many
23 cell site simulator systems did Chicago Police
24 Department own?

1 MS. SOBOTA: Object to foundation.

2 BY THE WITNESS:

3 A. Did we own? One system that I'm aware
4 of.

5 BY MR. TOPIC:

6 Q. And that was the system that --

7 A. The truck, yeah, the vehicle.

8 Q. And was that system sent to Harris for
9 an upgrade in that time period?

10 A. Yeah. It was not functional. The
11 system didn't work for us, so we took steps
12 to -- I don't know if the proper word is fix it
13 but to make it function, and those steps were to
14 ship parts of the system back to Harris.

15 Q. Let me see if I have this right. In
16 late 2014 CPD's cell site simulator system was
17 not functional so you sent it to Harris for
18 upgrades as a result?

19 A. We didn't send the whole system. We
20 didn't send the vehicle. But components, parts
21 of the system were shipped to Harris to get the
22 system to function again.

23 Q. Which components were those?

24 A. I recall the Amberjack component being

1 shipped back to them, and I think two of the
2 boxes were shipped back, two of the electronic
3 boxes. I don't recall exactly which pieces of
4 the system were shipped back, but I do recall
5 the Amberjack.

6 Q. And during that time period of late
7 2014 into 2015 when those components had been
8 shipped to Harris, were there other cell site
9 simulator systems that CPD owned, setting aside
10 whether they were functional or being deployed?
11 Were there any other that were owned?

12 MS. SOBOTA: Object to form and
13 foundation.

14 BY THE WITNESS:

15 A. I can speak to the Tech Lab. There
16 were no other systems in the Tech Lab that were
17 functioning or that were owned.

18 BY MR. TOPIC:

19 Q. Okay. So let me ask it this way.
20 During that time period in late 2014 into 2015
21 when some of the components were sent to Harris
22 for upgrade, were there any other cell site
23 simulator systems within the custody of the Tech
24 Lab?

1 A. No.

2 Q. Are you aware of any other cell site
3 simulator systems during that time period that
4 were in the custody of a different department or
5 unit within the Chicago Police Department?

6 A. None that I'm aware of.

7 Q. Do you know whether there were any cell
8 site simulator systems during that late 2014
9 into 2015 time period that were in storage
10 somewhere?

11 A. The complete system? Not that I'm
12 aware of.

13 Q. Okay. So how about any components of
14 the system during that time period? Were any
15 components in storage during that time period?

16 A. Well, one of the components is a laptop
17 that was still at the Tech Lab that was in, you
18 know, like a cabinet. We took it out of the
19 vehicle. Another component would be the power
20 supply that the system plugs into. We kept that
21 in the vehicle, and the vehicle stayed in the
22 garage.

23 Q. So let's set aside the components --
24 well, let me back up and try to frame this just

1 right. So in late 2014 there was a cell site
2 simulator system that the Tech Lab had custody
3 of, and you sent some of the components to
4 Harris and then you retained the other
5 components, correct?

6 A. That's fair to say, correct.

7 Q. So let's set aside those components
8 that were part of that system.

9 A. The components that were sent away or
10 the components that stayed?

11 Q. Both. So let's set aside any
12 components that had been in the car at the time
13 that they were removed and then sent to Harris
14 in late 2014. Setting those aside, were there
15 any other cell site simulator components that
16 you're aware of that Chicago Police Department
17 had custody of?

18 A. Again, I could speak to the Tech Lab,
19 not the whole department, but none that I'm
20 aware of in the Tech Lab.

21 Q. During your time in the Tech Lab, were
22 there any cell site simulator components that
23 were decommissioned, put into storage?

24 MS. SOBOTA: Object to form.

1 BY THE WITNESS:

2 A. Not that I recall.

3 BY MR. TOPIC:

4 Q. Let me get some more background. Have
5 you been deposed before?

6 A. I don't recall being deposed. I did
7 give a -- on this matter?

8 Q. At all.

9 A. I did give a written statement on a
10 case about this equipment during the Martinez
11 proceedings, and I did have a couple lawsuits
12 prior to this unrelated to the equipment, but I
13 don't remember being deposed on those.

14 Q. I should have done this at the
15 beginning, but you understand you're testifying
16 under oath today?

17 A. Correct.

18 Q. Is there anything that would interfere
19 with your ability to give truthful and accurate
20 answers?

21 A. No.

22 Q. Have you ever testified at trial?

23 A. Yes.

24 Q. How many times approximately?

1 A. Perhaps 30 to 50.

2 Q. And those 30 to 50, were any of them
3 during your tenure at the Tech Lab?

4 A. No.

5 Q. Have you ever provided any testimony
6 related to the cell site simulators?

7 MS. SOBOTA: Other than the Martinez
8 deposition.

9 BY THE WITNESS:

10 A. Other than the Martinez report that I
11 created, no.

12 BY MR. TOPIC:

13 Q. I hand you what we will be marking as
14 Exhibit No. 1. It has a Bates No. C21.

15 (Exhibit 1 was marked for
16 identification.)

17 BY MR. TOPIC:

18 Q. Go ahead and take a minute and review
19 the document, and once you've reviewed it and
20 are ready to answer questions, then just let me
21 know and we'll begin.

22 A. Okay.

23

24

1 Q. Take as much time as you need.

2 A. (Reading document.) Okay.

3 Q. Do you recognize this document to be an
4 email exchange between you and someone named
5 David at Harris Corporation during October of
6 2014?

7 A. Yes.

8 Q. Do you recall this email exchange?

9 A. Not particularly, but it does look
10 familiar to me.

11 Q. Does this email chain pertain to the
12 cell site simulator system, the components of
13 which were sent to Harris for upgrade in late
14 2014?

15 A. Yes, those appear to.

16 Q. It looks like the oldest stuff is at
17 the bottom, so I'll start towards the bottom.
18 There is an October 3rd 8:31 a.m. email to you.

19 A. Hm-hm.

20 Q. It says: "Sergeant Costa - I wanted to
21 send along the presentation we spoke about. See
22 attached."

23 Do you see that?

24 A. Yes.

1 Q. Do you recall what that presentation
2 was about?

3 A. No, I'm sorry, I don't.

4 Q. Do you know whether you have a copy of
5 that presentation?

6 A. I do not know. I do not believe I do.

7 Q. Do you recall the presentation being
8 attached to an email you received?

9 A. No, I don't.

10 Q. Let's go up to the October 24, 2014,
11 1:27 p.m. email to you. There is reference to a
12 sole source letter. Do you see that?

13 A. Yes.

14 Q. What is that?

15 MS. SOBOTA: Object to foundation.

16 Go ahead.

17 BY THE WITNESS:

18 A. Okay. That's a letter that the city
19 needs from a sole source provider that you can
20 only get this equipment from one particular
21 place, and that way the city will allow you to
22 purchase it.

23 BY MR. TOPIC:

24 Q. There is a line that's -- in that same

1 email that says, "Once your agency provides a
2 PO, we can work to get you a loaner SR2."

3 Do you see that?

4 A. Yes.

5 Q. Do you know what an SR2 is?

6 A. I do not.

7 Q. And did Chicago Police Department
8 obtain any loaner cell site simulator devices
9 from Harris in late 2014 or into early 2015?

10 MS. SOBOTA: Object to foundation.

11 BY THE WITNESS:

12 A. I don't recall ever getting any loaners
13 from them.

14 BY MR. TOPIC:

15 Q. Is it possible one was received and you
16 were unaware of it?

17 A. I don't think so because someone would
18 have had to sign for it, and I don't recall ever
19 signing for a loaner, any loaner equipment from
20 them.

21 Q. Was there any discussion about whether
22 you should take them up on the offer to give you
23 a loaner?

24 MS. SOBOTA: Object to form.

1 BY THE WITNESS:

2 A. I don't recall having any discussion
3 about that.

4 BY MR. TOPIC:

5 Q. And if you just go up to October 27th
6 at 4:18 p.m., there is another reference there
7 to a loaner SR2. Do you see that?

8 A. Yes.

9 Q. Did you have any further discussions
10 with Harris about a loaner in this time period?

11 MS. SOBOTA: Object to form.

12 BY THE WITNESS:

13 A. I don't recall having any discussions
14 with them other than emails. I don't recall
15 ever talking to them on the phone, so I would
16 say no. I don't recall having any discussions
17 with them other than this.

18 BY MR. TOPIC:

19 Q. You mentioned an instance in which a
20 police officer's gun had been stolen and a cell
21 site simulator was used to locate it; is that
22 correct?

23 MS. SOBOTA: Object to form.

24

1 BY MR. TOPIC:

2 Q. Indirectly?

3 MS. SOBOTA: Object to form.

4 BY THE WITNESS:

5 A. We deployed the system, but we never
6 had any success in locating the phone.

7 BY MR. TOPIC:

8 Q. I see. Has CPD ever used a cell site
9 simulator to locate a missing person?

10 MS. SOBOTA: Object to form and
11 foundation. It's also outside the scope of
12 discovery.

13 BY THE WITNESS:

14 A. Not during my tenure in the Tech Lab
15 that I'm aware of.

16 BY MR. TOPIC:

17 Q. Are you aware of a cell site simulator
18 ever being used for that purpose?

19 MS. SOBOTA: Same objections.

20 BY THE WITNESS:

21 A. No, I don't recall ever using it to
22 find a missing person.

23 BY MR. TOPIC:

24 Q. I'm going to hand you Exhibit No. 2

1 Bates stamped C1.

2 (Exhibit 2 was marked for
3 identification.)

4 BY MR. TOPIC:

5 Q. Same drill. If you could just take a
6 look, and once you've reviewed it my question is
7 really going to just be about the entry that has
8 your name on it.

9 A. Okay.

10 Q. Would you refer to this document as an
11 AA Sheet?

12 A. Yeah. It's an attendance and
13 assignment sheet. It's computer generated.

14 Q. And on the second page of this document
15 there is a reference to you; is that correct?

16 A. Yes.

17 Q. So this says you were assigned
18 somewhere on January 15, 2015; is that right?

19 A. Yeah. The fourth column -- let me
20 correct myself. The fifth column is present for
21 duty or not, and that's a yes.

22 Q. And then there is a beat number
23 associated with you; is that correct?

24 A. Yes, 6590. That's my beat or it was at

1 the time.

2 Q. You were sent to the Tech Lab during
3 this time period, right?

4 A. What's the year, 15 January, yeah.

5 Q. So is the Tech Lab location the beat or
6 is it the -- is that the beat in which the Tech
7 Lab was located?

8 A. No, no. That's your radio beat. Like
9 if you get on the radio, you would call out that
10 number. Like the districts are 11, 10, 9, and
11 then different units are different beats. Like
12 detectives are -- depending on what area you're
13 in, so there is like 51, 52, 53.

14 Q. And then next to that is a car number;
15 is that right?

16 A. Yes.

17 Q. Were you in a car that day when you
18 were on duty?

19 A. Yeah. That's a take-home car. You're
20 allowed to take that car home, so you take it
21 home, bring it to work, work in it.

22 Q. And then you began your assignment on
23 noon that day; is that right?

24 A. It looks like noon. I don't see the

1 end time. Because the rest of them you'll
2 notice -- no, there is no end time on any of
3 them. It's weird. On the computer it actually
4 has a start and a finish time.

5 Q. Do you recall anything about what you
6 did that day, January 15, 2015?

7 A. No, not off the top of my head.

8 Q. Let's hand you Exhibit No. 3.

9 (Exhibit 3 was marked for
10 identification.)

11 BY MR. TOPIC:

12 Q. Do you recognize Exhibit 3 as a series
13 of documents related to Harris Corporation? I
14 should just ask you, do you recognize any of the
15 documents within Exhibit 3?

16 A. Yes.

17 Q. Okay. Are there any documents within
18 Exhibit 3 that you don't recognize or are not
19 familiar with?

20 A. All right. Let's see. Is this your
21 exhibit numbers down here?

22 Q. The number that begins with C is what's
23 called Bates pages, so when we produce documents
24 to each other we number them. So those were

1 assigned by the attorneys when they produced the
2 documents.

3 A. Okay. So the document labeled C
4 Charles 000043, I'm not familiar with that
5 document.

6 Q. Okay. And when you said 43, did you
7 include the subsequent pages or --

8 A. No. I'm still looking at those. Like
9 42 I'm familiar with.

10 Q. Why don't we identify just by the
11 numbers, the last two numbers on the page any
12 pages that you're not familiar with.

13 A. That I'm not familiar with?

14 Q. Correct. Anything you're not familiar
15 with, then we'll go from there.

16 A. 43, I'm not familiar with that one. 44
17 does not look familiar either. I don't recall
18 45. 46 I don't recall. 47 I do not recall. 48
19 I do not recall. 49 I'm not familiar with. 50
20 I'm not familiar with. Document 51 I'm not
21 familiar with. 52 I'm not familiar with.
22 Document 53 I'm not familiar with. Document 54
23 I'm not familiar with. 55 I'm not familiar
24 with.

1 Q. Okay. Well, let's start at the
2 beginning at 38.

3 A. Okay.

4 Q. Is this a memo from Nicholas Roti,
5 R-O-T-I, to Christopher Kennedy regarding an
6 upgrade to CPD's cell site simulator system?

7 MS. SOBOTA: Object to form.

8 BY MR. TOPIC:

9 Q. I'll ask you a different question
10 actually. What is page 38?

11 A. Okay. It looks like a To/From, to
12 Chief Roti from Commander Kennedy with a quote
13 from Harris Corporation.

14 Q. And that was a quote for an upgrade?

15 A. It's to refurbish the hardware the
16 bureau currently owns and to upgrade the
17 software to the latest versions available, and
18 it includes training.

19 Q. And the cost was approximately
20 \$250,000?

21 A. Yeah. It looks like 250 to 275.

22 Q. Let's turn the page to page 39.

23 A. 39.

24 Q. Was page 39 attached to page 38?

1 MS. SOBOTA: Object to foundation.

2 BY MR. TOPIC:

3 Q. Do you know?

4 A. Yes. It would have to be because there
5 was an attachment list on the bottom there.

6 Q. Okay.

7 A. And this is basically the commander
8 requesting approval from his superiors to move
9 forward with the purchase.

10 Q. So beginning on page 39 and continuing
11 to page 41, am I right that's a three-page
12 quotation from Harris to the Chicago Police
13 Department?

14 A. Yes, that's what it looks like.

15 Q. And were you the contact for this
16 quote?

17 A. Right. I was in contact with Harris.
18 I asked them to send me a quote to provide us
19 with what we needed to get our equipment to
20 function properly.

21 Q. So the circumstances that led to this
22 upgrade, did it begin with a communication from
23 CPD to Harris about issues with the cell site
24 simulator system?

1 MS. SOBOTA: Object to form and
2 foundation.

3 BY THE WITNESS:

4 A. I don't remember -- I'm sure we reached
5 out to them telling them that our system wasn't
6 working and that we needed it corrected, fixed,
7 improved.

8 BY MR. TOPIC:

9 Q. Is that the type of communication you
10 would expect to be in writing in some form?

11 A. It was probably via email, but I don't
12 recall exactly how it happened.

13 Q. In connection with this case, did you
14 collect any documents and turn them over to the
15 attorneys?

16 A. Yes.

17 Q. And did you do the search for
18 documents?

19 MS. SOBOTA: Object to form.

20 BY MR. TOPIC:

21 Q. For example, did you search your emails
22 for any documents?

23 A. Right. Well, not the emails so much
24 because our email boxes get full pretty quick so

1 we tend to delete old emails, but whatever was
2 on the computer that I was assigned to in my
3 office I searched for Harris equipment
4 documents, sure.

5 Q. And how did you go about that search?

6 A. Using a computer to look through the
7 different files in the computer.

8 Q. Did you use any search terms?

9 MS. SOBOTA: Object to form.

10 BY THE WITNESS:

11 A. I don't remember exactly what I used to
12 search through the computer. I think I looked
13 through all the files, all of my files. I
14 remember looking through them.

15 BY MR. TOPIC:

16 Q. Do you have a file that's specific to
17 cell site simulators?

18 A. In my computer? Yeah, I would usually
19 create a file in the computer and put any
20 document that had to do with that into the
21 computer -- into that particular folder or
22 whatever you want to call it.

23 Q. Do you recall the name of that folder?

24 A. Off the top of my head I don't. Maybe

1 Harris.

2 Q. And is that the only folder you looked
3 through for any documents?

4 A. No. We looked through like any like
5 cabinets for files or, you know, like
6 instruction manuals and stuff like that.

7 Q. You said "we." Who else was involved?

8 A. Me and whoever I was working with that
9 day. I don't remember exactly who it was. It
10 was kind of awhile back.

11 Q. Was that in connection with the
12 Martinez Freedom of Information Act case or in
13 connection with this lawsuit?

14 A. That was in connection with the
15 Martinez information requests.

16 Q. Were you ever asked to produce any
17 documents to anyone related to this case?

18 A. Yes.

19 Q. And do you recall when that was?

20 A. I don't recall it precisely.

21 Q. And what did you do to search for
22 documents that related to that request?

23 A. Same thing. I looked through my thumb
24 drive.

1 Q. You said a thumb drive?

2 A. Yeah. Whatever I had with me.

3 Q. That's a portable thumb drive?

4 A. Yeah.

5 Q. Is that where you keep all your
6 documents related to your work?

7 A. Many of them.

8 Q. Are there other places you kept
9 electronic documents for you to do your work in
10 the Tech Lab?

11 A. No. Just at the computer at -- in the
12 office and some documents on my thumb drive.

13 Q. You said your thumb drive. Do you
14 consider it to be -- is it your thumb drive or
15 is it CPD's thumb drive?

16 A. No. It's my personal thumb drive.

17 Q. So you had documents related to cell
18 site simulators on your own personal thumb
19 drive?

20 A. Yeah. I produced those. I printed
21 them out and sent them up the chain.

22 Q. Do you know if there is other people in
23 the Tech Lab who kept documents on a thumb drive
24 about cell site simulators?

1 A. Not that I'm aware of.

2 Q. And as part of the search for documents
3 related to this case, did you search your
4 emails?

5 A. No.

6 Q. Do you know if anyone else did?

7 A. I'm assuming the department did because
8 there is copies of some of them here.

9 Q. Do you have any paper documents related
10 to cell site simulators?

11 A. No.

12 Q. Do you still have the thumb drive that
13 you referenced?

14 A. I should have it somewhere.

15 Q. Okay. Let's go back to page 39.

16 A. Okay.

17 Q. Am I correct that on the first page of
18 the quote here on page 39 there is a -- there is
19 the series of columns like Quantity, Item
20 Number, Description, et cetera?

21 A. Yes.

22 Q. So the first item that has a quantity
23 number is most of the way down the page,
24 correct?

1 A. Yes. It's -- I see a number 1 and then
2 I see an item number next to it.

3 Q. And that item number was
4 X-18-30-201-000?

5 A. Yes, I see that.

6 Q. Do you know what that was?

7 A. I don't recall exactly what that was.

8 Q. And the same question on the next item,
9 P -- that begins P-19.

10 A. Yeah, I don't recall exactly what that
11 was.

12 Q. Why don't you just look through the
13 page 40 and 41 for all the items that have a
14 quantity number and just tell me if there is any
15 that you recognize and can tell me anything
16 about what they are.

17 A. The quantity 8 for the training. I
18 mean, that's kind of self-explanatory.

19 Q. Do you know what the training classes
20 were about?

21 A. No, I don't. I didn't attend.

22 Q. Do you recognize anything else?

23 A. No, I don't.

24 Q. Is there anyone in the Chicago Police

1 Department other than you who you think might
2 know what these things mean?

3 A. Not that I'm aware of other than people
4 that work with the equipment.

5 Q. So did you recommend to someone that
6 CPD should pay for these upgrades?

7 MS. SOBOTA: Object to form.

8 BY MR. TOPIC:

9 Q. Was that clear?

10 A. Yes, yes.

11 Q. You did.

12 A. I think the system should be functional
13 for the department, so yes, I recommended that
14 we should fix it.

15 Q. And did you have any discussions with
16 anyone about that?

17 MS. SOBOTA: Object to form.

18 BY THE WITNESS:

19 A. The people at Harris about -- could you
20 say the question again?

21 BY MR. TOPIC:

22 Q. Yeah. Let me give you some context and
23 then I'll ask you a question. Maybe that will
24 help.

1 I'm just trying to -- it seems to me
2 like probably you had some discussions with
3 somebody, made a recommendation that these
4 upgrades should be purchased, and I'm trying to
5 get a sense of who was involved in those
6 discussions. So that wasn't a question yet. So
7 let me ask a question.

8 Did you have any discussions with
9 anyone about any of the upgrades that are on
10 this quotation?

11 MS. SOBOTA: Object to form.

12 BY THE WITNESS:

13 A. I discussed the system with my
14 coworkers and I was kind of dismayed that the
15 system didn't work. So we contacted Harris and
16 I said, Hey, look, our system doesn't work. We
17 need it to work.

18 So they said, This is what you need to
19 upgrade, to fix, to make the system operational.

20 So then I completed the -- I got this
21 quote, and then we forwarded the quote up the
22 chain.

23 BY MR. TOPIC:

24 Q. Did you discuss the quote with anyone

1 up the chain?

2 A. Not that I recall, no.

3 Q. Did you discuss with Harris what any of
4 the upgrades were?

5 A. My understanding was the upgrades
6 consisted of software and hardware upgrades.

7 Q. So was it your understanding that there
8 were no additional capabilities that would
9 result but rather it was to make the system
10 operational the way you thought it should be?

11 A. Right.

12 MS. SOBOTA: I'm going to object and
13 instruct the witness not to answer about any of
14 the capabilities of the equipment.

15 MR. TOPIC: I didn't ask what they
16 were. I'm just asking whether the up --

17 MS. SOBOTA: You asked if they were
18 going to be different capabilities than before.
19 I'm instructing the witness not to answer that
20 part of it.

21 MR. TOPIC: I'm not asking what the
22 different ones were. I'm just asking whether
23 they would be different ones.

24 MS. SOBOTA: You can answer yes or no.

1 BY THE WITNESS:

2 A. Could you say the question again?

3 BY MR. TOPIC:

4 Q. Sure. Let me try it in a slightly
5 different way.

6 Was it your understanding that the
7 upgrades that were provided in the quotation
8 we're looking at here, that those were not new
9 capabilities to the system but rather they
10 were -- they would make the system operational
11 the way you thought the system would already be
12 operated?

13 A. Right. It would allow us to track a
14 phone.

15 Q. All right. I'm not going to ask you to
16 get into the specifics. But do you -- let's
17 just start with this.

18 Do you recall the specific instance in
19 which you realized the system wasn't working the
20 way you thought it would?

21 MS. SOBOTA: I'm going to object.
22 That's been asked and answered, but you can
23 answer it again.

24

1 BY THE WITNESS:

2 A. Okay. For me it was when the copper
3 got hit in the head with a baseball bat and we
4 couldn't find the phone. At that point I was
5 like, There is something wrong with this. We
6 need to get this fixed.

7 BY MR. TOPIC:

8 Q. Do you remember the time period of that
9 at all?

10 A. I don't recall. I'm sorry.

11 Q. That's okay. Let's take a look then at
12 page 42. Could you just tell me what page 42
13 is?

14 A. Yeah. That's a purchase order that the
15 Bureau of Organized Crime, which is the bureau
16 in which the Tech Lab is assigned, would
17 complete to get the purchase of the equipment
18 that we needed upgraded or the software fixed to
19 get the whole ball of wax rolling.

20 They wouldn't do -- they wouldn't
21 perform any services for us unless we provided
22 them with this -- with a purchase order.

23 Q. And looking at the description and the
24 product IDs on page 42, do you recognize any of

1 them and are you able to explain what any of
2 them are?

3 A. Yeah. They are all part of the quote
4 that we sent earlier. My understanding was it
5 was some hardware and some software and training
6 of course.

7 Q. When you noticed or realized the system
8 wasn't working as intended, were there
9 communications in writing that you had with
10 Harris about that?

11 A. Not that I can recall. Not that I can
12 recall.

13 Q. Did you have communications over the
14 phone with Harris?

15 A. Yeah, I probably called Harris and told
16 them, Hey, look. This is our problem. The
17 system isn't working. We need to get this
18 fixed. What do we need to do to fix it?

19 Q. Do you recall who at Harris you spoke
20 to?

21 A. A David -- I think our guy was this guy
22 David Rosenblatt. That was our contact guy.

23 Q. Would that be the same David that was
24 in Exhibit No. 1?

1 A. I believe it was.

2 Q. Was there anyone else at Harris that
3 you recall having any discussions with about --

4 A. No, I don't.

5 Q. Was the equipment that's referenced
6 in -- on page -- beginning on page 38 through
7 page 42, was that equipment eventually returned
8 to CPD from Harris?

9 MS. SOBOTA: I'm going to object to
10 foundation.

11 BY THE WITNESS:

12 A. I can't answer that because I don't
13 know.

14 BY MR. TOPIC:

15 Q. Okay. So was it -- at the time you
16 left the Tech Lab, am I correct that those cell
17 site simulator components that had been sent
18 to --

19 A. When I left -- go ahead. I'm sorry.

20 Q. Yeah. We've got to go one at a time.

21 A. Okay.

22 Q. Am I correct that at the time you left
23 the Tech Lab, the equipment that's referenced
24 for upgrade in pages 38 through 42 of Exhibit 3

1 had not yet been returned to CPD?

2 A. That's correct.

3 Q. Do you know who took your place at the
4 Tech Lab after you left?

5 A. Yes.

6 Q. Who was that?

7 A. Sergeant Jim Fiduccia.

8 Q. To the best of your knowledge, has
9 Sergeant Fiduccia been in that role from the
10 time he took over from you to the present?

11 A. To the best of my knowledge, that's
12 true.

13 Q. And after you left the Tech Lab, have
14 you had any interactions with the Tech Lab about
15 cell site simulators?

16 A. No.

17 Q. Let me just kind of go back to the
18 structure. Did you as the sergeant in the Tech
19 Lab supervise the other officers?

20 A. Yes.

21 Q. Who did you report to?

22 A. I reported to Lieutenant Scott Dedore.

23 Q. What was the last name again?

24 A. Dedore, D-E-D-O-R-E.

1 Q. Were there other sergeants that also
2 reported to Lieutenant Dedore?

3 A. Yes.

4 MS. SOBOTA: Object to foundation.

5 BY MR. TOPIC:

6 Q. And none of them were involved in the
7 Tech Lab; is that correct?

8 A. Correct.

9 Q. I'm going to hand you a pretty thick
10 stack of pages. Some of them were before your
11 time, but I'm still going to ask you if you
12 recognize them and know anything about them.
13 This will be marked as Exhibit 4.

14 (Exhibit 4 was marked for
15 identification.)

16 BY MR. TOPIC:

17 Q. Just for some background, these are
18 various documents that had been produced in the
19 Martinez-Foyle litigation. They're not in
20 sequential order. They are just an assortment
21 of pages that were put together.

22 I'm not going to have questions about
23 every page. You're welcome to read through them
24 all, but I would suggest we just kind of go a

1 page at a time on the specific pages, and as we
2 go, you can just take a look and see if you
3 recall anything about it.

4 Let's just start on the first page
5 which is labeled P7128.

6 A. Got it.

7 Q. Do you recognize this document?

8 A. No, I don't.

9 Q. If you could just take a look at the
10 item numbers and descriptions on page 7128 and
11 tell me if there is anything there that you are
12 familiar with or recognize.

13 A. Well, in the description I see a laptop
14 PC. I've seen StingRay before, StingRay II.
15 Like these dual band, single band, I'm not
16 exactly sure what that's referring to. The
17 Amberjack I think is an antenna.

18 Q. Do you see the item called Spurdog and
19 then it describes it as handheld passive DF
20 tool?

21 A. Yes.

22 Q. Are you familiar with that device?

23 A. No, I'm not.

24 Q. And are you aware of any other handheld

1 cell site simulator devices?

2 MS. SOBOTA: I'm going to object to
3 form and also that's been asked and answered
4 twice now, but you can go ahead and answer it
5 again.

6 BY THE WITNESS:

7 A. We didn't -- I don't recall having any
8 handheld devices when I was there during my
9 tenure.

10 BY MR. TOPIC:

11 Q. And your knowledge would be limited to
12 the Tech Lab, correct?

13 A. Yes.

14 Q. So if a handheld cell site simulator
15 device had been purchased but it wasn't kept at
16 the Tech Lab, you wouldn't know about it,
17 correct?

18 A. That's true.

19 Q. Do you know Sergeant Jim Washburn?

20 A. Yes. I have met Jim.

21 Q. Was he your predecessor in the Tech
22 Lab?

23 MS. SOBOTA: Object to foundation.

24

1 BY THE WITNESS:

2 A. Yes.

3 BY MR. TOPIC:

4 Q. Okay. And is he still at the Chicago
5 Police Department?

6 MS. SOBOTA: Object to foundation.

7 BY MR. TOPIC:

8 Q. So let me just clear this up. I'm
9 going to ask you some questions. If you don't
10 know the answer, then you can just tell me you
11 don't know the answer.

12 A. Okay.

13 Q. So we'll just have that understanding.
14 So do you know whether Sergeant Washburn is
15 still at the Chicago Police Department?

16 A. I know that he is not.

17 Q. Do you know when Sergeant Washburn left
18 the Chicago Police Department?

19 A. I would say -- I don't know an exact
20 date. I would say the fall of 2012 maybe.

21 Q. Let me ask it this way. Do you know
22 whether the assignment that you took over for
23 Sergeant Washburn was his last assignment at the
24 Chicago Police Department?

1 A. Yes. Yes, I do.

2 Q. And it was?

3 A. That is correct, yes.

4 Q. Got it. If we could turn to page 7143,
5 it looks like it should go through at least
6 7145.

7 A. Okay.

8 Q. There is reference to a bailment
9 agreement. Is that a term that you're familiar
10 with?

11 A. I'm not. I don't know what that means.

12 Q. Could you turn to page 7147?

13 A. Got it.

14 Q. There is a reference to a Gossamer.
15 Does that refresh your memory at all whether you
16 have any familiarity with the Gossamer?

17 A. Where is that at? I don't see it. Oh,
18 okay. Yeah, I don't know what that's referring
19 to.

20 Q. Let's turn to page 7150.

21 A. Got it.

22 Q. This is another invoice dated a
23 couple -- approximately two months after the one
24 at page 7128. There is another reference to a

1 Spurdog. I'm just wondering if looking at this
2 document refreshes your memory at all about that
3 device.

4 A. No, I don't recall ever seeing or
5 deploying a handheld device when I was there.

6 Q. Turning a couple pages to 7152, a
7 purchase order dated 3/9/09. Do you recognize
8 any of the items on that purchase order?

9 A. I recognize StingRay.

10 Q. Anything else?

11 A. I think these things may be referring
12 to the different types of phone technology, like
13 IDEN is a phone technology. GSM is a phone
14 technology. LTE is a different phone
15 technology. But I don't know exactly what each
16 of those items are, but I see IDEN right there,
17 I-D-E-N.

18 Q. At the time you started at the Tech
19 Lab, was there an inventory of cell site
20 simulator systems or components?

21 A. There was the equipment that we had in
22 the truck, and I don't recall any spare parts or
23 extra pieces.

24 Q. Was there a written document that kept

1 track of all the different components of cell
2 site simulator systems that were within the
3 custody of the Tech Lab?

4 A. They do have inventory numbers
5 applied -- you know, like affixed to them. So
6 there should be a report of those, what numbers
7 are affixed to what pieces of equipment.

8 Q. So those inventory numbers, are they
9 stored in a database somewhere?

10 MS. SOBOTA: Object to foundation.

11 BY THE WITNESS:

12 A. I would assume they are.

13 BY MR. TOPIC:

14 Q. Do you know whether there is a database
15 that has inventory numbers of any of the
16 equipment that was in the custody of the Tech
17 Lab during your tenure?

18 A. There has to be one somewhere. The
19 police department would have inventory numbers.

20 Q. During the time you were in the Tech
21 Lab, was it the customary practice of the
22 Chicago Police Department to inventory all of
23 its equipment with an inventory number?

24 MS. SOBOTA: Object to form and

1 foundation.

2 BY THE WITNESS:

3 A. Yes.

4 BY MR. TOPIC:

5 Q. So, and I recognize this is a
6 hypothetical question, but I want to try to
7 understand the process here.

8 So if CPD had purchased a Spurdog as
9 referenced in some of the invoices we looked at
10 and it received it, it should have received an
11 inventory number; is that correct?

12 MS. SOBOTA: I'm going to object on
13 foundation and it calls for speculation.

14 BY THE WITNESS:

15 A. I would say that's true.

16 BY MR. TOPIC:

17 Q. And if a piece of equipment that had
18 been inventoried was later disposed of, would
19 there be a record kept of that?

20 MS. SOBOTA: Object to foundation.

21 BY THE WITNESS:

22 A. There should be, yes.

23 BY MR. TOPIC:

24 Q. And do you know anything about where

1 those records are kept or what kind of paperwork
2 is created?

3 A. We would create a To/From and send it
4 up the chain to our chief.

5 Q. And are those, to the best of your
6 knowledge, kept somewhere or where are they
7 stored --

8 MS. SOBOTA: Object to foundation.

9 BY MR. TOPIC:

10 Q. -- those To/Froms that you referenced?

11 MS. SOBOTA: Same objection.

12 BY THE WITNESS:

13 A. They should be stored in the chief's
14 office.

15 BY MR. TOPIC:

16 Q. That would be the chief of the bureau?

17 A. Correct.

18 Q. So who was that chief during your
19 tenure at the Tech Lab?

20 A. I think almost exclusively it was Chief
21 Roti.

22 Q. That's R-O-T-I?

23 A. Correct.

24 Q. During your time at the Tech Lab -- and

1 I'm going to broaden this beyond cell site
2 simulators -- was there any equipment that the
3 Tech Lab disposed of?

4 MS. SOBOTA: I'm going to object as
5 being far outside the scope of this case which
6 is about cell site simulators.

7 You can answer yes or no, if you
8 recall.

9 BY THE WITNESS:

10 A. Yeah. I recall disposing of like old
11 tape decks and stuff. We would take off the
12 inventory number, affix it to the To/From and
13 send it up the chain.

14 BY MR. TOPIC:

15 Q. Is there any -- well, that's good.

16 Do you know how inventory numbers were
17 assigned during your tenure at the Tech Lab as a
18 general matter?

19 A. We did a roll of numbers. They are
20 generally about yay big. They're blue, and then
21 we would peel them off in numerical order and
22 affix them to the piece of equipment.

23 Q. Would you then create a document or
24 enter something into a database that correlated

1 the inventory number to the piece of equipment?

2 A. Well, we would create a document and
3 send it up the chain.

4 Q. Do you know -- maybe you don't. But do
5 you know anything about what happened to that
6 document up the chain? Was it ever input into a
7 database, for example?

8 MS. SOBOTA: Object to foundation.

9 BY THE WITNESS:

10 A. Yeah, I don't know.

11 BY MR. TOPIC:

12 Q. I'll ask you to turn to page 7156 and
13 just tell me if -- you mentioned the AmberJack.
14 Is there any equipment that you recognize by its
15 description there?

16 MR. HENDRICKS: Just for the record,
17 can we clarify the dates of these documents?
18 These documents are all dated back to 2009 and
19 2010. So let's just be clear about what you're
20 being asked. You're being asked to identify
21 information in a document dated in 2010 prior to
22 your tenure.

23 THE WITNESS: Correct.

24

1 BY MR. TOPIC:

2 Q. Did you understand from looking at the
3 documents that they're dated?

4 A. Yeah, I see the dates on them.

5 Q. Okay. I encourage you when you look at
6 documents you can certainly look at the date,
7 and if there is anything that you don't know the
8 answer to, you're free to tell me that.

9 A. Okay.

10 MS. SOBOTA: Can I ask you to clarify
11 your question? When you ask him if he
12 recognizes anything, are you asking him if he
13 recognizes the words or if he recognizes that
14 these are things that CPD may or may not have
15 had?

16 THE WITNESS: That's kind of a good
17 question.

18 BY MR. TOPIC:

19 Q. So why don't we look at page 7156 and
20 tell me whether based on these descriptions you
21 know any of these things to be equipment that
22 CPD has ever possessed.

23 A. Yes. I know we possessed the
24 AmberJack. I believe this high powered kit

1 would be like a power supply that we would use
2 in the vehicle. I think like the KingFish is
3 probably -- CDMA is for a certain spectrum of
4 telephone frequency, so each one of those little
5 boxes would be used to track a certain telephone
6 spectrum.

7 Q. Let me ask you this question. There is
8 reference to a KingFish.

9 A. Hm-hm.

10 Q. Do you know whether a KingFish and a
11 StingRay would be used in the same system?

12 MS. SOBOTA: Object to foundation.

13 BY THE WITNESS:

14 A. Yeah, I don't. I don't recall all the
15 different nomenclature that the company used.
16 They were pretty -- their nomenclature was
17 nondescriptive.

18 BY MR. TOPIC:

19 Q. For what it's worth, they all seem to
20 be fish.

21 A. Yeah.

22 Q. I want to go back to the first page and
23 ask questions on that. There looks to be a
24 stamp here that says, "All above items received

1 in good working order," and then there is some
2 notes and there is a signature.

3 Do you see that?

4 A. Yes.

5 Q. During your time at the Tech Lab, was
6 it customary when equipment was received to
7 place a stamp on an invoice indicating it was
8 received?

9 A. During my tenure there, I don't recall
10 doing that. We would indicate in our report
11 prior to the bill being paid that the equipment
12 was received in working order, but we wouldn't
13 stamp the -- this looks like an invoice.

14 We would include the invoice on a
15 To/From, and in the narrative of the To/From,
16 you know, the equipment was received in good
17 working order.

18 Q. And some of this you answered before
19 but I want to make sure I'm understanding it.

20 So your experience while you were at
21 the Tech Lab was if equipment was received, an
22 inventory number was assigned and a To/From was
23 created and sent up the chain?

24 A. Correct.

1 Q. And the same thing; if a piece of
2 equipment was being disposed of, a To/From would
3 be sent up the chain as well?

4 A. That's my recollection.

5 Q. Would the To/From typically reference
6 the inventory number?

7 MS. SOBOTA: Object to form. Which
8 To/From?

9 BY MR. TOPIC:

10 Q. The To/From that was typically created
11 in connection with disposing of an item of Tech
12 Lab equipment, would those To/Froms typically
13 include the inventory number?

14 A. To dispose of the -- yeah. You would
15 actually physically remove the inventory number
16 from the item and then put it on the To/From,
17 like tape it to the report.

18 Q. Got it. Okay. I can maybe shortcut
19 some of this. Almost all these documents are
20 prior to the time that you started at the Tech
21 Lab.

22 A. Okay.

23 Q. So do you have any knowledge about any
24 equipment that was obtained before you began at

1 the Tech Lab?

2 MS. SOBOTA: What type of equipment?

3 MR. TOPIC: Sorry. Cell site simulator
4 equipment.

5 BY THE WITNESS:

6 A. Just the layman's knowledge of the
7 equipment that was in the vehicle.

8 BY MR. TOPIC:

9 Q. So when you started at the Tech Lab,
10 your understanding was the cell site simulator
11 equipment that the Tech Lab had was all in the
12 vehicle?

13 A. Correct.

14 Q. Did Sergeant Washburn explain anything
15 to you about the equipment when you started, to
16 the best of your memory?

17 A. To the best of my recollection, no.

18 MR. TOPIC: I'll tell you what. Why
19 don't we take a break for a few minutes -- if
20 you need the bathroom or coffee or anything --
21 and then we'll resume.

22 MR. HENDRICKS: Five or ten, counsel?

23 MR. TOPIC: Yeah. That's fine.

24

1 (Recess had from 10:39 to
2 10:47 a.m.)

3 BY MR. TOPIC:

4 Q. I'm going to hand you what I'm marking
5 as Exhibit 5.

6 (Exhibit 5 was marked for
7 identification.)

8 BY MR. TOPIC:

9 Q. Sergeant Costa, Exhibit 5 is an image
10 of something. Do you recognize this?

11 A. No, I don't.

12 Q. I hand you what we're going to mark as
13 Exhibit 6.

14 (Exhibit 6 was marked for
15 identification.)

16 BY MR. TOPIC:

17 Q. Have you ever seen a device that looks
18 like Exhibit 6?

19 A. No, I haven't.

20 Q. I hand you what I am going to mark as
21 Exhibit 7.

22 (Exhibit 7 was marked for
23 identification.)

24

1 BY MR. TOPIC:

2 Q. Have you ever seen a device that looks
3 like Exhibit 7?

4 A. Not that I can recall, no.

5 Q. This will be Exhibit 8.

6 (Exhibit 8 was marked for
7 identification.)

8 BY MR. TOPIC:

9 Q. Have you ever seen a device that looks
10 like Exhibit 8?

11 A. Yeah. This looks like some of the
12 equipment that was in the back of the truck.

13 Q. Do you know whether any of that
14 equipment had the label Harpoon on it?

15 A. I don't recall exactly the names of
16 each box.

17 Q. Okay. So something like Exhibit 8 was
18 part of this CPD cell site simulator system at
19 the time you were in the Tech Lab?

20 MS. SOBOTA: Object to form.

21 BY MR. TOPIC:

22 Q. Is that correct?

23 A. It looks like similar. I mean, they
24 had handles. You could pull it out. I recall

1 seeing the plugs. It looks similar to what we
2 may have had.

3 Q. And do you know what the approximate
4 size was of the device that you think at least
5 looks similar to Exhibit 8?

6 A. I would say it was about maybe 18
7 inches wide and about -- I'm going to say about
8 maybe a foot high and maybe about -- I don't
9 know. It was deeper than it was wide or high.
10 So I would say it was about maybe 18 inches
11 deep. It looked like a stereo receiver kind of.

12 Q. I hand you Exhibit No. 9.

13 (Exhibit 9 was marked for
14 identification.)

15 BY MR. TOPIC:

16 Q. Have you ever seen a device that looks
17 like Exhibit 9?

18 A. The equipment does look similar to
19 this.

20 Q. So CPD's cell site simulator system
21 during the time you were at the Tech Lab
22 included a component that looks similar to
23 Exhibit 9?

24 A. I would say that's true, yes.

1 Q. And you see this is labeled StingRay
2 II?

3 A. Hm-hm.

4 Q. Is that a yes?

5 A. Yes, I see that.

6 Q. Do you recall the label that was on the
7 device?

8 A. I don't recall.

9 Q. And were you ever involved in setting
10 up the cell site simulator system while you were
11 at the Tech Lab?

12 MS. SOBOTA: Object to form.

13 BY THE WITNESS:

14 A. No.

15 BY MR. TOPIC:

16 Q. Do you know who was?

17 A. Basically it was all hooked up when I
18 got there. I don't think we ever unhooked it
19 other than to ship it off, get rid of it. So
20 when you say setting up, it was already set up
21 when I first saw it.

22 Q. Okay. I think we are on 10.

23 (Exhibit 10 was marked for
24 identification.)

1 BY MR. TOPIC:

2 Q. Same question. Have you ever seen a
3 device that looks like Exhibit 10?

4 A. I don't recall seeing one like this.
5 Most of them were kind of tall.

6 Q. And I know that there is probably going
7 to be some objections on this nondisclosure
8 agreement, but I would like to get at least
9 whatever general information that you're able to
10 provide me.

11 The cell site simulator system that was
12 in the Tech Lab during your tenure, did it have
13 the capability to obtain any information from
14 anyone's cellular phone?

15 MS. SOBOTA: I'm going to object and
16 instruct the witness not to answer on the basis
17 of the NDA.

18 MR. TOPIC: And just to be clear, I'm
19 just asking for a yes-or-no answer to the
20 question.

21 MS. SOBOTA: I understand that. Same
22 objection. I'm instructing the witness not to
23 answer.

24

1 BY MR. TOPIC:

2 Q. Do you know the answer to the question?

3 MS. SOBOTA: That you can answer yes or
4 no to.

5 BY THE WITNESS:

6 A. What was the question again? Did it
7 obtain anything other than the phone number?

8 MR. TOPIC: Let's actually just have it
9 read back because I phrased it a certain way and
10 I forget how I said it.

11 (Record read.)

12 MS. SOBOTA: So just answer yes or no,
13 do you know the answer to that question.

14 BY THE WITNESS:

15 A. Yes.

16 BY MR. TOPIC:

17 Q. And do you know whether the cell site
18 simulator system in the Tech Lab during your
19 tenure had the capability to obtain information
20 from cellular phones other than the one that was
21 the target of the investigation?

22 MS. SOBOTA: Same objection and
23 instruct the witness not to answer on the basis
24 of the NDA.

1 MR. TOPIC: Maybe it wasn't clear. I'm
2 just asking whether he is able to answer that
3 question.

4 MS. SOBOTA: Okay. You can answer yes
5 or no, do you know the answer.

6 BY THE WITNESS:

7 A. Yes.

8 BY MR. TOPIC:

9 Q. And do you know -- well, I'll ask the
10 first question first. If any data was obtained
11 from anyone's cellular phones using the cell
12 site simulator system in the Tech Lab during
13 your tenure, is that data kept anywhere?

14 MS. SOBOTA: Same objection. You can
15 answer yes or no whether you know the answer to
16 that.

17 BY THE WITNESS:

18 A. Yes.

19 BY MR. TOPIC:

20 Q. So you do know the answer to that
21 question?

22 A. Correct.

23 Q. Okay. And you're not -- you're
24 instructing him not to answer that?

1 MS. SOBOTA: Correct.

2 BY MR. TOPIC:

3 Q. Okay. Can you tell me when a cell site
4 simulator was deployed during your tenure at the
5 Tech Lab, was a report generated after the use
6 of the cell site simulator?

7 A. There was no report generated.

8 Q. Can you tell me during your tenure at
9 the Tech Lab whether a cell site simulator was
10 ever deployed at a public assembly in which a
11 permit from the city is required?

12 MS. SOBOTA: Are you asking him whether
13 he knows or whether it was?

14 MR. TOPIC: Whether it was.

15 MS. SOBOTA: I'm going to instruct him
16 not to answer whether it was.

17 You can answer whether you know or not.

18 BY THE WITNESS:

19 A. Could you say the question one more
20 time? Was it de --

21 BY MR. TOPIC:

22 Q. Well, I used the phrase "protest" but
23 that's a little bit colloquial. What I'm trying
24 to get at is a public gathering. Let me get

1 some foundation first.

2 Is it your understanding that for
3 certain types of public gatherings a permit is
4 required?

5 A. Correct.

6 Q. So I'll just call those public
7 assemblies.

8 A. Okay.

9 Q. So during your tenure at the Tech Lab
10 was a cell site simulator ever used at a public
11 assembly?

12 A. Not to my recollection.

13 Q. During your tenure at the Tech Lab,
14 could you identify for me any equipment or
15 systems that when deployed would be perceived to
16 be a cellphone tower by a cellular phone?

17 MS. SOBOTA: Object to form.

18 BY THE WITNESS:

19 A. The system, the truck we had, the
20 system we used, it was a cell site simulator
21 system.

22 BY MR. TOPIC:

23 Q. Are there any other pieces of equipment
24 in the Tech Lab during your tenure that would

1 similarly present as a cell phone tower to a
2 cellphone?

3 MS. SOBOTA: Object to foundation.

4 BY THE WITNESS:

5 A. Not that I'm aware of.

6 BY MR. TOPIC:

7 Q. How about outside the Tech Lab, are you
8 aware of any such equipment that CPD possessed
9 during your tenure?

10 A. I am not.

11 Q. Are you familiar with a cellphone app
12 called Open Signal?

13 A. No.

14 Q. I'm going to ask you some more
15 questions about documents. Do you know whether
16 you have any text messages related to cell site
17 simulators?

18 A. Text messages, no.

19 Q. How about any voicemails?

20 A. None.

21 Q. Any other forms of communication that
22 you have that relate to the cell site
23 simulators?

24 A. No.

1 Q. Have you ever been disciplined as a
2 Chicago police officer?

3 A. Suspended?

4 Q. Yes.

5 A. Yes.

6 Q. Okay. Could you provide the details
7 for me, please?

8 A. I was suspended after I had a physical
9 altercation with a superior.

10 Q. Any other instances?

11 A. None.

12 Q. Okay. Have you ever been the subject
13 of a complaint that relates to honesty?

14 MS. SOBOTA: As a Chicago police
15 officer?

16 MR. TOPIC: As a Chicago police
17 officer. Sorry.

18 BY THE WITNESS:

19 A. Not that I'm aware of.

20 BY MR. TOPIC:

21 Q. Prior to your testimony today, did you
22 have any discussions with Officer -- I'm always
23 going to butcher the pronunciation -- Bonadurer?

24 A. Not recently. I haven't seen him since

1 I left the Tech Lab.

2 Q. Did you review any draft court filings
3 or affidavits related to this case?

4 A. Court filings, no.

5 Q. And what did you do to prepare for your
6 deposition today?

7 A. I met with my attorneys.

8 Q. Do you know for how long?

9 A. Perhaps three hours in total.

10 Q. Okay. I won't ask you what exactly
11 they said. Did they tell you what this case was
12 about?

13 A. Yes.

14 Q. Did they tell you what the city's
15 positions were in this case?

16 MS. SOBOTA: Just answer that yes or
17 no.

18 BY THE WITNESS:

19 A. The city's positions, not really.

20 BY MR. TOPIC:

21 Q. Did you look at any documents when you
22 were preparing for your deposition?

23 A. Yes.

24 Q. Did any of those documents refresh your

1 memory in any way?

2 A. I don't think they really did.

3 Q. Okay. Could you be more specific as
4 to --

5 A. Well, I remember the purchase order. I
6 remember the To/Froms that I authored.

7 Q. Were those documents we've looked at
8 today?

9 A. Basically, yeah.

10 Q. Were there any documents that you
11 looked at in preparing for the deposition that
12 we didn't look at today?

13 A. No.

14 MR. TOPIC: Give me just a second. I
15 do not have any further questions.

16 MS. SOBOTA: I've got nothing.

17 MR. TOPIC: Are you going to sign? Is
18 he going to sign, review and sign?

19 MS. SOBOTA: Yeah.

20 MR. HENDRICKS: Review and sign.

21 MS. SOBOTA: Yes.

22 THE COURT REPORTER: For my purposes,
23 is two weeks okay for the transcript?

24 MR. TOPIC: Yeah. I think's -- well,

1 we'll follow-up with you. I might want it
2 sooner.

3 THE COURT REPORTER: Maggie, do you
4 want a regular copy?

5 MS. SOBOTA: What do you mean regular?

6 THE COURT REPORTER: Regular --

7 MS. SOBOTA: We just need a PDF, like
8 an e-tran.

9

10 (Proceedings adjourned at
11 11:01 a.m.)

12 FURTHER DEPONENT SAITH NOT.

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CERTIFICATE OF SHORTHAND REPORTER

I, MARIANNE NEE, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my direction; that reading and signing was requested; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand on 21st day of AUGUST, 2017.

Marianne Nee

Marianne Nee, CSR, CRR, RDR
Illinois CSR No. 084-002341.

Transcript of Jack Costa
 Conducted on August 9, 2017

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