

Dr. Sabina Burton v. Board of Regents
University of Wisconsin, et al.

14-CV-274

Transcript of the Testimony of:

Thomas Caywood, Ph.D.

August 21, 2015



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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

DR. SABINA BURTON,

Plaintiff,

vs.

Case No. 14-CV-274

BOARD OF REGENTS
UNIVERSITY OF WISCONSIN, et al.,

Defendants.

Deposition of THOMAS CAYWOOD, Ph.D.

Friday, August 21st, 2015

10:07 a.m.

at

WISCONSIN DEPARTMENT OF JUSTICE
17 West Main Street
Madison, Wisconsin

Reported by Tammy R. O'Neal, RPR

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1 TRANSCRIPT OF PROCEEDINGS
 2 THOMAS CAYWOOD, Ph.D., called as a witness
 3 herein, having been first duly sworn on oath, was examined
 4 and testified as follows:
 5 EXAMINATION
 6 BY MR. HAWKS:
 7 Q A few preliminary questions to begin with. Date of
 8 birth?
 9 MS. BENSKY: Just don't give the year. You
 10 can give the --
 11 THE WITNESS: April 9.
 12 BY MR. HAWKS:
 13 Q Age?
 14 A 63.
 15 Q All right. Where were you born?
 16 A Neosho, Missouri, N-E-O-S-H-O, Missouri.
 17 Q Is that the southwest part of the state?
 18 A That is correct.
 19 Q Where did you go to college?
 20 A Well, I went to three.
 21 Q Where did you do your undergraduate work?
 22 A My associate's degree is from Missouri Southern State
 23 College in Joplin. My bachelor's degree is from
 24 Central Missouri State University in Warrensburg,
 25 Missouri. My master's is from Central Missouri State

1 became a counterintelligence technician.
 2 Q Do you have law enforcement experience outside of the
 3 military?
 4 A Yes.
 5 Q What is that?
 6 A I was a police officer in Warrensburg, Missouri, for
 7 almost four years.
 8 Q What years would those be?
 9 A '77 through '81.
 10 Q Subsequent to your accomplishing your Ph.D., where
 11 were you first employed?
 12 A After -- Platteville, UW Platteville.
 13 Q Has your entire academic experience been at
 14 Platteville?
 15 A I was a full-time, short-term employee at Central
 16 Missouri State before I went on to do my doctorate.
 17 MR. HAWKS: I'll ask that we mark this as
 18 an exhibit.
 19 (Exhibit 1 marked for identification.)
 20 BY MR. HAWKS:
 21 Q Do you recognize this document?
 22 A Yes, sir.
 23 Q Can you identify it?
 24 A Well, as to the date or the content?
 25 Q The content, please.

1 in Warrensburg. And my Ph.D. is from Sam Houston
 2 State in Huntsville, Texas.
 3 Q You served in the military?
 4 A Yes.
 5 Q What branch?
 6 A Active duty, U.S. Air Force.
 7 Q So active duty?
 8 A That is correct.
 9 Q Where?
 10 A I went in the service 2 June 1970. I was in Vietnam
 11 from April of '71 to April of '72. I spent the rest
 12 of the time at Francis E. Warren Air Force base in
 13 Cheyenne, Wyoming. I got out 31 May '74.
 14 Q Any other active duty?
 15 A I was a member of the Missouri National Guard, Texas
 16 National Guard, and U.S. Army Reserves. In 1999 our
 17 military intelligence unit was mobilized for federal
 18 duty in Bosnia. I spent almost nine months there.
 19 Q What was the nature of your service in the military?
 20 A In the Air Force I was a security policeman. In the
 21 reserves I started out as supply clerk. And when I
 22 went to Texas they made me a cook in a tank unit.
 23 And then in the Army reserve I was a
 24 counterintelligence agent, went through warrant
 25 officer school, became a chief warrant officer, and

1 A This I believe is in reference to a course that was
 2 proposed for the graduate program.
 3 Q You see there at the end of the first paragraph the
 4 question by Dr. Burton to you, Why do you question my
 5 expertise?
 6 A Okay.
 7 Q Did you answer that question?
 8 A Did I?
 9 Q Uh-huh.
 10 A Well, not that I'm aware of.
 11 Q Why not?
 12 A Well, I didn't think it was -- I guess it wasn't
 13 really relevant. We were trying to get a course
 14 through the graduate council.
 15 (Exhibit 2 marked for identification.)
 16 BY MR. HAWKS:
 17 Q Do you recognize this document?
 18 A Yes.
 19 Q Can you identify its content?
 20 A It's a letter from the department chair to the chair
 21 of the CRST concerning, let's see, a recommendation
 22 for tenure.
 23 Q All right. Thank you.
 24 (Exhibit 3 marked for identification.)
 25 BY MR. HAWKS:

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1 Q I'm showing you what's been marked as Exhibit 3. Do
 2 you recognize that document?
 3 MS. BENSKY: Do you have a copy?
 4 MR. HAWKS: I do not. It's out of order
 5 here.
 6 THE WITNESS: Okay.
 7 BY MR. HAWKS:
 8 Q Can you describe the content of this letter?
 9 A Well, according to what her e-mail said she's got a
 10 news team coming in to the campus, they're going out
 11 to the crime scene house. Looks like the students
 12 here are re-creating a crime scene and they're going
 13 to profile the perpetrator.
 14 Q Do you see --
 15 A It started about 2:00.
 16 Q Do you see her asking you a question, Would you like
 17 to join us?
 18 A Okay.
 19 Q Did you respond to that question?
 20 A I don't remember.
 21 MR. HAWKS: Anne, here's the extra copy.
 22 MS. BENSKY: Thank you.
 23 (Exhibit 4 marked for identification.)
 24 BY MR. HAWKS:
 25 Q I'm showing you what has been marked as Exhibit 4.

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1 Do you recognize that document?
 2 A Yes.
 3 Q Can you describe the content of this document,
 4 please?
 5 A It looks like the first part of the document is an
 6 e-mail from Sabina to the dean talking about an
 7 experiment that was -- talking about where she sends
 8 me an e-mail, talking about the breach experiment,
 9 indicates who the student was at the time. My reply
 10 is here on the second page.
 11 Q Do you see in that portion of this e-mail train, an
 12 e-mail from Dr. Burton to you at 9:31 p.m.?
 13 A All right.
 14 Q You see at the end of the first paragraph of that
 15 message the question, Was I part of the experiment
 16 and included in the human subject form?
 17 A Okay.
 18 Q Did you reply to that question?
 19 A No.
 20 Q Why not?
 21 A This was a note that was passed to the student during
 22 class. The other part here was the fact that I was
 23 asking about who the student was and trying to, you
 24 know, give a brief explanation what a breach
 25 experiment was.

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1 Q So my question is why did you not reply to this
 2 question?
 3 A That she was part of the experiment?
 4 Q Uh-huh.
 5 A I did not see that as an experiment.
 6 Q What did you see it as?
 7 A In the course of -- in research method course he's
 8 talking about a particular type of research. This --
 9 same thing like a mail survey, a direct question
 10 survey, some form of survey or some other type of
 11 experiment. So he's talking about a specific type of
 12 experiment that is conducted to elicit some type of
 13 response.
 14 Q But isn't it typically the case that -- first of all,
 15 this was labeled by the department and those who
 16 looked at the situation as a, quote, breach
 17 experiment, closed quote?
 18 A Correct.
 19 Q Isn't it true that for a breach experiment to be
 20 conducted at the University of Wisconsin Platteville,
 21 it has to be reviewed by a committee first?
 22 A Generally the institutional review board would need
 23 to approve any sort of an experiment that was
 24 conducted involving human subjects. This was not an
 25 experiment, this was an in-class example.

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1 (Exhibit 5 marked for identification.)
 2 BY MR. HAWKS:
 3 Q I'm showing you what has been marked as Exhibit 5 for
 4 the purposes of this deposition. Can you identify
 5 this document, please?
 6 A It is an e-mail from Sabina to myself and to the dean
 7 that deals with a press conference.
 8 Q Is it true that you withdrew your support with regard
 9 to the AT&T grant?
 10 A No.
 11 Q What did you do with regard to the AT&T grant?
 12 A Which part?
 13 Q The -- let's start with the part involving the
 14 proposed news release.
 15 A Okay. I objected to what was stated in the news
 16 release as did the dean. And I had contacted the
 17 dean about that, because I thought there were some
 18 errors in the press release.
 19 Q Is it your testimony you did not withdraw your
 20 support for the AT&T grant?
 21 A I showed up when they did the presentation. I was
 22 there for that. I went upstairs and got the provost.
 23 Q Do you identify the statement in the first paragraph,
 24 I'm not aware that the CJ department approved a cyber
 25 security department or the development of one?

1 A The department had not approved a cyber security
 2 program.
 3 Q And do you not interpret that statement as a
 4 withdrawal of support for Sabina's continuing efforts
 5 to develop a cyber security program?
 6 A No.
 7 Q It would be correct that as recently as October 10 of
 8 2012 you e-mailed Sabina and others to express your
 9 support of submitting an NSF proposal for a cyber
 10 scholar capacity building project?
 11 A Is this what you're talking about in this e-mail on
 12 24 January?
 13 Q Previously to this e-mail, October 10 of 2012, did
 14 you not express support for submitting an NSF
 15 proposal for a cyber scholar capacity building
 16 project?
 17 A Yes.
 18 Q That project could not be completed because it has
 19 inadequate time to complete that; is that correct?
 20 A I do not remember.
 21 Q How would you characterize the letter you sent to
 22 Professor Burton shortly after the press release
 23 which Dr. Burton did not write?
 24 MS. BENSKY: Object to form.
 25 BY MR. HAWKS:

1 A Yes.
 2 Q Did you ever express -- or compliment Dr. Burton for
 3 that study abroad trip?
 4 MS. BENSKY: Object to form. You can
 5 answer if you understand the question.
 6 THE WITNESS: Verbally, in writing?
 7 BY MR. HAWKS:
 8 Q In writing.
 9 A I don't recall.
 10 Q Did you advertise the study abroad trip to Germany?
 11 A I did not.
 12 Q Did you provide any support for advertising for the
 13 study abroad strip?
 14 A That would have been done by the department of study
 15 abroad.
 16 Q Could you describe any and all assistance you gave to
 17 Dr. Burton with regard to the study abroad trip?
 18 A There was no financial, because that's all, again,
 19 coming from the study abroad program.
 20 Q Did you provide any other assistance?
 21 A I think just support I guess, verbal support
 22 probably.
 23 Q Dr. Burton was provided a sabbatical during the
 24 spring semester of 2012, was she not?
 25 A I believe that's correct.

1 Q Would you --
 2 MS. BENSKY: You can answer if you
 3 understand the question.
 4 BY MR. HAWKS:
 5 Q I'll rephrase it. Would you agree that shortly after
 6 a proposed press release was to be sent out, you sent
 7 to Dr. Burton a scathing letter about the press
 8 release?
 9 MS. BENSKY: Object to form.
 10 THE WITNESS: I recall sending an e-mail to
 11 the dean concerning the wording of that press
 12 release.
 13 BY MR. HAWKS:
 14 Q And you copied it to Burton?
 15 A I can't answer that. I don't recall.
 16 Q Would you describe that as very critical of the press
 17 release?
 18 A Yes.
 19 Q Had the press release been changed to meet the dean's
 20 objections to it?
 21 A I think you'll have to ask her. I know there's
 22 several versions of that, and I cannot recall the
 23 final version of that press release.
 24 Q Do you recall a successful -- or a study abroad trip
 25 that was organized by Dr. Burton?

1 Q And didn't that sabbatical state that she,
 2 Dr. Burton, will not be called upon to serve in
 3 faculty governance or service activity which
 4 conflicts with project work?
 5 A I don't recall the specific stipulations of that
 6 sabbatical.
 7 MR. HAWKS: Let's take a ten-minute break.
 8 The exhibits are out of order. I have to get them in
 9 order.
 10 (Recess taken from 10:30 to 10:42 a.m.)
 11 (Exhibit 6 marked for identification.)
 12 BY MR. HAWKS:
 13 Q Dr. Caywood, can you identify that document, please?
 14 A It's some sort of probably a note that I sent to
 15 Dr. Burton dated 24 January 2013.
 16 Q And in that content do you advise Dr. Burton that she
 17 is advertising a program that does not exist and for
 18 which she does not have approval?
 19 A Give me just a minute so I can read through it.
 20 Q Sure.
 21 A Okay.
 22 Q My question again is do you advise Dr. Burton that
 23 she is advertising a program that does not exist and
 24 does not have approval?
 25 A Yes.

1 Q And you're basing that on what? On what information
 2 did you have to draw that conclusion?
 3 A As for the cyber program?
 4 Q Yes.
 5 A Well, first it wasn't approved by the department. It
 6 wasn't approved by any of the faculty governance
 7 within the university.
 8 Q My question is what has Dr. Burton done to advertise
 9 the program?
 10 A This program, the cyber or the CJ program?
 11 Q Right. What has she done that you are basing your
 12 criticism of her upon?
 13 A Well, it says here they have two different websites,
 14 a Journal of Cyber Security and Journal of Criminal
 15 Justice, that you state that you own both, propose
 16 these, and list the amount on that. It says, Neither
 17 website clarifies if this is your goals or the
 18 department's, but I would take it to be that the
 19 department has sanctioned this and that she's got the
 20 cart before the horse. And I go on to explain how
 21 the FI program was established and that would be the
 22 procedure for a new program, to follow that format.
 23 Q And don't you also refer to the press release for the
 24 AT&T conference at the very beginning of that letter?
 25 A Well, that first sentence says a release concerning

1 the AT&T grant.
 2 Q Hadn't that release already been modified so as not
 3 to identify it as a program at the time you wrote
 4 this letter?
 5 A I cannot answer that, sir.
 6 Q And with regard to the websites, did you visit any of
 7 the websites?
 8 A I cannot truthfully answer that. I don't recall.
 9 Q And did you approach Dr. Burton to ask her what the
 10 traffic had been on any of those websites?
 11 A No.
 12 Q So that letter essentially then is referring to two
 13 and only two things that Dr. Burton has done. It's
 14 the press release and the websites?
 15 A I believe what is being stated in the press release,
 16 they had the support of the department and
 17 university. At that time she did not have that
 18 support.
 19 Q That press release was corrected, was it not?
 20 A I believe so, yes, sir.
 21 Q It was corrected -- I've asked this question. Never
 22 mind.
 23 Dr. Burton replied to that, did she not?
 24 A Sir?
 25 Q Dr. Burton replied to that?

1 A I don't know.
 2 Q I'm showing you again Exhibit No. 5. Wouldn't that
 3 be her reply to yours?
 4 A Yes, sir.
 5 Q Doctor, did you respond to Dr. Burton's reply?
 6 A It just says here, see attached letter, brings to
 7 light some of the issues about the events. I think
 8 that would have been -- apparently that's afterwards,
 9 1/27. No, that would have been before, so I don't
 10 recall whether or not I did reply to that, sir.
 11 Q Now, do you believe Dr. Burton didn't understand what
 12 was necessary to develop a program?
 13 A I don't know.
 14 MS. BENSKY: Object to form.
 15 BY MR. HAWKS:
 16 Q Had Dr. Burton -- had you any conversations with
 17 Dr. Burton prior to this note of October 24, the
 18 letter that you wrote on October 24, which is Exhibit
 19 6? Did you have any conversations with Dr. Burton
 20 about what it would take to establish a cyber crime
 21 program at UW Platteville?
 22 A I don't believe so.
 23 Q Well, did you not cooperate with Dr. Burton and
 24 others in the department for the NSF grant in the
 25 previous fall?

1 A I would have signed off on it, yes.
 2 Q And that grant was for a substantial amount of money,
 3 was it not?
 4 A I do not recall the dollar amount, no, I do not
 5 recall.
 6 Q You would have signed off on it, but you don't recall
 7 the dollar amount?
 8 A If my signature is required, I signed on it, yes,
 9 sir.
 10 Q But you don't recall the dollar amount?
 11 A No.
 12 Q Would it surprise you if it was in six-figure range?
 13 A No.
 14 Q Would it be the kind of funding that would be
 15 necessary or appropriate for the beginning of the
 16 establishment of a program?
 17 A I think that would depend on how the grant was broken
 18 down. If there would have been money allocated for
 19 that, then yes.
 20 Q But you don't recall whether or not the grant was
 21 broken down for money to establish a program even
 22 though you signed off on it?
 23 A That is correct.
 24 Q Did you and Dr. Burton and others in the department
 25 meet to discuss that grant?

1 A I don't recall.
 2 Q Were you ever present with Dean Throop and Dr. Burton
 3 for the purpose of discussing that grant?
 4 A I don't recall.
 5 Q To your recollection did Dean Throop support or
 6 oppose the application -- the effort -- initially the
 7 effort to craft or draft the request for the grant?
 8 MS. BENSKY: Object to form.
 9 BY MR. HAWKS:
 10 Q If you know.
 11 A If she signed off on it sir, I do not recall. If the
 12 grant went forward, I would assume she did sign it.
 13 (Exhibit 7 marked for identification.)
 14 BY MR. HAWKS:
 15 Q I believe you have before you what has been marked as
 16 Exhibit 7 for purposes of this deposition.
 17 A Yes.
 18 Q Have you seen this document before?
 19 A I think this is part of an earlier document.
 20 Q All right. And was this -- the aspect of this
 21 document that was mailed to you was timed at
 22 9:31:09 p.m.
 23 Do you see that?
 24 A 9:31, correct.
 25 Q And do you see that Dr. Burton is describing this as

1 a breach experiment?
 2 A It says here she knows what a breach experiment is.
 3 I do not believe the experiment was conducted well.
 4 It says, I was part of the experiment included in the
 5 human subject form.
 6 That was the previous e-mail as well, yes.
 7 Q And do you see there where Dr. Burton writes that the
 8 student feels violated?
 9 A Yes.
 10 Q Do you have any reason to believe that the student
 11 did not feel violated?
 12 A I never spoke to the student.
 13 Q Did you understand that the student felt violated by
 14 the supposed breach experiment?
 15 A That's what she's stating here.
 16 Q No one else said that to you? Did anyone else tell
 17 you or inform you what the student's emotional
 18 reaction to the so-called breach experiment was?
 19 A Not that I recall.
 20 Q Do you recall filing a response to a grievance that
 21 Dr. Burton filed against you?
 22 A Do you mean -- you'll have to clarify, I'm sorry.
 23 Q Do you recall a hearing that was conducted?
 24 A There was a hearing, yes.
 25 Q Do you recall testifying or providing a statement at

1 that hearing to a committee, faculty committee?
 2 A Yes, sir.
 3 Q Do you recall telling that committee that Dr. Burton
 4 did not attempt to communicate with you regarding
 5 this matter until late in the day the day after the
 6 breach experiment was conducted?
 7 A Do I recall saying that?
 8 Q Uh-huh.
 9 A No, sir, I do not.
 10 Q There is a record of that, right, audio record --
 11 A Yes, sir.
 12 Q -- of your statement during that? Would it surprise
 13 you if you read that record to learn that you had
 14 said that you hadn't been notified by Dr. Burton
 15 about this matter until late the day following?
 16 A If that's in the record.
 17 (Exhibit 8 marked for identification.)
 18 BY MR. HAWKS:
 19 Q Can you identify what has been marked as Exhibit 8,
 20 please?
 21 A It's an e-mail with a note where she attached a
 22 photograph of a note.
 23 Q Uh-huh. And although it's a very small picture, can
 24 you read the note?
 25 A Call me tonight and there's a phone number, looks

1 like a couple exclamation points there to the right
 2 side of the note.
 3 Q And the note is in handwritten form?
 4 A It's a handwritten note, yes.
 5 Q And do you understand that to be the note that was
 6 provided to the student by another faculty member?
 7 A This was a note that Dr. Burton handed to me about
 8 8:00 in the morning.
 9 Q So if you told -- if you testified to the committee
 10 or shared information with the committee that you had
 11 not been informed by Dr. Burton about this until late
 12 in the following day, that testimony would be
 13 untruthful, wouldn't that be correct?
 14 A The note was handed to me on the morning.
 15 Q Right, so -- and who handed you the note?
 16 A Dr. Burton.
 17 Q So Dr. Burton informed you first thing in the morning
 18 after the breach experiment about the contact with
 19 the student?
 20 A I believe, yes, there was probably some conversation
 21 along with the note.
 22 Q About 8:29 in the morning?
 23 A It was after eight, correct.
 24 Q The time stamp on this e-mail would be fairly
 25 accurate would you estimate?

1 A Yes.

2 Q Perhaps you can explain how that note, handwritten

3 note, two asterisks (as spoken), written by a faculty

4 member, given to a co-ed student in a class in the

5 presence of others amounts to any kind of breach

6 experiment or even example of how a breach experiment

7 might be conducted?

8 A Well, I took it as an example of how -- of a specific

9 type of experiment that they discussed during class

10 period.

11 Q Did you -- do you know that -- did you ever interview

12 the faculty member involved in this incident?

13 A Yes, sir.

14 Q What did he tell you?

15 A That it was part of a discussion in their research

16 method course about a particular type of experiment

17 that's designed to elicit a response from the person.

18 Q Did you share that information with anybody else,

19 what he shared with you?

20 A Honestly I don't recall, if we talked about that with

21 the HR director or not, I don't recall.

22 (Exhibit 9 marked for identification.)

23 BY MR. HAWKS:

24 Q I believe you have Exhibit 9 in front of you, Dr.

25 Caywood?

1 A Yes, sir.

2 Q Can you in your own words describe the content of

3 this document, please?

4 A It's -- it looks like it's -- part of it's an e-mail

5 that I had sent, and part of it is a response from

6 Ms. Durr, the director of HR.

7 Q And does she provide you any specific directions in

8 this letter?

9 A It says here to cease all further communication on

10 this topic.

11 Q Do you know why she directed you to cease further

12 communications on this topic?

13 A Because I was trying to speak to the student involved

14 to get her side of the story.

15 Q And didn't Dr. Burton share with you that the student

16 had expressed an interest in not speaking to any

17 males about this issue?

18 A I don't recall.

19 Q You see in this memo a direction to you from the

20 human resources director, Ms. Durr, that she did not

21 want there to be any perception that the university

22 was retaliating against one of its employees for

23 advocating or protecting the interest of the

24 students?

25 A That's what it says.

1 Q Had you discussed this issue with anybody else in the

2 department besides Dr. Burton by October 17, 2012?

3 A Concerning this e-mail?

4 Q No, concerning the student breach experiment between

5 the date it occurred, which is October 10 -- you

6 learned about it on October 11 -- and October 17,

7 please identify all people in the department with

8 whom you spoke about the breach experiment.

9 A I would have spoken to Dr. Gibson who was the

10 instructor of that course.

11 Q Uh-huh.

12 A And I don't recall if I spoke to anyone else or not.

13 Q Did you speak to Dr. Burton about it?

14 A I do not recall.

15 Q And do you know whether or not anybody -- strike

16 that.

17 The last two paragraphs of this memo, do

18 you know whether or not this is -- this was drafted

19 by Dr. -- or by Ms. Durr, or was it drafted by you?

20 A You're talking about the statement that says, All I'm

21 trying to do is determine what transpired and who was

22 involved.

23 Q Uh-huh.

24 A That is something I did, yes.

25 Q You see the next sentence, I was not made aware of

1 the note incident until 20 hours after it happened?

2 A Yes.

3 Q That obviously is untrue, isn't it?

4 A The note, I didn't get the note until the following

5 day on the morning of whatever at 8:29 or whenever

6 the time frame was. That's when she handed me the

7 note.

8 Q Which is much sooner than 20 hours after the

9 incident, isn't it?

10 MS. BENSKY: Objection. There's no

11 evidence as to when the note was given to the

12 student.

13 BY MR. HAWKS:

14 Q Do you know when the note was given to the student?

15 A I would make -- probably during the class period of

16 the day before this, and I cannot tell you what time

17 those classes met.

18 Q You note -- your statement next is that numerous

19 others were notified well before I was. Who were the

20 others that were notified before you were?

21 A The dean, and I think there was possibly another

22 faculty member that was involved in that as well.

23 Q Can you elaborate on that?

24 A Aric Dutelle I believe was there at the time when he

25 had discussion with Dr. Burton about the note and

1 tried to find me and I wasn't there.
 2 Q Anybody else?
 3 A Not that I'm aware of.
 4 Q If Dutelle learned about it, it was only because they
 5 were attempting to find you and couldn't; is that
 6 correct?
 7 A Well, you'll have to ask him.
 8 Q All right.
 9 A I don't know the extent of the conversation.
 10 Q Why do you -- what information do you have that leads
 11 you to believe that Dutelle was informed by Burton
 12 about this and that they were looking for you?
 13 A Because it was brought to my attention the next day.
 14 Q By whom?
 15 A Maybe Dr. Burton, I don't remember. You can ask her.
 16 Q All right. So other than dean -- the dean and
 17 possibly Dutelle, is there anybody else among the
 18 numerous others that were informed about this before
 19 you were?
 20 A Well, if the director of HR was involved with it, I'm
 21 sure she's included as well. I don't recall all the
 22 people involved in those e-mails.
 23 Q Let's go back over the timing though. You received
 24 an e-mail from Dr. Burton at eight -- approximately
 25 8:45 or so the morning after the day of the incident,

1 like to know who are the other -- numerous others
 2 that learned about this before you did?
 3 A Oh, I don't know. Maybe I was in error of saying
 4 numerous others.
 5 (Exhibit 10 marked for identification.)
 6 BY MR. HAWKS:
 7 Q I'm showing you what has been marked as Exhibit 10.
 8 You have it before you, Dr. Caywood. Do you
 9 recognize that portion of this exhibit that you
 10 crafted?
 11 A Yes.
 12 Q And so this is sent at about a little after noon on
 13 the day following the incident, correct?
 14 A Correct.
 15 Q And this is a note you sent to Dr. Burton?
 16 A Yes.
 17 Q And you -- this is when you communicate to her that
 18 you've spoken to Dr. Gibson and learned that this was
 19 a breach experiment, correct?
 20 A Yes, sir.
 21 Q You state in here that you suggested he e-mail
 22 everyone in both classes to explain what he did and
 23 why he did it?
 24 A Yes.
 25 Q Did you follow up to determine whether he complied

1 correct?
 2 A Are you referring to Exhibit 8?
 3 Q Yes, I am.
 4 A Well, that's what it says, about 8:29 a.m. That's
 5 the attachment, and this is a picture of the
 6 attachment.
 7 Q And that is when you were informed by Dr. Burton of
 8 the incident, is it not?
 9 A I don't recall if there was any e-mails prior to
 10 that. I do not. This is the first time I saw the
 11 note.
 12 Q So the incident occurred on the prior day, right? Do
 13 you know when -- do you know -- strike those muttered
 14 words.
 15 Do you know when Dr. Burton spoke to the
 16 dean about this?
 17 A I think there was an e-mail on Wednesday evening when
 18 that was brought to the dean's attention.
 19 Q So do you know when -- do you know whether between
 20 that evening when it's brought to the dean's
 21 attention and the next morning when it's brought to
 22 your attention who the numerous others were that were
 23 notified about this incident? So I've got the dean
 24 and we've got Dutelle. We've got a time span of the
 25 evening before to the morning following. And I'd

1 with your recommendation?
 2 A I'm aware that he did send an e-mail to both sections
 3 of that class.
 4 Q Do you -- were you carbon copied on that e-mail?
 5 A I don't recall.
 6 Q I don't believe we've received anything from the
 7 university that would include that e-mail?
 8 MS. BENSKEY: I'll look for it. I don't
 9 know if it was requested.
 10 BY MR. HAWKS:
 11 Q Did it ever cross your mind that Dr. Gibson was not
 12 being truthful when he described this as a breach
 13 experiment?
 14 A Do I think Dr. Gibson was not truthful?
 15 Q Did you consider the possibility that Dr. Gibson was
 16 not truthful when he described this as a breach
 17 experiment?
 18 A No, I did not consider that.
 19 (Exhibit 11 marked for identification.)
 20 BY MR. HAWKS:
 21 Q Dr. Caywood, I believe you have Exhibit 11 in front
 22 of you?
 23 A Yes, sir.
 24 Q And I believe this is an e-mail from you to the other
 25 members of the criminal justice department at

1 Platteville approximately five days -- or six days
 2 after the incident involving the breach experiment.
 3 Is that fair?
 4 A Yes, sir.
 5 Q And it attaches a statement on how the department
 6 should deal with student complaints; is that
 7 accurate?
 8 A That's what it says.
 9 Q Do you recall the contents of that attachment?
 10 A Not specifically.
 11 Q Doesn't that attachment direct the department to
 12 bring student complaints to the chair and not outside
 13 the department?
 14 A I don't recall. If you have a copy, I'd like to look
 15 at it.
 16 Q By the way, did you inquire of Dr. Gibson as to
 17 whether or not he instructed the students in these
 18 classes about what is necessary to be able to conduct
 19 a breach experiment?
 20 A No, sir, it was stated on the syllabus that they
 21 would discuss that in class, but I don't know
 22 specifics of what he said or talked about during his
 23 class.
 24 (Exhibits 12 and 13 marked for
 25 identification.)

1 BY MR. HAWKS:
 2 Q I believe that is marked as Exhibit 13 that you have
 3 in front of you?
 4 MS. BENSKY: 12?
 5 MR. HAWKS: 12 I had marked and then pulled
 6 it back.
 7 MS. BENSKY: Okay.
 8 BY MR. HAWKS:
 9 Q Did you sign this document?
 10 A Yes, sir.
 11 Q And is this the letter of guarantee for grant
 12 application for a sabbatical for Dr. Burton in the
 13 spring of 2011?
 14 A It's dated April 1, 2011.
 15 Q And does this specify that Dr. Burton will not be
 16 called upon to serve in faculty governance or service
 17 activity which conflicts with project work?
 18 A Item three says that.
 19 Q And didn't you assign Dr. Burton certain projects
 20 related to faculty governance or service activities
 21 which did conflict with the project work she was
 22 undertaking under this grant?
 23 A What is it that you're referring to?
 24 Q During this grant period Dr. Burton was not to be
 25 called upon to serve in faculty governance or service

1 activities which conflicts with project work; isn't
 2 that true?
 3 A That's what it says, yes, sir.
 4 Q And during this time didn't you assign her nearly 60
 5 advisees?
 6 A She also had taught an overload during that semester
 7 as well.
 8 Q Didn't you assign her to take on 60 advisees during
 9 that semester?
 10 A I would assume so, yes.
 11 Q Don't you believe that would conflict with her
 12 project work?
 13 A I didn't see that at the time, no.
 14 (Exhibit 14 marked for identification.)
 15 BY MR. HAWKS:
 16 Q Do you have Exhibit 14 in front of you?
 17 A Yes, sir.
 18 Q Do you want another minute to review it?
 19 A Please. Can I have -- I believe I've got copies of
 20 the same thing. Two copies.
 21 Q Should be one -- one's for Anne and one's for you?
 22 MS. BENSKY: You gave me something -- it's
 23 in a different font, what I have.
 24 MR. HAWKS: Can I see, Anne?
 25 MS. BENSKY: This is what's marked.

1 THE WITNESS: Okay.
 2 BY MR. HAWKS:
 3 Q So can you describe the issue that is addressed by
 4 this series of e-mail?
 5 A It was dealing with Dr. Burton's development of a
 6 graduate course and submitting that graduate course
 7 to the graduate council for approval.
 8 Q And did the graduate council approve the course?
 9 A I believe so, yes.
 10 Q And did you require though Dr. Burton to make changes
 11 to the draft?
 12 A I think I suggested she make changes. It's up to
 13 her.
 14 Q And did you attribute to a man named Dave --
 15 A Yeah, Dr. --
 16 Q -- objections to her proposal?
 17 A Yes, sir.
 18 Q And did you subsequently learn that Dave had not had
 19 objections to her proposal?
 20 A Well, I believe that you see there at the first page
 21 of that that he was replying to some of them because
 22 I had spoken to Dave prior to this about the
 23 development of the course.
 24 Q And what did you say to Dave?
 25 A Doctor -- okay, Dave is Dr. David VanBuren. He is

1 the dean of the graduate school. He was also a
 2 member of the criminal justice department. On the
 3 proposal for a graduate level course there was some
 4 issues about some of the wording and so forth, and we
 5 were trying to get it to a state that that would be
 6 approved by the people at the graduate council. So I
 7 believe I was making some suggestions that she make
 8 some changes.

9 Q Did Dave though intend to communicate to you that he
 10 had objections to the course?

11 MS. BENSKY: Object to form.

12 MR. HAWKS: You can take as much time as
 13 you need.

14 THE WITNESS: It says here he expressed
 15 some concerns about some of the wording in the
 16 proposal.

17 BY MR. HAWKS:

18 Q He communicated -- do you recall what his concerns
 19 were?

20 A It says here he expressed concerns about the
 21 references to training and areas of the document that
 22 seem to allude to a technical side of computer
 23 science issues. If you want me to read the rest of
 24 it I will.

25 Q That's not necessary. And what did you communicate

1 with him? What did you say to --

2 A I think --

3 Q -- Dave?

4 A -- that we talked about the content and the wording
 5 of that proposal. It was going to the graduate
 6 council which is comprised of all the faculty members
 7 that are involved in the graduate program. This is
 8 her first attempt to get a course approved at any
 9 level, and we wanted to make sure that it would get
 10 through the graduate council without objections.

11 Q And didn't you at some point in time question
 12 Dr. Burton's expertise in this area?

13 A If you say so.

14 Q Well, do you recall questioning Dr. Burton's
 15 expertise with regard to particularly encryption?

16 A I think there was some allusion to the fact that
 17 there was some mentioning of encryption, and I wasn't
 18 aware that she had expertise in the area of
 19 encryption.

20 Q Did she inform you she did have expertise in the area
 21 of encryption?

22 A I just don't recall. Maybe she did.

23 Q I'm just going to have you identify several documents
 24 for us, please.

25 (Exhibit 15 marked for identification.)

1 BY MR. HAWKS:

2 Q Dr. Caywood, I believe you have Exhibit 15 in front
 3 of you. Can you identify this document, please?

4 A Yes, sir. The first piece of paper is a memo from
 5 Kory Wein, the chair of the Liberal Arts Education
 6 CRST committee to Lorne Gibson about reappointment on
 7 that. And then the second page then is my letter as
 8 a department chair to the chairman of the LA&E CRST
 9 committee concurring with the DRB's recommendation
 10 for retention and merit pay for Lorne Gibson. And
 11 I'm sorry, there's a third letter from Elizabeth
 12 Gates who was the chairperson of the department's DRB
 13 dated January 17, 2013, recommending retention and
 14 merit pay for Lorne Gibson.

15 Q And you signed off on the first page of this
 16 three-page exhibit, and you authored the second page
 17 of this three-page exhibit?

18 A I did not sign off on that because that is a document
 19 from the CRST. That goes in the faculty member's
 20 file.

21 Q With reference to the first page of the three-page
 22 exhibit?

23 A The second page is my recommendation. The third page
 24 is the chair of the DRB's recommendation. And all of
 25 those would be in his folder.

1 Q In your recommendation do you make any mention of the
 2 breach experiment?

3 A No, sir.

4 Q In your opinion did Dr. Gibson conduct himself
 5 appropriately or inappropriately with regard to the
 6 breach experiment?

7 A Personally I believe he was in his right as an
 8 instructor of that course to talk about that
 9 particular type of experiment during the course.

10 Q Just to be clear, he was within his right to give a
 11 female student a handwritten note that asked her to
 12 call him on his cell phone after class?

13 A As part of this type of experiment.

14 Q So the answer is yes, it is -- he acted appropriately
 15 in your judgment; is that correct?

16 A Yes, sir.

17 (Exhibit 16 marked for identification.)

18 BY MR. HAWKS:

19 Q Do you have Exhibit 16 in front of you?

20 A Yes, sir.

21 Q And can you describe that document, please?

22 A It is a letter from me as chairman of the criminal
 23 justice department to the Liberal Arts and
 24 Education's college rank, salary, and tenure
 25 committee recommendation for retention and promotion

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1 for -- of Sabina Burton.

2 Q And what is the date on this?

3 A January 19, 2012.

4 Q And what do you say with regard to whether she met or

5 exceeded all requirements for promotion to associate?

6 Let me refer your attention to the last --

7 sentence of the second to last paragraph.

8 A She exceeds all requirements for promotion to

9 associate.

10 Q You go on to say, well liked by the students,

11 respected by her peers, solid performer -- and a

12 solid performer; is that correct?

13 A That is correct.

14 Q That is the opinion you held at that time?

15 A Yes, sir.

16 Q And I have extra copies of these, but I have to

17 locate them at another time.

18 (Exhibit 17 marked for identification.)

19 BY MR. HAWKS:

20 Q Do you recognize that document, Dr. Caywood? I

21 believe that's Exhibit 17, is it?

22 A Exhibit 17, yes, sir. And yes, I see, this as Aric

23 Dutelle's resume.

24 Q I'm showing you what's been previously marked as

25 Exhibit 12.

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1 A All right.

2 Q Have you seen that document before?

3 A Yes, sir.

4 Q Did you draft that document?

5 A Yes, sir.

6 Q And in what -- for what purpose did you draft that

7 document?

8 A Well, I lay out here basically the story of the

9 department's history and how we got to whatever point

10 it was where that program had developed, how it

11 developed through the years, and where we were at

12 that particular juncture in time.

13 Q Is this not your response to a grievance filed

14 against you by Dr. Burton?

15 A Well, there's no date on that, but I think I sent

16 part of this out to the department so everyone would

17 understand where we came from. There's a lot of

18 people in the department at this time that were not

19 there when -- when the first part of this document

20 talks about, the creation of the FI program.

21 Q Doesn't the latter part of the document address

22 specific complaints Dr. Burton leveled against you?

23 A This would have been I imagine in response, yes, to

24 that.

25 Q And do you recollect when that grievance was filed?

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1 A The specific date, no, sir, I don't recall.

2 Q Do you believe it would have been in the second

3 semester of the 2012-2013 school year?

4 A It could have been. Here's some e-mails dated during

5 the fall semester of 2012, so that grievance hearing

6 may have been after that, yes.

7 Q Do you find in that -- in that exhibit you write, and

8 I quote, an excellent example of my support of Sabina

9 was her decision to give a graduate students a D on

10 his seminar paper even though Dr. Fuller was

11 pressuring her to change it to a passing grade.

12 A Yes, sir.

13 Q Why did you provide Dr. Burton with that support?

14 A She was the instructor for that course, and she

15 assigned a D to that student and I agreed with her.

16 It's her course, her student. I was just supporting

17 a faculty member.

18 Q Why in your opinion do you believe she needed to have

19 your support?

20 A Well, it looked to me like she was under attack,

21 pressure from Cheryl to change the grade.

22 Q Did Dr. Burton ask you for that support?

23 A I don't think so.

24 Q You also write in context of that sentence, I did not

25 even look at the paper.

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1 Do I fairly state that sentence?

2 A I did not read his paper, no, sir.

3 Q How could you know if Dr. Burton had fairly graded

4 that student if you had not read the paper?

5 A I was not questioning her assignment of grade. If

6 she gave the man a D, I supported her for giving that

7 grade. I wasn't going to read it or ask her to

8 change the grade. She gave him the grade she thought

9 he deserved.

10 Q Would it be fair to say that you accepted Gibson's

11 statement for the breach experiment as a defense to

12 what would be an essential harassment case without

13 first understanding the facts of the breach?

14 MS. BENSKY: Object to form.

15 BY MR. HAWKS:

16 Q You can answer the question.

17 MS. BENSKY: If you understand the

18 question, answer.

19 THE WITNESS: You're going to have to

20 repeat it.

21 BY MR. HAWKS:

22 Q Did you, similarly to not reviewing the paper that

23 Dr. Burton's student had prepared, accepting

24 Dr. Burton's judgment without question, without

25 challenge, when referring or reviewing the Gibson

1 behavior in the breach experiment not look at the
 2 balance of the facts in that case?
 3 MS. BENSKY: Same objection.
 4 THE WITNESS: I based my decision on the
 5 facts I had at hand. I never spoke to the student.
 6 I did not know her side of the story. I wasn't
 7 allowed to talk to the student. I just went on what
 8 Dr. Gibson told me.
 9 BY MR. HAWKS:
 10 Q In that exhibit there's a paragraph that finishes
 11 with the sentence, Nowhere in our handbook does it
 12 say that HR gets involved in faculty governance
 13 issues.
 14 A Are you referring to Exhibit 12?
 15 Q Yes, I am.
 16 A Okay.
 17 MS. BENSKY: Can you tell him where the
 18 sentence is?
 19 MR. HAWKS: I don't have a copy of that.
 20 THE WITNESS: I'll find it here.
 21 MS. BENSKY: It's on page four, the second
 22 paragraph.
 23 THE WITNESS: That is correct, dealing with
 24 faculty governance issues.
 25 BY MR. HAWKS:

1 Q Although you had made it clear on the department,
 2 haven't you, that you did not want work matters
 3 brought up to you in the evening hours?
 4 A I don't recall saying that.
 5 MR. HAWKS: Would you have any objection if
 6 we took about a ten-minute break?
 7 MS. BENSKY: No.
 8 (Recess taken from 11:38 to 11:52 a.m.)
 9 BY MR. HAWKS:
 10 Q Dr. Caywood, do you recall a meeting between Dean
 11 Throop, you, Ms. Durr, and Dr. Gibson on October 16,
 12 2012, at 8:30 in the morning?
 13 A Yes, sir.
 14 Q Who called that meeting?
 15 A I don't recall.
 16 Q What was discussed at that meeting?
 17 A I cannot tell you verbatim what was discussed.
 18 Q Give me the general --
 19 A I think it had to deal with this incident with the
 20 student.
 21 Q The sum and substance of what you can recall?
 22 A Again, I can't recall everything. I know it dealt
 23 with this incident.
 24 Q Did others express an opinion as to whether or not
 25 Dr. Gibson's note was appropriate or inappropriate at

1 Q So were you attempting to say that the student
 2 complaint was a faculty governance issue?
 3 A No, sir, that's not -- this is dealing with a faculty
 4 member filing a grievance against another member of
 5 the university.
 6 Q And your opinion is that when a faculty member files
 7 a grievance or raises an issue of retaliation in
 8 context of reporting the student breach experiment
 9 incident, HR has no role in that process?
 10 A Not according to faculty governance handbook. And
 11 it's pretty specific in how a grievance or a
 12 complaint is handled.
 13 Q And a grievance or complaint by a faculty member?
 14 A By anyone, I believe. Now, you'll have to go back
 15 and refer to it. I can't recall word for word.
 16 Q By the way, jumping backwards a little bit, do you
 17 think that Dr. Burton made a mistake by waiting until
 18 8:15 the following morning to inform you of the
 19 incident?
 20 A I can't answer that. She just -- apparently that's
 21 the first time I saw her since the incident occurred.
 22 Q So in your opinion she did or did not make a mistake
 23 by waiting until 8:15 to inform you of this matter?
 24 A If she'd contacted -- she could have called me that
 25 evening or that afternoon the incident occurred.

1 that meeting, if you recall?
 2 A I do not recall.
 3 Q Do you recall how long the meeting lasted?
 4 A No, sir.
 5 Q Do you recall where it was held?
 6 A I would imagine it was probably in the HR director's
 7 office. I can't be specific.
 8 Q Do you recall in the grievance hearing in response to
 9 Dr. Burton's grievance against you that -- having
 10 said, and I quote -- I don't quote, having said that
 11 with regard to your handling of the student
 12 complaint, you handled it, quote, poorly and probably
 13 very poorly, closed quote?
 14 A Yes.
 15 Q Please tell us what you think you did very poorly in
 16 handling the student complaint?
 17 A I don't believe there was any specific guidelines or
 18 instructions on how a department chair should deal
 19 with a situation like that, and that's why I think --
 20 well, the outcome obviously was not -- you know,
 21 indicating that we didn't handle it correctly.
 22 Q What outcome?
 23 A Well, I mean, you know, the whole procedure where we
 24 went -- you know, where I was told to stop and not
 25 have any contact with the student. I didn't. And

1 that's what I'm referring to.
 2 Q So is the fact that you did not have contact with the
 3 student is how you handled it very poorly?
 4 A No, I just think I didn't -- if I had my druthers and
 5 I could do it again and I would have instructions
 6 from HR on how to do something, I think it probably
 7 would have been handled differently, or it would have
 8 been handled differently.
 9 Q To whom did the student actually complain?
 10 A I don't know.
 11 Q Would it surprise you that the student complained to
 12 academic affairs or student affairs, not to HR?
 13 A Sir, I don't know. I don't know the sequence of
 14 anything of how that transpired.
 15 Q What resources do you have to acquire advice or
 16 direction? Where would you go in the absence of
 17 written instructions on how to handle such events
 18 like this?
 19 A Probably would talk to the dean.
 20 Q Which in fact that's what Dr. Burton did, right?
 21 A If you say so. In the e-mail she notified the dean,
 22 yes.
 23 Q The dean talked to you, right? You met with the dean
 24 about this incident?
 25 A Yes.

1 Q You can't say the way you handled it?
 2 A The way I handled it.
 3 Q Do you believe that you owe Dr. Burton an apology for
 4 the way you handled the student complaint issue?
 5 A After the fact probably.
 6 Q Do you think Dr. Gibson owes an apology to
 7 Dr. Burton?
 8 A That's up to Dr. Gibson.
 9 Q Just in terms of weighing the relative behavior of
 10 Gibson and Burton, would you say that Gibson or
 11 Burton acted more inappropriately in this incident?
 12 MS. BENSKY: Object to form, calls for
 13 speculation.
 14 THE WITNESS: Yeah.
 15 BY MR. HAWKS:
 16 Q All right. Do you think Dr. Burton acted
 17 inappropriately in any way with regard to the breach
 18 experiment?
 19 A I'm not sure.
 20 Q What makes you unsure?
 21 A Well, as I said previously, there was no guidelines
 22 that I was aware of of how this should be handled.
 23 She contacted -- my understanding is that she
 24 contacted the dean. I'm not sure whether she
 25 contacted HR. I'm not sure. But after the fact I

1 Q And the dean probably mentioned Dr. Burton at some
 2 point during that conversation, don't you think?
 3 A Possibly.
 4 Q So is there anything other than the fact that you
 5 didn't talk to the student that you believe you
 6 handled very poorly in this process?
 7 A See, there was -- as far as I was aware of, there was
 8 no procedure that you needed to do this, this, this,
 9 this, and this if there's a student complaint. And I
 10 don't believe there was anything that I was aware of
 11 that laid that out.
 12 Q The fact that there is no procedure is not a
 13 responsibility of yours, is it? You don't have --
 14 you do not have the responsibility to create a
 15 procedure to handle a situation like this, do you?
 16 A That should be handled by someone else.
 17 Q Okay. So the fact that there's no procedure isn't
 18 something you could have done very poorly, would you
 19 agree with me?
 20 A There's no procedure to follow, so correct.
 21 Q Good. So I repeat the question I asked earlier, what
 22 is it that you did or failed to do that you in your
 23 judgment reflected very poorly on you personally?
 24 A I just think the way it was handled, that's the best
 25 I can say.

1 learned that that's the appropriate response, so I
 2 think she acted correctly.
 3 Q Do you believe that Dr. Burton during her tenure at
 4 UW Platteville has acted in a manner that's contrary
 5 to policy or bylaws of the organization -- of the
 6 university?
 7 A Do you have a specific example?
 8 Q I'm asking you.
 9 A I don't believe so.
 10 Q In your grievance rebuttal, the exhibit that we
 11 referred to previously.
 12 A 12?
 13 Q Yes.
 14 A Okay.
 15 Q You wrote that, quote, I took this as a veiled
 16 threat, closed quote, in response to Dr. Burton
 17 informing you that she had other job prospects.
 18 MS. BENSKY: What page is that on?
 19 BY MR. HAWKS:
 20 Q I'll call it up here, do a quick search. It is on
 21 page four at the bottom in a paragraph that begins,
 22 E-mail A is a series of e-mails between Sabina. My
 23 reply in part two explains how interns are divided
 24 up. I also replied if opportunities were available,
 25 elsewhere I wished her the best. I took this as a

1 veiled threat.
 2 To what are you referring?
 3 A The statement that she had a job or could find a job
 4 elsewhere.
 5 Q And how is that threatening?
 6 A A lot of times, you know, faculty -- if this was -- I
 7 think this had to do with the interns and how those
 8 interns were divided up. And if I remember
 9 correctly, she may have had a couple of interns that
 10 were assigned to her drop out or not sign up for the
 11 course, which then she lost money. She wouldn't have
 12 got paid as much as the other faculty members having
 13 the same number of interns.
 14 And to me when she talked about she had
 15 these unsolicited job offers elsewhere, I just take
 16 that, you know, if I don't get what I want, I can
 17 leave, and wish them the best. If they want to go
 18 somewhere else then, you know, I'm happy for them.
 19 Q But it's not a threat, every faculty member has that
 20 prerogative, correct?
 21 A Well, sure, yeah.
 22 Q Did Dr. Nemmetz once say something similar to you,
 23 that she had job opportunities elsewhere?
 24 A I don't know. Where is that at?
 25 Q I'm just asking you based upon your memory.

1 A Oh, sorry, I don't remember.
 2 Q Wouldn't it be fair to say that when Mr. Dutelle made
 3 similar comments about having job opportunities
 4 elsewhere, he was awarded two years towards tenure in
 5 order to keep him around?
 6 A Tenure was -- that years towards tenure was given to
 7 him by the provost. I had nothing to do with that.
 8 Q Do you know what the provost's motives were? Only
 9 answer if you know.
 10 A No, sir.
 11 Q Also in Exhibit 12 you wrote -- again, I can do a
 12 search here in the document in a second -- you wrote,
 13 Sabina's actions harken back to what she told my wife
 14 last summer.
 15 MS. BENSKY: Bottom of page four, top of
 16 page five.
 17 THE WITNESS: Okay. Second point. All
 18 right.
 19 BY MR. HAWKS:
 20 Q What were you saying, or what did you believe
 21 Dr. Burton had told your wife to which you're
 22 referring to in this quote?
 23 A That she would start acting like Cheryl Fuller to get
 24 what she wanted.
 25 Q And how did Cheryl Fuller act in order to get what

1 she wanted?
 2 A In a specific instance?
 3 Q An example would suffice.
 4 A There was contention between who she was supposed to
 5 report to. The Board of Regents gave the criminal
 6 justice department at UW Platteville a master's
 7 program. That master's program was housed within the
 8 criminal justice department. At that time there were
 9 two other graduate programs. One was Project
 10 Management. The third was Engineering. All three
 11 master's programs.
 12 Project Management does not have an
 13 undergraduate component, and so the director of
 14 Project Management would report to the dean of BILSA,
 15 business, industry, life science, and agriculture.
 16 That was the college that Project Management was in.
 17 Engineering, that engineering program, the
 18 master's in engineering was the same way. Lisa ran
 19 that, reported to the dean of EMS, engineering, math,
 20 and science.
 21 Our program was the only one where the
 22 director of that graduate program reported to the
 23 department chair. Cheryl thought that she should be
 24 like the others and report straight to the dean. And
 25 you can read all the problems we had. It came down

1 to the point where the provost told Cheryl that she
 2 would have to report to the chair of the department,
 3 which then Cheryl immediately went upstairs to the
 4 provost's office and threw a fit. And the provost
 5 relented, because she came down shortly
 6 thereafter and told me what had happened and
 7 that she had let Cheryl report to the dean.
 8 Q The provost did?
 9 A The provost did, yes.
 10 Q That would be --
 11 A Nimocks was the provost, yes. Now, she was the dean
 12 of the college before that.
 13 Q You say that she threw a fit and she got what she
 14 wanted?
 15 A Yes.
 16 Q What sort of fit did she throw?
 17 A Well, I think you really need to clarify that with
 18 the provost or Dr. Fuller but ...
 19 Q What was told to you by the provost?
 20 A It was kind of a screaming, bucking, crying, cussing
 21 fit.
 22 Q And did Dr. Fuller threaten any sort of action
 23 against the university? Did Dr. Fuller to your
 24 knowledge threaten to sue the university for
 25 discrimination of employment for example?

1 A Not that I'm aware of.
 2 Q No one ever said anything to you that that was the
 3 case?
 4 A Not that I'm aware of.
 5 Q I hesitate to try to quote your description of the
 6 fit. It was colorful. But has Dr. Burton thrown a
 7 crying, cussing fit in order to get what she wants?
 8 A To me, no.
 9 Q So what is it about Dr. Burton's actions that you
 10 believe harken back to what she told your wife last
 11 summer?
 12 A Well, that she would do what was necessary to get her
 13 way.
 14 Q Including filing a grievance or bringing a complaint
 15 of retaliation against the university?
 16 A Filing a grievance is her right under the faculty
 17 governance. And she thought she had a case and she
 18 filed a grievance.
 19 Q And is that what you were suggesting was Dr. Burton's
 20 behavior that she had shared with your wife the
 21 previous summer?
 22 MS. BENSKY: I think this mischaracterizes
 23 this.
 24 BY MR. HAWKS:
 25 Q I'll rephrase the question. By the way, I assume you

1 know what Dr. Burton told your wife only on the basis
 2 of what your wife said Dr. Burton said; is that
 3 correct?
 4 A Yes. It was heard by her husband as well.
 5 Q As by --
 6 A Roger.
 7 Q Mr. Burton?
 8 A Yes.
 9 Q Also in **Exhibit 12** you wrote, The problems arise when
 10 I question what she is doing or try to suggest
 11 changes or to try to correct her when she has made
 12 false claims.
 13 Do you see that sentence? And if you
 14 don't, I can do a search to locate it.
 15 So this would be on page nine. Yeah, it's
 16 on page nine toward the bottom in the paragraph that
 17 begins, The problems arise when I question.
 18 A All right.
 19 Q You see that?
 20 A Yes, sir.
 21 Q What false claims did Dr. Burton make?
 22 A In reference to the AT&T grant, is that what you're
 23 alluding to?
 24 Q I'm asking you to tell me what you meant when you
 25 said this thing.

1 A The AT&T grant, those initial earlier revisions,
 2 again, I don't recall what the final statement was,
 3 but it had to make the statements about having a
 4 cyber crime program.
 5 Q I think that was a draft though, correct? She didn't
 6 make a false claim in that draft; she didn't write
 7 the draft either, did she?
 8 MS. BENSKY: Object to form.
 9 BY MR. HAWKS:
 10 Q And the answer to my question was?
 11 MS. BENSKY: You're assuming he has
 12 information about this particular incident that he
 13 has not discussed.
 14 BY MR. HAWKS:
 15 Q Let me probe a little bit on that then. Do you know
 16 who drafted the press release?
 17 A No, sir.
 18 Q Do you know -- so you don't even know that Dr. Burton
 19 drafted the press release, do you?
 20 A I just said I don't know who drafted the release,
 21 sir.
 22 Q Yet you believe she was the one who made a false
 23 claim in the draft. You must believe something --
 24 A They got the information from somewhere, and you
 25 would have to make the leap that she provided that

1 information about the websites and so forth.
 2 Q But you would agree that is a leap?
 3 A Yes, sir.
 4 Q In fact, the notion that there would be a cyber crime
 5 program had been common parlance for as long as eight
 6 months at that point; isn't that true?
 7 A It had been talked about, yes.
 8 Q So she was using the same language that other people
 9 in the department would have been using about this
 10 project, it would have been a program -- everyone
 11 knowing it wasn't a program yet but looking at it?
 12 A It's possible, yes, may have been.
 13 Q So that can't be a false claim, can it?
 14 A If you say so.
 15 Q What else might she have said or done to which you
 16 refer when you say she made false claims?
 17 A I cannot recall specific instances.
 18 Q You also write in this exhibit, So long as she gets
 19 what she wants, there are no problems.
 20 A That's what it says.
 21 Q And what is it that she wanted that she did not get?
 22 A Well, I would say here that -- at the continuation of
 23 that paragraph you would also see here where those
 24 e-mails that were sent to the dean and so forth, and
 25 here I was told again by the dean not to respond.

Page 60	Page 62
<p>1 And when I was instructed not to respond to her 2 e-mails, I did not respond to her e-mails. 3 Q Well, in fact, in that case she didn't get what she 4 wanted. She wanted your response, correct? 5 A I don't know. You would have to look at that 6 Exhibit H. 7 Q Isn't what Sabina Burton wanted was relief from what 8 she perceived to be retaliation? 9 MS. BENSKY: Object to form. 10 THE WITNESS: I can't answer that question. 11 BY MR. HAWKS: 12 Q She filed a grievance, Dr. Caywood. 13 A Uh-uh. 14 Q And in the grievance she asked for a remedy, did she 15 not? 16 A I'll have to look at the documents. 17 Q Assume for the purpose of this question that she 18 asked for a remedy as part of the grievance. 19 A All right. 20 Q Would you also agree with me that's a fair 21 description of what she wanted? 22 MS. BENSKY: Object. He just answered that 23 he didn't have the grievance in front of him. He 24 doesn't remember. 25 MR. HAWKS: Let's take a short break, and</p>	<p>1 faculty member directly, yes, sir, that's the first 2 one. 3 Q And then but if the student has a complaint about 4 what the faculty or staff member did in class, then 5 the student is to come to the chair immediately, you, 6 in this case? 7 A Yes, number two, yes. 8 Q And then if a faculty member has committed -- have 9 reason to believe the faculty member has committed a 10 crime, report it immediately to campus police? 11 A That's No. 3, yes, sir. 12 Q But even then you would appreciate receiving an 13 e-mail to communicate that information? 14 A Some notification, yes. 15 Q Now, in this case though Dr. Burton didn't follow 16 this course of conduct -- this course of action, did 17 she? She didn't tell the student to go to you, she 18 told the student to go to student affairs? 19 A I'm not sure. I think you mentioned that earlier. 20 If that was the sequence, then that's the sequence. 21 Q But you knew the student didn't come to you first, 22 didn't you? 23 A Yes. 24 Q And you knew the student had been directed by 25 Dr. Burton, didn't you?</p>
<p>Page 61</p> <p>1 I'll see if I can retrieve the grievance for him from 2 the file and we'll go from there. 3 Actually we're at quarter after 12. Shall 4 we take a break for lunch? 5 MS. BENSKY: That's fine. 6 (Lunch recess taken from 12:15 to 1:02 7 p.m.) 8 (Exhibit 18 marked for identification.) 9 BY MR. HAWKS: 10 Q Dr. Caywood, we retrieved a couple of documents from 11 the file related to questions and answers previously 12 made in your testimony. Do you have Exhibit 18 in 13 front of you? 14 A Yes, sir. 15 Q And do you recognize this document? 16 A Yes, sir. 17 Q And can you summarize the content of this document 18 for the record, please. 19 A It looks like a memo I sent out about if a student 20 had come to a faculty member about another faculty or 21 staff member, what would be the appropriate steps to 22 take. 23 Q And does this procedure begin with having the student 24 contact the faculty member to resolve the problem? 25 A If it's appropriate, the student should contact the</p>	<p>Page 63</p> <p>1 A I know Dr. Burton got the note, and I'm not sure what 2 context of conversations transpired between those two 3 individuals. 4 Q But you know that she got it and referred it to 5 someone else other than you? 6 A You said earlier I think that the student went to the 7 student affairs. I believe maybe that's it. 8 Q Doctor, I'm showing you what, again, is Exhibit 8, so 9 that's a communication that you received with the 10 note from Dr. Burton in the morning of the next day, 11 and it advises you that the student is very 12 uncomfortable around Dr. Gibson, does it not? 13 A Yes, sir. 14 Q And then later that day you received further 15 information from the dean including the dean 16 regarding the matter, correct? 17 A Are you referring to Exhibit 7? 18 Q Yes, I am. 19 A All right. And your question? 20 Q And my question is by virtue of receipt of that 21 exhibit, you knew that the student had gone to 22 someone other than you initially? 23 A Yes, sir. 24 Q All right. And that is a -- what date is that? 25 A We have one here, October 11 at 11:01 p.m.</p>

1 Q All right.

2 A And I think from Sabina, this was 11 October at

3 9:30 p.m.

4 Q So when you drafted the October 16, 2012, directions

5 for how these matters are to be handled in the

6 future, you knew -- particularly with regard to item

7 No. 2, you knew that Dr. Burton had acted in a manner

8 contrary to your directions in item No. 2, correct?

9 A This is afterwards.

10 Q I understand that.

11 A Yeah.

12 Q So you knew at the time you drafted this that

13 Dr. Burton had acted in a manner contrary to the

14 directions of item No. 2?

15 A Okay. This is about a week after on that, yeah.

16 Q That's a yes?

17 A I did not say that she acted counter to what --

18 Q The documents speaks for itself.

19 A Yes.

20 Q But, in fact, you knew that she had acted in a manner

21 inconsistent with this procedure?

22 A This is prior to the procedure.

23 Q Right, so you knew --

24 A No, sir, I'm trying to lay out here in my mind what

25 would be the appropriate steps that a person should

1 take.

2 Q Right, as a department chair.

3 A Regardless of what happened prior to this time.

4 Q This October 16 document was circulated to all

5 members of the department?

6 A Yes, sir.

7 Q So everyone in the department would know that this is

8 how you believed it should have been handled but was

9 not handled by Dr. Burton provided that they knew

10 about the incident, correct?

11 MS. BENSKY: Object to form.

12 BY MR. HAWKS:

13 Q You may answer subject to the objection.

14 A It says about the -- section seven of the effective

15 bylaws lays out how a complaint or grievance is

16 handled. So I give them the website that lays that

17 out, how to handle a complaint or grievance. And the

18 second one there for a claim of discrimination or

19 harassment, then this is the -- here is the website

20 to go to to see how that is handled.

21 Q Right. And in fact that link is -- contradicts your

22 directions in item No. 2. A student with a complaint

23 of sexual harassment by a faculty member under that

24 procedure is directed to report to the dean of

25 academic affairs, isn't she?

1 A It does not say that in item two, it says if a

2 student has a complaint, not a -- you're alluding to

3 a specific complaint.

4 Q Wouldn't you think a complaint of sexual harassment

5 would be a complaint? It's a subset of the universe

6 of all complaints, right?

7 A And send it on to the appropriate person.

8 (Exhibits 19 and 20 marked for

9 identification.)

10 BY MR. HAWKS:

11 Q For the record the grievance that was filed by

12 Dr. Burton was comprised of a number of different

13 documents. I have had photocopied the first which in

14 a sense lays out the fact that this is a grievance.

15 And the second, which is Exhibit 20, is her statement

16 of requested remedy for the grievance.

17 Take more time if you want it or advise me

18 when you're ready for me to ask the question.

19 MS. BENSKY: Did you give me Exhibit 20?

20 (Discussion held off the record.)

21 BY MR. HAWKS:

22 Q Can you identify Exhibit 19?

23 A It says here it's a claim of Dr. Burton that I am

24 mentioned as well as Aric Dutelle.

25 Q And have you seen this before today?

1 A I don't believe so, or unless it's a part of the

2 grievance, I'm not sure. Was this part of the

3 grievance paperwork?

4 Q But based upon your review, can you --

5 A I don't recall.

6 Q -- answer that question?

7 A I don't remember it being a part, it may have, I

8 don't know.

9 Q And would you refer to Exhibit 20?

10 A Okay.

11 Q And do you -- have you seen this exhibit before?

12 A I don't specifically remember this document, no, sir.

13 Q Assuming for the sake of the next question that these

14 are part of the package of documents associated with

15 the grievance, they would have been the documents to

16 which you filed your response or rebuttal to the

17 grievance, wouldn't they?

18 A Possibly, yes, sir.

19 Q All right. And so earlier when I asked you whether

20 or not you knew what Dr. Burton's claims were, you

21 would have known this to be her claims, right, or

22 remedy?

23 A Exhibit 20, correct? Is that what we're talking

24 about here?

25 Q It is.

1 A Damages and demands.
 2 Q And that would be the claims. That would be what she
 3 wanted as a remedy for the situation?
 4 A Well, yes, it says damages and demands. That's what
 5 she wants.
 6 Q So referring back to Exhibit 12.
 7 A Exhibit 12, all right.
 8 Q I'd like to refer you to another sentence that you
 9 wrote in that document and it's a sentence that
 10 reads, and I quote, raise an issue or concern and the
 11 e-mails start flying all over campus.
 12 And I will locate that for you momentarily.
 13 And that --
 14 MS. BENSKY: Page nine.
 15 BY MR. HAWKS:
 16 Q Page nine on the second to last paragraph. And you
 17 see that sentence?
 18 A Yes, sir.
 19 Q Immediately following that sentence, I cite as an
 20 example Exhibit H. Would Exhibit H have been an
 21 exhibit offered by Dr. Burton in support of her
 22 grievance?
 23 A I think those were my exhibits that I submitted to
 24 the grievance committee.
 25 Q Okay. And you identify an e-mail sent to the dean,

1 right, as an example?
 2 A Yes, sir.
 3 Q Isn't it true that in that e-mail Dr. Burton
 4 identified the state -- excuse me -- the law
 5 protecting her from retaliation?
 6 A I don't know, sir, I'd have to see what that exhibit
 7 said.
 8 Q Do you have any other examples of how e-mails started
 9 flying when an issue was raised?
 10 A Whatever would have been in that packet.
 11 Q You also write in that Exhibit 12 and I quote, part
 12 two is the dean's -- actually is the dean's reply,
 13 quote within quote, Tom don't respond, closed quote.
 14 I don't respond to all of her e-mails, particularly
 15 when I am instructed not to.
 16 Do you find that in the Exhibit 12?
 17 A That statement, yes, sir.
 18 Q What page do you find it?
 19 A It's on page nine, last full paragraph.
 20 Q All right. Did the dean direct you not to respond to
 21 Dr. Burton's e-mails?
 22 A If it is in that statement, then yes.
 23 Q Didn't Dr. Burton ask for information related or for
 24 relief of retaliation -- from retaliation or alleged
 25 retaliation in some of the e-mails she sent to you?

1 A I don't know.
 2 Q Ordinarily would you respond to faculty members who
 3 send you an e-mail and request a response?
 4 A Not always, probably. **** tammy start reading
 5 Q Would you say more often than not you would respond?
 6 A Probably more often than not, yes.
 7 Q Has the dean ever directed you not to respond to any
 8 other faculty member's e-mails?
 9 A Not that I recall.
 10 Q Have you ever adopted on your own a policy other than
 11 by virtue of the dean's direction not to respond to
 12 faculty member's e-mails?
 13 A I don't recall if I ever did that.
 14 Q Did the dean tell you at any other time than the time
 15 to which you refer in this exhibit not to respond to
 16 Dr. Burton's e-mails?
 17 A I cannot answer that question because I just don't
 18 know.
 19 Q In Dr. Burton's grievance she wrote -- I'm going to
 20 quote from the grievance document. I believe it will
 21 be in Exhibit 19. Withdraw that question.
 22 Going back to Exhibit 18 which I believe is
 23 the policy, did you draft this memo in response to
 24 the breach experiment incident?
 25 A Well, it would have been, yes, shortly after that had

1 transpired that I did draft this memo.
 2 Q Because of it then? It was the cause for this memo?
 3 A The actions around that, yes.
 4 Q Okay. Did you request faculty in the department to
 5 participate in the formulation of this policy?
 6 A No, sir.
 7 Q Dr. Caywood, did you assign Dr. Burton to lower level
 8 courses after October 10, 2012?
 9 A I don't recall her specific teaching assignments.
 10 Q Do you know if she taught any higher level courses
 11 after October 10, 2012?
 12 A Again, you would have to consult the schedule. It
 13 could have been a mixture of both, I'm not sure.
 14 Q Just to establish clearly though, in the criminal
 15 justice department, the chair assigns the faculty the
 16 courses to teach?
 17 A Yes, sir.
 18 Q A thankless job?
 19 A It's not a popular job.
 20 Q And do you understand that Dr. Burton's contract
 21 requires her to teach 25 percent online as part of
 22 her load after her first two terms of teaching?
 23 A Was that the original contract?
 24 Q Yes.
 25 A If it's in the contract.

1 Q You understand that was the case?
 2 A All right.
 3 Q Do you know whether or not you assigned her
 4 25 percent online courses as part of her --
 5 A Undergraduate or graduate?
 6 Q Both.
 7 A Well, both of those are assigned by the person --
 8 whether it's the director of the graduate program
 9 makes that assignment or the person in charge of the
 10 undergraduate program.
 11 Q So you would be assigning undergraduate, and
 12 Dr. Fuller would be assigning graduate courses, is
 13 that -- graduate course assignments, correct?
 14 A I would make assignments for the on-campus courses,
 15 undergraduate on-campus courses, not the
 16 undergraduate online program courses.
 17 Q So did you or did you not remove Dr. Burton from
 18 teaching the 25 percent online course load?
 19 A I don't recall.
 20 Q Do you recall whether or not you assigned Dr. Burton
 21 lower level courses while at the same time assigning
 22 junior faculty members with lower qualifications
 23 higher level courses?
 24 A Yes.
 25 Q Can you identify an example of such?

1 A I'm sorry, 2013?
 2 Q August of 2013.
 3 A I don't even think I was a department chair then. I
 4 think I had been removed.
 5 Q Would the decision be made prior to August of 2013?
 6 A I think the procedures were approved by the
 7 department in I believe 2011 laying out the duties
 8 and responsibilities of the department chair, the
 9 director of the online program, the graduate level,
 10 the undergraduate, the FI program, all those were
 11 approved by the faculty I believe in 2011.
 12 Q Dr. Burton expressed an interest in being the
 13 director of the FI program, did she not?
 14 A She may have.
 15 Q And did you make a decision to assign Diana Johnson
 16 to be the director of the FI program?
 17 A No.
 18 Q Who made that decision?
 19 A Dr. Dalecki was the interim department chair.
 20 Q Is it possible that you would have made that decision
 21 to assign Dr. Johnson to be the director of the FI
 22 program prior to the time you stopped being the chair
 23 of the department?
 24 A Is this -- are you asking like in my opinion?
 25 Q No, is it possible? Do you remember?

1 A I think that she taught several sections of Police
 2 Function which is a 2130 course, that's a sophomore
 3 level course. She may have also taught Intro to
 4 Criminal Justice which is a freshman level course.
 5 She also taught upper level courses.
 6 I can give a good example. Ed Ross who was
 7 an academic staff person, many years there, master's
 8 degree in social work, he taught Correctional
 9 Philosophy for many years. That's a 2000 level
 10 course. He also taught Community Based Corrections
 11 which is a 4000 level course. He taught Juvenile
 12 Justice which is a 3000 level course. Those were his
 13 areas of expertise.
 14 Q Did Dr. Burton ever request an opportunity to teach
 15 any of those upper level courses?
 16 A She taught Women and the Law for many semesters.
 17 That's a 3730 junior level course. Her Current
 18 Topics courses were a 4000 level course, so she
 19 taught those. Now, she may have taught intro level
 20 too. We tried to get as many people to teach intro
 21 as we could.
 22 Q So in August of 2013 a decision needed to be made as
 23 to who was going to be the director of the FI
 24 program, and you were the person to make that
 25 decision, correct?

1 A I don't remember considering her for the
 2 directorship.
 3 Q Dr. Burton repeatedly requested the opportunity to
 4 teach FI courses, did she not?
 5 A It's possible, I don't recall.
 6 Q You never assigned her to teach an FI course. Why
 7 not?
 8 A We had people to teach the FI courses.
 9 Q Dr. Burton was also able to teach the FI courses, was
 10 she not?
 11 A I guess.
 12 Q It's true, isn't it, that you assigned Dr. Gibson
 13 more overload courses than Dr. Burton?
 14 A I don't believe so.
 15 Q Dr. Caywood, where would we acquire, if we could, a
 16 list of the summer intern and online teaching
 17 assignments between 2009 and 2014?
 18 A For the on-campus internships, the secretary
 19 maintained control of those records.
 20 Q And she would have them now?
 21 A I can't answer that. I'm no longer over there.
 22 Q I get that. And for the -- that would be the
 23 on-campus online courses?
 24 A No, sir. You're talking about summer internship
 25 program?

1 Q Uh-huh.

2 A Would be for the on-campus only program. Online

3 would have been dealt with by those specific

4 directors of those programs.

5 Q And those would have been -- I assume Fuller was one?

6 A Dr. Fuller was the director of the graduate program.

7 Dana Cecil was hired, and part of her load when she

8 was hired was to be the undergraduate online

9 coordinator. And I believe prior to that maybe

10 Dr. Nemmetz was at one time.

11 Q Do you recall Mr. Roberts teaching in the CJ

12 department?

13 A Bob Roberts, yes, sir.

14 Q Do you recall assigning him several internships even

15 after he left the CJ department in 2011?

16 A I'm not sure. You'd have to check the records, I

17 don't recall.

18 Q On March 14 of 2013 Dr. Burton requested to teach

19 cyber crime or a domestic terrorism class. Do you

20 recall that?

21 MS. BENSKY: What year?

22 MR. HAWKS: 2013. March 14, 2013.

23 THE WITNESS: Sir, I just can't be specific

24 on that.

25 BY MR. HAWKS:

1 Q If you go to Exhibit 12, page 11 you'll notice there

2 in the listing of her overloads for spring of 2013 it

3 says CJ 4630 cyber crime. That's page 11 on

4 Exhibit 12.

5 (Exhibit 21 marked for identification.)

6 BY MR. HAWKS:

7 Q Dr. Caywood, do you have Exhibit 21 in front of you

8 there?

9 A Yes, sir.

10 Q It appears to be an e-mail?

11 A Yes, sir.

12 Q And the -- there is -- it contains an e-mail from

13 Dr. Burton to you dated March 14, 2013, and she is

14 expressing an interest in teaching current topics?

15 A For the fall of 2013, yes, sir.

16 Q And it mentions that several students have inquired

17 about cyber crime?

18 A Okay.

19 Q And she also expresses an interest in teaching

20 domestic terrorism. Do you see that?

21 A Yes, sir.

22 Q You did not assign her to teach either cyber crime or

23 domestic terrorism classes, did you?

24 A For the fall of 2013 it says here that no overloads

25 or current topics were scheduled for the fall of

1 2013.

2 Q All right. So it's your testimony that no such

3 course was offered for the fall of 2013, cyber crime

4 or domestic terrorism?

5 A According to this e-mail.

6 Q Turn to a slightly different subject, that is the

7 question of support, the support of the bid for

8 tenure by Dr. Burton and Dr. Dutelle. Would it be

9 fair to say that you did not initially support tenure

10 for Dr. Burton at the time she first requested it?

11 A She requested early tenure, and initially I was not

12 in favor of granting early tenure to Dr. Burton.

13 Q And did Dr. Dutelle's bid for tenure come up at the

14 same time?

15 A He did not request early tenure. I believe according

16 to the calculations that would have been his up or

17 out year. He would either have to be granted tenure

18 or he would be dismissed.

19 Q That's your understanding at this time?

20 A Yes.

21 Q And was it your understanding at that time as well?

22 A Yes. Recall he was given two years towards tenure

23 when he was hired as a faculty member by the provost.

24 Q So your initial decision though was to support then

25 Dr. Dutelle's application for tenure?

1 A Professor Dutelle. He does not have a Ph.D.

2 Q Thank you, Professor Dutelle.

3 A Yes.

4 Q But not Dr. Burton's?

5 A She went up early, one year early. She wanted early

6 tenure. And initially I was not supportive of that,

7 because I cannot recall any time since I have been at

8 that university that a person was granted early

9 tenure.

10 Q All right. And you've changed your mind?

11 A Yes, sir.

12 Q Please state each and every reason you changed your

13 mind with regard to recommending tenure for

14 Dr. Burton.

15 A Had a conversation with Dr. Fuller who was also on

16 the DRB about that situation, whether or not we

17 should consider granting her early tenure. And this

18 was down at the coffee shop in the basement of

19 Ullsvick, and we talked about it, and Cheryl asked,

20 can you think of any reason if we would deny her

21 tenure now that we wouldn't deny her tenure during

22 her regular time that she can go for tenure? I

23 couldn't think of any reason really to deny her

24 tenure. So at that time, you know, we both knew that

25 we would vote for tenure.

1 There were four people on that DRB.
 2 According to the procedure at the university,
 3 80 percent of the DRB would have to approve an early
 4 tenure. There were only four people on the DRB, so
 5 you had to have 4-0, and I said I'll vote for --
 6 because I could not think of a reason why not to
 7 grant her tenure, so I said yes. And the vote was
 8 4-0.
 9 Q What was Dr. Fuller's position initially with regard
 10 to whether or not she would support Mr. Dutelle's bid
 11 for tenure?
 12 A I don't recall.
 13 Q You don't recall?
 14 A I think by that time they had made up, that they were
 15 getting along better than what they had in the past,
 16 so I can't state one way or the other how she
 17 expressed her desires about his tenure approval.
 18 Q Just to make sure, you do not remember at this
 19 time --
 20 A Today I do not remember.
 21 Q -- whether or not at that initial effort by Dutelle
 22 Fuller opposed it?
 23 A I do not remember.
 24 Q By the way Dr. Fuller supported Dr. Burton's
 25 application for early tenure, didn't she?

1 A Yes.
 2 Q Now, Dr. Burton was to be considered for promotion in
 3 January of 2012; isn't that true?
 4 A In 2012?
 5 Q Uh-huh.
 6 A To full professor?
 7 Q Uh-huh. To associate -- assistant, excuse me.
 8 A Had to be before that.
 9 Q In 2011?
 10 A She went up for a promotion, yes, sir. I cannot
 11 recall the specific date.
 12 Q Do you recall advising the DRB committee at or about
 13 that time?
 14 MS. BENSKY: Exhibit 16.
 15 THE WITNESS: All right. I have this
 16 exhibit in front of me, recommendations for retention
 17 and promotion.
 18 BY MR. HAWKS:
 19 Q And do you recall advising the DRB committee at that
 20 time that she had sufficient years of teaching
 21 experience to be promoted?
 22 A We had to count her previous teaching experience at
 23 another university. Because the guidelines are
 24 specific, have so many years of teaching experience
 25 of which such and such has to be at Platteville. And

1 I think the issue was she had to provide the
 2 documentation to show about her teaching -- was it at
 3 Irvine -- at University of California Irvine. And
 4 once they provided that documentation -- when she
 5 provided that documentation, then the committee then
 6 voted for promotion.
 7 Q So was the issue only of documentation? You could
 8 not have met that requirement by sharing with the
 9 committee your knowledge of her prior teaching
 10 experience?
 11 A The committee had her vitae and all her
 12 documentation, they just needed something from the
 13 university there talking about her teaching, you
 14 know, her rating as a teacher, teacher effectiveness,
 15 that she was a great teacher or whatever the case may
 16 be. And once she provided that, then that met the
 17 qualifications, and then as a committee we approved
 18 her.
 19 Q Were you chairing the committee at that time?
 20 A No, sir.
 21 Q Did you take the position that Mr. Dutelle's degree
 22 was equivalent to a Ph.D. in the sense it was a
 23 terminal degree in his field?
 24 A Yes, sir.
 25 Q And based upon what did you support that conclusion?

1 A He came I think in the fall of 2004, and if I
 2 remember correctly, I do not believe that there were
 3 any universities in this country that offered a Ph.D.
 4 in forensic science.
 5 Since then, as of I think about 2013, there
 6 were five programs in this country, mostly Ph.D.s in
 7 chemistry with an emphasis in forensic science. So
 8 at that time of his application and so forth, I do
 9 not believe there were any Ph.D. programs in this
 10 country in forensic science.
 11 Q Did you take that question to the department for a
 12 discussion and vote?
 13 A I think at least twice.
 14 Q And did the --
 15 A The first -- early on it was voted no.
 16 Q And then?
 17 A And then it was approved that it was equivalent as a
 18 terminal degree.
 19 Q Do you recall when "early on" may have been?
 20 A I think it was still -- it would have been prior to
 21 2009.
 22 Q When was it that it was approved?
 23 A It had to have been probably before he would have
 24 been offered the job as a tenure track position.
 25 Q Which would have been?

1 A You'll have to check the date. I don't remember when
 2 he was hired. There's a lot of people. It's hard
 3 for me to keep track of stuff.
 4 Q Now, if there was a department vote on this question,
 5 it would be reflected in the department minutes?
 6 A Yes.
 7 Q Did you ever discuss with anyone the prospect of
 8 providing Dr. Burton with credit of years of service
 9 toward tenure?
 10 A No.
 11 Q I think you testified previously that Dutelle was
 12 given years of credit toward tenure based upon his
 13 prior teaching; is that correct?
 14 Let me put it differently. How did
 15 Mr. Dutelle get two years of credit toward his
 16 tenure?
 17 A He was hired in 2004 as academic staff, and so it
 18 would have been up to that 2009-ish, 2010 time frame
 19 that he'd been faculty as an academic staff for that
 20 period of time. And when -- he even negotiated with
 21 the provost for that, you know, that contract because
 22 contracts are with the approval of the dean and the
 23 provost. He was able to negotiate with the provost
 24 two years towards tenure based on his prior teaching
 25 experience.

1 Q That was in negotiations with the dean and with the
 2 provost?
 3 A Yes, with the provost for sure. Generally issuing
 4 that contract of a tenure track contract has to be
 5 the dean, then it's approved by the provost.
 6 Q And were you involved in those discussions? Did
 7 either of them ask you for your opinion as to --
 8 A No.
 9 Q -- whether he should be given credit?
 10 A And he would have been the first one in the
 11 department that received that that I'm aware of.
 12 Q Do you know why Dr. Burton was not given two years of
 13 credit toward tenure?
 14 A No, sir.
 15 Q Wasn't Mr. Dutelle promoted to associate professor
 16 two years before he was even eligible for the
 17 promotion?
 18 A You would have to look. Again, I don't recall but
 19 would have to look at what the wording was in the
 20 faculty constitution about how many years counted
 21 toward -- you have so many years toward associate
 22 professor. You'd have to look at guidelines, I don't
 23 recall the numbers specific numbers. But again, I
 24 believe it was a combination.
 25 Q Did you examine that question at the time that he was

1 first eligible, at the time he was promoted, or prior
 2 to the time he was promoted?
 3 A I remember particularly at tenure going through the
 4 years to make sure that this was his up and out year
 5 on that, but I do not specifically recall counting it
 6 up for his promotion to associate professor.
 7 Q Excuse my ignorance of the process, but is it
 8 possible that you can be eligible for tenure but not
 9 eligible for a promotion?
 10 A That is correct.
 11 Q So if you examined the record to determine he was
 12 eligible for tenure, that would not necessarily have
 13 answered the question of whether he was eligible for
 14 promotion; isn't that true?
 15 A You can be promoted -- you can be granted tenure
 16 without being promoted. You can be promoted and not
 17 have tenure. It's two separate.
 18 Q My question though was really did your investigation
 19 of whether or not he was eligible for tenure at that
 20 time also answer the question of whether he was
 21 eligible for promotion at that time?
 22 A I just can't answer it.
 23 Q You mentioned this problem about documentation. Do
 24 you know whether or not someone actually removed the
 25 documentation that was in Dr. Burton's DRB file

1 causing her promotion to be denied?
 2 A Which promotion?
 3 Q Promotion to associate professor.
 4 A I'm not aware of anyone doing anything to that DRB
 5 file.
 6 Q Is it -- did you say something to the effect that it
 7 wasn't worth the fight to Dr. Fuller when discussing
 8 whether or not Dr. Burton should be granted tenure?
 9 A Paraphrasing, yes.
 10 Q Do you know who was responsible to inform Dr. Burton
 11 of a decision on her tenure request? The decision on
 12 Dr. Burton's tenure was made, but she didn't receive
 13 notice of it until after the appeal deadline for
 14 appealing an adverse decision on tenure.
 15 Do you know whose responsibility it would
 16 have been to inform her that she had been granted
 17 tenure up or down?
 18 A It probably should have been the chair of the -- I
 19 guess it would be the chair of the DRB.
 20 Q Do you understand that she was originally notified
 21 that she was not going to be granted tenure?
 22 A I wasn't aware of that, no.
 23 Q Do you know who the chair of the DRB would have been
 24 at that time?
 25 Let me simplify the question. Were you the

1 chair of the DRB at that time?
 2 A No, sir. A department chair cannot be the DRB chair.
 3 I believe Dr. Gates, Elizabeth Gates.
 4 Q Do you understand that Dr. Dutelle was informed of
 5 his promotion denial in February of 2012 prior to the
 6 time Dr. Burton was informed of her promotion denial
 7 in 20 -- February 2012?
 8 A February 2012?
 9 Q Uh-huh.
 10 A Would you please rephrase that.
 11 Q Were you -- are you aware that Dr. Dutelle was
 12 informed of his promotion denial of February 2012
 13 prior to the time Dr. Burton was?
 14 A I don't believe so, because it had to have been --
 15 some sort of notification would have had to gone out
 16 to everyone on the DRB.
 17 Q Would it surprise you to learn that Mr. Dutelle was
 18 notified in sufficient time to be able to take an
 19 appeal but Dr. Burton was not?
 20 A For promotion in 2012?
 21 Q Right.
 22 A I don't see how it's possible when she submitted the
 23 paperwork and she was approved for promotion. Was it
 24 the DRB or the CRST?
 25 Q I don't know.

1 A Because the DRB would make that first decision, and
 2 then she would have a period of time to provide the
 3 supporting documentation.
 4 Q It would be the CRST.
 5 A I have nothing to do with the CRST.
 6 Q So you wouldn't know this information. And again,
 7 who would be the chair of CRST in the spring of 2012?
 8 A I think we looked earlier. I believe maybe it was
 9 Kory Wein, the associate dean, I believe was the
 10 chair of the CRST.
 11 Q Didn't Mr. Dutelle agree at the time of his
 12 employment that he would acquire the terminal degree?
 13 A As an academic staff or as a tenured faculty member?
 14 Q As a tenured faculty member.
 15 A I don't remember the specifics of the contract. I
 16 know he at one time had signed up for some doctoral
 17 courses.
 18 Q Do you recall one way or the other whether he had
 19 made a commitment to acquire his doctorate?
 20 A No.
 21 Q Could you explain the reasons why Dr. Burton was not
 22 offered an office with a window when she first came
 23 to the department as a tenured faculty member?
 24 A We moved from Warner Hall over to Ullsvik in the
 25 winter of either 2008, 2009 time frame, whichever.

1 She was not in the department at that time, and those
 2 offices were assigned based on seniority.
 3 The department chair had an office, and the
 4 director of the graduate program had a specific
 5 office assigned. The others were left open, and they
 6 were assigned based on seniority regardless of
 7 whether they were academic staff or tenure.
 8 Q Wasn't Dr. Burton senior the three males at that time
 9 who had window offices?
 10 A She was not in the department when those offices were
 11 assigned.
 12 MS. BENSKY: I just want to clarify what
 13 everybody means by the word seniority.
 14 BY MR. HAWKS:
 15 Q Could you clarify how you are using the expression
 16 seniority.
 17 A The university differentiates between tenured faculty
 18 and academic staff. Tenured faculty have their own
 19 governance body through the faculty senate. The
 20 academic staff has their governing body as the
 21 academic staff senate. There are two different
 22 systems. They go -- for the tenure process it's
 23 seven years generally up or out. Academic staff is
 24 renewed every year by the department chair.
 25 I tried not to differentiate between the

1 people that were tenured lines and academic staff.
 2 They were all, as far as I was concerned, professors
 3 in that department, and I try to treat everyone
 4 equally. The difference between they had a master's
 5 degree as opposed to a person with a Ph.D. So
 6 seniority was based upon years of service with the
 7 department not a particular title granted to them by
 8 the university.
 9 Joe Lomex was a full professor, has a
 10 master's degree, and he was assigned an office. Ed
 11 Ross had been there a number of years, academic
 12 staff, had a window office.
 13 Q So the question is who are the three males who were
 14 less senior than Burton when she arrived who had
 15 window offices?
 16 MS. BENSKY: What do you mean by less
 17 senior?
 18 BY MR. HAWKS:
 19 Q In this case I mean -- I would define seniority as
 20 being the date of hire as a tenured faculty.
 21 A You're measuring it differently. I had the corner
 22 office. It was Steve Elmer, Aric, Cheryl, Ed, and
 23 Joe. The other offices were full. When Kathy Wintc
 24 retired, her office was open, and that's the one that
 25 Dr. Burton was assigned.

1 Q Do you recall Dr. Burton delivering to you on
 2 October 16, 2012, her request that she be moved -- a
 3 doctor's note requesting that she be moved to an
 4 office with a window?
 5 A No, sir.
 6 Q So then you wouldn't recall whether or not you
 7 responded to that request either?
 8 A No, sir.
 9 Q I believe in Exhibit 12 you wrote -- and I'll quote.
 10 We can go to that spot if you'd like -- When you look
 11 through all the complaints leveled by Dr. Burton, not
 12 once have I ever refused any of her requests, whether
 13 it was an overload or applying for a grant or
 14 whatever. Not once. I always supported her.
 15 Do you recall or have you found that
 16 sentence?
 17 A Give me a moment to try and track that down, please.
 18 Q I'll search for it as well. It appears to be on page
 19 nine and it is the first full paragraph beginning
 20 with the words, When you look through.
 21 You just ran over it with your finger.
 22 A Okay, sure, overload and applying for grant, that is
 23 correct, not once.
 24 Q Isn't it true that she requested a window office for
 25 eye strain and you did not grant that request?

1 any conflict.
 2 Q And for that reason you declined to mediate the
 3 dispute between the two of you?
 4 A With who?
 5 Q I'm asking you.
 6 A I don't know who we'd be mediating with.
 7 Q Isn't it true that she requested that you recuse
 8 yourself from her DRB committee but you refused to do
 9 so?
 10 A Which year?
 11 Q 2013-'14.
 12 A That would have been the last one, right? Well, I
 13 was on it.
 14 Q Isn't it true that you denied her request to chair
 15 searches?
 16 A You're asking for multiple questions at multiple
 17 times. It is possible.
 18 Q Isn't it true that you denied her request to teach a
 19 comparative CJ course?
 20 A I don't recall.
 21 MR. HAWKS: Should we take about a
 22 five-minute break at this point?
 23 MS. BENSKY: Sure.
 24 (Recess taken from 2:07 time to 2:17 p.m.)
 25 BY MR. HAWKS:

1 A I was never aware of that request.
 2 Q Isn't it true that she sought promotion, and you
 3 along with others on the committee denied that
 4 request?
 5 A For which promotion, to associate or full?
 6 Q To either one.
 7 A Associate, again, it was that -- if she could provide
 8 the documentation for her years of teaching at the
 9 other university, then they would reconsider, which
 10 they did, and she was granted promotion, for the
 11 associate professor.
 12 Q Isn't it true you denied her funding for conferences?
 13 A If she made a specific request, I'm not sure.
 14 Q Isn't it true that you initially denied her --
 15 opposed her application for tenure?
 16 A For early tenure. We talked about earlier, yes, for
 17 early tenure I was initially opposed to her request
 18 for early tenure.
 19 Q Isn't it true that you denied her request for
 20 mediation of the dispute between the two of you?
 21 A Would you please expand on what you mean by
 22 mediation?
 23 Q Mediation at the university.
 24 A She filed a grievance, and that was -- at which time
 25 I thought was the appropriate method for resolving

1 Q Dr. Caywood, do you recall Dean Nimocks' instructions
 2 of 26 April 2010 which were delivered to the
 3 department at a meeting on May 10, 2010, to invite a
 4 speaker or workshop leader to conduct a workshop with
 5 department members on conflict resolution, civility,
 6 and team building to take place at some date before
 7 or near the beginning of the fall semester of 2010?
 8 Do you recall that instruction?
 9 A Yes, sir.
 10 Q And the further statement, This will be a mandatory
 11 event for everyone in the department.
 12 That never happened, did it?
 13 A No, sir.
 14 Q Can you please provide the reasons why you did not
 15 comply with Dean Nimocks' instructions?
 16 A It wasn't my responsibility to bring the people in.
 17 Q Whose responsibility was it?
 18 A If it's coming from her, I imagine it was her
 19 responsibility to find someone.
 20 Q I believe she delivered the instructions to the
 21 department. She instructed the department to invite
 22 a speaker, workshop leader to attend. If that -- in
 23 that case, that would fall on the department chair's
 24 shoulders, would it not?
 25 A If that's what the memo said.

1 MS. BENSKY: Do you have a copy of the
 2 memo?
 3 MR. HAWKS: We'll provide one by the end of
 4 the presentation.
 5 Q Just so I'm clear, you didn't believe it to be your
 6 responsibility to do that?
 7 A No, sir, I did not believe it was my responsibility.
 8 MS. BENSKY: I'm just going to object to
 9 asking him questions about a document that's over
 10 five years old without showing him the document.
 11 (Exhibits 22 and 23 marked for
 12 identification.)
 13 BY MR. HAWKS:
 14 Q Have you had an opportunity to review the documents?
 15 A Yes, sir.
 16 Q I'd refer your attention to page two of Exhibit 23 I
 17 believe it is, and specifically to the paragraph --
 18 the last full paragraph which begins, Finally I
 19 charge Dr. Caywood.
 20 Do you see that?
 21 A Yes, sir.
 22 Q So having had an opportunity to review this document,
 23 does that refresh your memory?
 24 A Yes, sir.
 25 Q And having it refreshed do you -- could you please

1 provide us with each and every reason why you did not
 2 comply with this direction?
 3 A No, I cannot.
 4 Q UW Platteville has a discrimination harassment policy
 5 which provides that a copy of this policy and the
 6 procedures for implementing it would be distributed
 7 annually to all UW Platteville students, academic
 8 staff, and classified staff. It's true, isn't it,
 9 that that -- that the criminal justice department
 10 never distributed annually -- did not annually
 11 distribute that policy?
 12 A Are you talking about a university policy?
 13 Q I am.
 14 A I don't believe I was ever provided with any copies
 15 of that to disseminate.
 16 Q Are you aware that -- of a legal obligation that
 17 employers are required to post notices to all
 18 employees advising them of their rights under the
 19 laws that the EEOC enforces and the right to be free
 20 from retaliation?
 21 A No, sir.
 22 Q There is no such policy posted in the criminal
 23 justice department, is there?
 24 A Not that I'm aware of.
 25 Q So the meeting at which the then dean ordered

1 communication training should have had minutes
 2 associated with it, should it not?
 3 A Are you referring to the 26 April?
 4 Q Of 2010.
 5 A 2010?
 6 Q Yes, sir, I am.
 7 A I don't know who would have taken notes, no, sir, the
 8 minutes.
 9 Q So you don't know if -- you don't know if minutes
 10 would have been taken?
 11 A I do not know that minutes were taken.
 12 Q Returning to Exhibit ZI -- excuse me, Exhibit 12.
 13 A Okay.
 14 Q You write in that exhibit, and I'm quoting -- I'll
 15 refer you to the quote -- I asked her, quote,
 16 parentheses, the student, closed parentheses, if she
 17 had been contacted by either the dean or director of
 18 HR. She said she had not.
 19 And we'll locate that.
 20 A You don't have to. I remember that conversation.
 21 Q All right. Well, when did that conversation occur?
 22 A I cannot give you the specific date. This student
 23 was an advisee of mine. I was her academic adviser,
 24 and she came in for advising for the next semester.
 25 We went over her schedule, talked about all the

1 requirements and so forth. And I asked her at that
 2 time if anyone from the university had ever contacted
 3 her about that situation, and she said no, and I took
 4 her at face value.
 5 Q All right. Did -- when did you contact her?
 6 A The specific date that we had that advisee meeting, I
 7 do not recall, sir.
 8 Q Can you put it --
 9 A It would have been several months later.
 10 Q Fall or spring semester, could you identify which of
 11 the two semesters?
 12 A I would imagine probably for the spring semester,
 13 that they would come in during spring for the
 14 following fall semester.
 15 Q This would have been after you'd been directed by
 16 Ms. Durr not to have any contact with her about this
 17 incident?
 18 A Correct.
 19 Q Is it correct that you wrote a letter in support of
 20 Gibson in regard to the DRB decision to not renew his
 21 contract?
 22 A If I wrote a letter --
 23 Q To the DRB in favor of Gibson?
 24 A For retention?
 25 Q For retention.

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<p>1 A I would imagine so, yes.</p> <p>2 Q And this would -- you would have done this without</p> <p>3 consideration of his behavior in the breach</p> <p>4 experiment because you didn't believe the breach</p> <p>5 experiment by him to be inappropriate?</p> <p>6 A Overall his performance as an assistant professor at</p> <p>7 the university, I thought he was worthy of retention.</p> <p>8 Q Did you personally have any classroom observation of</p> <p>9 his performance?</p> <p>10 A Yes, sir.</p> <p>11 Q And how did his student evaluation -- excuse me, I</p> <p>12 withdraw that.</p> <p>13 Is it true that Dr. Burton's DRB scores for</p> <p>14 teaching and community service were lower during her</p> <p>15 first two years at the university as compared to</p> <p>16 Dr. Dutelle's?</p> <p>17 A I have no idea.</p> <p>18 Q Do you recall whether or not doctor -- excuse me --</p> <p>19 Mr. Dutelle --</p> <p>20 A I think he would appreciate the promotion.</p> <p>21 Q -- received credit for paid community service -- let</p> <p>22 me rephrase that.</p> <p>23 Isn't it true that under the procedures of</p> <p>24 the university, community service for which you are</p> <p>25 given credit for the purpose of your annual</p>	<p>1 yourself personally to withdraw from consideration of</p> <p>2 a faculty member during her evaluation while you were</p> <p>3 a named defendant in a federal lawsuit?</p> <p>4 A The evaluation is based upon the DRB file that is</p> <p>5 submitted by that faculty member, and the decision is</p> <p>6 based on that documentation in that folder.</p> <p>7 Q And does the decision involve some subjective</p> <p>8 evaluation of the quality of that evidence in the</p> <p>9 folder?</p> <p>10 A Yes.</p> <p>11 Q You would agree Mr. Dutelle was allowed to take</p> <p>12 week-long hiatuses from time to time during the</p> <p>13 semester while he was employed and under your</p> <p>14 supervision?</p> <p>15 A No.</p> <p>16 Q You're saying he never took week-long hiatuses?</p> <p>17 A Not that I'm aware of.</p> <p>18 Q Do you understand that he used the paid time off to</p> <p>19 write his books?</p> <p>20 A (Witness shakes head.)</p> <p>21 Q You have to answer that yes or no so the court</p> <p>22 reporter can --</p> <p>23 A Am I aware?</p> <p>24 Q Yes. The question is are you aware that he used his</p> <p>25 paid time off to write his books?</p>
<p>Page 101</p> <p>1 evaluation must be unpaid?</p> <p>2 A I don't recall that.</p> <p>3 Q The criminal justice department policies and</p> <p>4 procedures state, quote, The department chair</p> <p>5 maintains syllabi for all courses taught by the</p> <p>6 department on campus and online and initiates</p> <p>7 periodic evaluations of all courses.</p> <p>8 A That is correct.</p> <p>9 Q Did you ever evaluate Dr. Burton's courses?</p> <p>10 A No.</p> <p>11 Q Did you ever evaluate Dr. Gibson's courses?</p> <p>12 A No.</p> <p>13 Q It's true, isn't it, that Dr. Burton asked you to</p> <p>14 recuse yourself from sitting on the DRB in part</p> <p>15 because you were at the time -- while you were</p> <p>16 sitting on the DRB in review of her performance, you</p> <p>17 were also named as a defendant in a federal lawsuit?</p> <p>18 A I don't recall that request.</p> <p>19 Q You don't recall a request -- you don't recall</p> <p>20 Dr. Burton e-mailing the dean to raise a specific</p> <p>21 objection to your continued presence on the</p> <p>22 committee?</p> <p>23 A I don't think I'd have any knowledge of an e-mail she</p> <p>24 sent to the dean.</p> <p>25 Q All right. And you don't think it appropriate for</p>	<p>Page 103</p> <p>1 A Paid time off as a faculty member?</p> <p>2 Q Uh-huh.</p> <p>3 A That he would do this outside his normal duty, sure.</p> <p>4 Q The criminal justice department minutes in February</p> <p>5 of 2011 state, quote, Tom Caywood announced that he</p> <p>6 and Aric Dutelle would be traveling to Australia in</p> <p>7 the summer to represent the criminal justice</p> <p>8 department. This was appointed by the dean, closed</p> <p>9 quote.</p> <p>10 Could you explain the selection process</p> <p>11 used to determine who was going to be representing</p> <p>12 the CJ department on that trip?</p> <p>13 A From -- I would have been, because I was the chairman</p> <p>14 of the department. And I think it was offered to</p> <p>15 Aric because he was the FI director, but he did not</p> <p>16 go on that excursion.</p> <p>17 Q Did you?</p> <p>18 A Yes, sir.</p> <p>19 Q Did the dean have a role in the process of deciding</p> <p>20 who was going to be offered the opportunity to go?</p> <p>21 A Dean Nimocks?</p> <p>22 Q Yes.</p> <p>23 A Yes, it was through her office.</p> <p>24 Q So she was -- she also made the decision?</p> <p>25 A Yes.</p>

1 Q How long must a department wait by policy before
 2 ordering a new edition of a textbook?
 3 A There's no written time between when a textbook is
 4 published and when a new textbook would be ordered.
 5 Q What's the custom, five years?
 6 A It would depend on the course as to -- you know,
 7 those lower level intro courses, those textbooks come
 8 out every year, and so we try to stay relatively
 9 current, like every three years or so.
 10 The purchasing of textbooks is done through
 11 the textbook center. Now, a faculty member could
 12 make a request for a new textbook, and that request
 13 may or may not be honored by the textbook center.
 14 Q In about spring of 2013 didn't you order a new
 15 revision of Dutelle's textbook after only three
 16 years?
 17 A It is possible. If you show me the paperwork that I
 18 signed the approval, then yes.
 19 Q Do you know whether or not Mr. Dutelle was paid for
 20 those textbooks?
 21 A I would imagine so.
 22 Q Would there be a list someplace of the release time
 23 given to Mr. Dutelle from 2009 through 2014?
 24 A After the approval of 2011, he had I believe up to
 25 50 percent release time as the director of the

1 forensic investigation program, and that would have
 2 been from 2011 onward. And I believe he would have
 3 had some either formal or informal release time prior
 4 to that.
 5 Q Speaking about that, Dr. Burton was granted tenure in
 6 2009, right, was first employed in 2009, do you
 7 recall?
 8 A When she was -- she was appointed.
 9 Q I'm sorry, I misspoke. Dr. Burton was appointed in
 10 2009, right?
 11 A I believe so, yes.
 12 Q And Dr. Dutelle was appointed a year later in -- or
 13 appointed to a tenured faculty position a year later
 14 in 2010; is that correct?
 15 A You'd have to -- whatever the date of contract. I
 16 don't remember. It was somewhere around the same
 17 time frame I believe.
 18 Q Well, just bear with me for a second. Assume for the
 19 sake of discussion he was employed for the first time
 20 in 2010.
 21 A He was employed in 2004 the first time.
 22 Q I meant to say he was employed as a tenured faculty
 23 member for the first time in 2010. Assume that for
 24 the sake of discussion.
 25 A All right.

1 Q If that is the case and he was given two years of
 2 credit toward tenure, then he'd effectively move his
 3 tenure date back by two years to get that in, say,
 4 2008, right? Would that be correct?
 5 A You would -- that would probably be considered the
 6 first year, 2008-2009, 2009-2010, and goes through
 7 that. That's the only way -- you'd have to write it
 8 out to keep track of it.
 9 Q So he would be in his -- for purposes of the tenure
 10 clock, he would be in his sixth year in the year
 11 2014-2015, wouldn't he?
 12 A I would have to write it out. If he started at 2008,
 13 we're saying -- now, again, this is based on what the
 14 contract says.
 15 Q I understand.
 16 A On that initial contract. According to what you're
 17 saying then, the 2013-2014 would have been his sixth
 18 or up and out year.
 19 Q Which is inconsistent with your conclusion that his
 20 up and out year was the year before that?
 21 MS. BENSKY: Objection, that
 22 mischaracterizes his testimony.
 23 BY MR. HAWKS:
 24 Q Okay. Didn't you say --
 25 A Whenever he applied for tenure, that would have been

1 his up and out year. He was not asking, nor was he
 2 granted early tenure.
 3 Q But he applied -- when Mr. Dutelle applied for tenure
 4 was in the 2013-2014 year, wasn't it?
 5 A I don't recall a specific date. I mean you would
 6 have to resort to the form 1 or CRST file as such.
 7 Q You do remember Dr. Burton was on Mr. Dutelle's
 8 search and screen committee?
 9 A Was she? Okay.
 10 Q And you do remember that Dr. Burton -- that
 11 Mr. Dutelle applied for the position that Dr. Burton
 12 was first given. Do you recall that?
 13 A That is possible.
 14 Q Would you agree that -- is it Dr. Rice, Professor
 15 Rice?
 16 A Professor Rice.
 17 Q -- was underpaid by approximately \$5,000 a year while
 18 you were the chair of the department?
 19 A I have no say on the salaries. She was at one time
 20 part-time academic staff and teaching, instructional
 21 staff, and she also was part-time doing other duties
 22 within the department.
 23 Q In the University of Wisconsin system, isn't it true
 24 that there is a mechanism referred to as an equity
 25 adjustment in order to adjust equitably compensation

1 when it is inequitable?

2 A Through the tenure, through the faculty tenure side

3 there is that aspect that a faculty member could file

4 for inequity. And that inequity is based on salary

5 within the college, not the other colleges. Because

6 LA&E in fact were paid substantially less than the

7 other two colleges, EMS or BILSA.

8 And so when you file for inequity, it was

9 only within the college, that you were competing

10 against other faculty members in the college.

11 Q That said, it is true there is a process by which an

12 equity adjustment can be accomplished?

13 A Yes, sir.

14 Q And that is also true in LA&E?

15 A That is correct.

16 Q And isn't it also true it's initiated by an

17 application, but the initiation of a request for the

18 adjustment comes from the chair?

19 A I can't honestly answer that. I don't recall. I

20 know inequity is discussed in the DRB.

21 Q What individuals in the university context have

22 meaningful influence over the determination of the

23 entry level compensation that a faculty member is to

24 be paid?

25 A Ultimately it's the provost, the dean and the

1 provost.

2 Q Any departmental participation?

3 A When I was department chair, I had no say in the

4 salaries of anyone.

5 Q I believe in your -- again, in Exhibit 12 you wrote

6 something to the effect -- or actually I'll quote it,

7 Not in the 21 years I've been here has the CJ

8 department provided funding to a faculty member for

9 two different conferences, closed quote.

10 Do you recall writing that?

11 A Yes, sir.

12 Q If the department had adequate funds, why wouldn't it

13 support more than one conference if the conferences

14 are valuable?

15 A Well, it always had been, I think, the custom to fund

16 one. I think it also applied to the dean's fund for

17 travel expenses. That would also be an option

18 available to a faculty member.

19 Q Is there any written policy that limits it to one?

20 A No, sir.

21 Q So in the e-mail you sent to Dr. Burton on

22 January 24, 2013, this relates to the press release.

23 You wrote, and I'm quoting, This is bordering on

24 false claims when the department or university is

25 doing something when it is not, closed quote.

1 Strike that. We've gone over that ground

2 already.

3 What procedure is used in order to obtain

4 the required permissions to accept an NSF proposal?

5 A What are the procedures?

6 Q Uh-huh.

7 A I don't know, sir.

8 Q How about the procedures required to -- the

9 procedures required to obtain permissions to accept a

10 private grant like that from AT&T?

11 A What was the procedures?

12 Q Right.

13 A I'm not aware of any specific procedures that the

14 person goes through.

15 Q There's no application process that's required?

16 A You know, I don't know.

17 Q What are the procedures used in order to obtain

18 required permission to create a new course?

19 A At what time?

20 Q Between 2012 and the present.

21 A After the 2011 policies and procedures, there was the

22 creation of a department curriculum committee.

23 Q After when?

24 A I believe the 2011 policies and procedures that was

25 voted on by the department. Now, prior to that time

1 for a new course development, it was generally just

2 signed off by the department chair and had to go to

3 the college curriculum committee, the CCC. And if it

4 was approved by the college curriculum committee,

5 then it would go to the UUCC, the undergraduate

6 curriculum committee. And when it was approved by

7 the UUCC, then that course could be listed in the

8 catalog, and that would have been the procedure for

9 any new course development. For the on-campus

10 courses.

11 Q Right. And for the online courses?

12 A For the online graduate courses, of course it would

13 have to go through the graduate school. And the

14 undergraduate online classes were the same as the

15 on-campus classes, so they did not need to go through

16 any procedure.

17 Q What is the procedure used in order to obtain

18 required permissions to create a new curriculum?

19 A A new program?

20 Q A new curriculum.

21 A Okay, we're referring to creating a whole new program

22 or revamping the curriculum?

23 Q Let's use your word, revamping the curriculum.

24 A It would have to go through -- if the department had

25 a curriculum committee, it would have to go through

1 that, it would have to go through the college
 2 curriculum committee, and it would have to be
 3 approved by the UUCC.
 4 Q And speaking about this curriculum committee, I
 5 believe you testified that -- and I'm not going to
 6 hold you to the date, but there was no curriculum
 7 committee prior to 2011?
 8 A Not in the department.
 9 Q In the department.
 10 A Correct.
 11 Q And is that relatively unusual for a department not
 12 to have a curriculum committee?
 13 A To be honest we had not had that many new courses
 14 come on the books in the time from 1991 until the
 15 beginning -- the creation of the FI program.
 16 Q Which was in 2004?
 17 A When we started in 2004. So after that it would just
 18 be discussed. I think I would sign off on it, and it
 19 would go to the college curriculum committee.
 20 Q But the department did not have -- my question was is
 21 it unusual for a department not to have a curriculum
 22 committee, do you know?
 23 A I don't know. I can't tell you what the other
 24 departments did.
 25 Q What procedure is used in order to obtain the

1 Q You understand that Dr. Burton was informed she could
 2 not use the ATT funds for the purposes stated in the
 3 December 28, 2012, letter from ATT which accompanied
 4 the donation check? Do you understand that?
 5 MS. BENSKY: Object to form.
 6 BY MR. HAWKS:
 7 Q Subject to that you can answer.
 8 A I don't remember a particular document explaining how
 9 that money was to be spent.
 10 Q Do you find any part of this statement, that it is to
 11 be spent for the purpose of supporting a new cyber
 12 security program that will educate criminal justice
 13 students on how to effectively investigate and
 14 respond to the increase in cyber crime activity, to
 15 be problematic?
 16 MS. BENSKY: Object to form.
 17 BY MR. HAWKS:
 18 Q Again you can answer.
 19 A Should I answer?
 20 MS. BENSKY: If you understand what he's
 21 asking.
 22 THE WITNESS: I don't know what you mean by
 23 problematic. If she was given money to do something,
 24 that's the extent to what the grant was for.
 25 BY MR. HAWKS:

1 required permissions to create a program?
 2 A Well, don't hold me to this, but it would have to go
 3 to the college curriculum committee, go to the
 4 university curriculum committee, would have to be
 5 signed off by the administration, and it would have
 6 to go up to the Board of Regents for approval. And
 7 the Board of Regents would approve a new program. A
 8 major, not a minor.
 9 Q Do you consider Dr. Burton as having an expertise in
 10 cyber crime?
 11 A I would think it was probably gained through personal
 12 experience.
 13 Q So the answer is yes?
 14 A Yes.
 15 Q Would it surprise you if the examination of the
 16 records would demonstrate that the curriculum
 17 committee did not exist prior to May of 2013?
 18 A Okay.
 19 Q My question is would it surprise you?
 20 A It would, because I believe it was in that document
 21 that criminal justice -- the policy and procedures
 22 that was laid out on the creation of the department
 23 curriculum committee. And I believe Rex Reid was the
 24 chairman of that. Maybe, I'm not -- I believe it. I
 25 may not be right.

1 Q So actually spending the money for that purpose
 2 should not be a problem?
 3 A No.
 4 MS. BENSKY: I'm objecting to the extent
 5 this is taken out of context. He's being asked about
 6 quotes in a document we were not given, so that's my
 7 objection.
 8 (Exhibit 24 marked for identification.)
 9 BY MR. HAWKS:
 10 Q Have you had an opportunity to review Exhibit 24,
 11 Dr. Caywood?
 12 A Yes, sir.
 13 Q The document represents that it was sent to you on
 14 September 12 of 2012. Do you recall getting this
 15 document?
 16 A The first part, that's addressed to me. Then if it's
 17 to me, then I did receive it. I cannot attest to the
 18 rest of the document.
 19 Q And upon receiving this, what was your impression of
 20 the value of Sabina's contribution to the department?
 21 A Would you rephrase that, please?
 22 Q Yeah, is this a good thing to get a 5,000 to \$7,000
 23 grant?
 24 A Sure, it's good PR for everyone.
 25 Q Did you let her know it was a good thing?

1 A I don't recall.
 2 Q You certainly wouldn't -- you didn't say it was a bad
 3 thing, did you?
 4 A No, for trying to obtain funding, no.
 5 Q Or not trying to, actually securing it --
 6 A Sure.
 7 Q -- she's got it. And by the way it's referred to as
 8 a cyber crime program in this document, isn't it?
 9 A Well, what she has up here in the forward subject,
 10 yes.
 11 Q And also in the first sentence, I just secured --
 12 A Okay.
 13 Q 7,000 -- five to seven --
 14 A That's what it says.
 15 Q In a cyber crime program. You didn't object at that
 16 time to the fact that she called it a program, did
 17 you?
 18 MS. BENSKY: Objection, mischaracterizes
 19 what the document says. The document says for
 20 getting a cyber crime program started.
 21 BY MR. HAWKS:
 22 Q You didn't object to her calling it a cyber -- for
 23 getting a cyber crime program started at that time,
 24 did you?
 25 A It's not saying here one way or the other.

1 Q Did you object to her use of the word program?
 2 A At that time I do not recall.
 3 Q Thank you.
 4 (Exhibit 25 marked for identification.)
 5 BY MR. HAWKS:
 6 Q Have you had a chance to review Exhibit 25?
 7 A Yes, sir.
 8 Q And it appears to be an e-mail from Dr. Burton to you
 9 saying that she's been doing a lot of brainstorming
 10 on how to put together a unique cyber security
 11 homeland security program for UW Platteville.
 12 Do you see that?
 13 A Yes, sir.
 14 Q She attached a document putting her thoughts on
 15 paper. Did she do that?
 16 A It says here this is an attachment. It's not here
 17 that I'm aware of.
 18 Q Do you recall having received this document back in
 19 October of 2012?
 20 A It's addressed to me so I assume I did receive it.
 21 Q And did you object in any way to the receipt -- or to
 22 Dr. Burton's brainstorming and paper to describe what
 23 she was working on?
 24 A No, sir, I had others doing the same thing in other
 25 areas.

1 Q And you wouldn't criticize her for this?
 2 A No.
 3 (Exhibit 26 marked for identification.)
 4 BY MR. HAWKS:
 5 Q Do you have Exhibit 26 in front of you?
 6 A Yes, sir.
 7 Q And does that appear to be the document that was
 8 attached to Exhibit 25?
 9 A It says it's a proposal for a cyber security homeland
 10 security program at UW Platteville.
 11 Q And it refers in the body of it to having just
 12 received a \$7,000 donation from AT&T?
 13 A It says funding ideas is what is stated in that first
 14 sentence.
 15 Q And would you -- do you believe this is likely the
 16 document that was attached to the prior exhibit?
 17 A I will not attest to that, sir.
 18 Q Have you seen this document before?
 19 A I don't recall.
 20 Q Assuming you had received it, the document -- the
 21 exhibit I just presented to you --
 22 A 26.
 23 Q -- 26 specifically describes a plan to create a cyber
 24 security and criminal justice journals open access.
 25 Do you see that, item No. 1?

1 A Yes, sir.
 2 Q Did you at any time prior to January of -- excuse
 3 me -- did you at any time criticize or object to
 4 Dr. Burton's intention to create a cyber security and
 5 criminal justice journal open access for UW
 6 Platteville?
 7 A No. It says here she owns the following sites, so
 8 apparently at this time she had those websites.
 9 Q And item No. 2, Dr. Burton announced an intention to
 10 create an undergraduate and graduate course for cyber
 11 security. Did you at any time object to Dr. Burton's
 12 intention to create an undergraduate or graduate
 13 course for cyber security?
 14 A The desire to create one, no.
 15 Q Number three reflects an intention by Dr. Burton to
 16 create an undergraduate and graduate course for
 17 homeland security.
 18 Have you at any time criticized or objected
 19 to Dr. Burton's intention to do that?
 20 A Not to create something.
 21 Q And item No. 6, Dr. Burton announces the intention to
 22 develop an emphasis in homeland and cyber security
 23 within criminal justice.
 24 Did you at any time criticize or object to
 25 Dr. Burton's intentions to develop this emphasis?

1 A No.

2 Q Item No. 7 described an intention to turn an emphasis
3 into a major in homeland and cyber security in the
4 next years.

5 Did you ever criticize or object to
6 Dr. Burton's intention to do that?

7 A No.

8 Q Item No. 8, it was an intention to build a UW cyber
9 security center.

10 Did you ever object to or criticize
11 Dr. Burton's intention to do that?

12 A No.

13 Q Was there at one time or in the fall of 2012 school
14 year some discussion of naming that cyber security
15 center the Caywood Cyber Security Center?

16 A Seriously?

17 Q That's a question.

18 A No.

19 (Exhibit 27 marked for identification.)

20 BY MR. HAWKS:

21 Q This appears to be two e-mails, the first from you to
22 Dr. Burton. It begins by saying, I thought about
23 this over the weekend.

24 Can you describe for us what it was you
25 were thinking about over the weekend of November 19

1 A And -- okay.

2 Q So the next note appears to be -- the next subsequent
3 note appears to be from Dr. Burton to Dean Throop,
4 correct?

5 A Well, the top -- I think it says from the dean to
6 Dr. Burton here.

7 Q Go down --

8 A And it says terrific, yada, yada, yada, Sabina wrote
9 this -- meet with Aric -- put together a proposal for
10 CJ.

11 Q You see the line that reads on November 19, 2012, at
12 9:59 a.m. Sabina wrote.

13 A This is just FYI.

14 Q Yeah, that appears to be from Sabina?

15 A To the dean or from her to me? I'm not sure.

16 Q Okay. But then if you go up to the first of the
17 notes, it's from the dean to Sabina Burton, and the
18 subject is cyber crimes, and the dean is saying
19 terrific, correct?

20 MS. BENSKY: Object to foundation.

21 BY MR. HAWKS:

22 Q Subject to that. It appears that the dean is writing
23 to Sabina?

24 A Yes.

25 Q And complimenting her; is that fair?

1 of 2012?

2 A It looks like it's trying to come up with an emphasis
3 or what's required for an emphasis in criminal
4 justice.

5 Q And what emphasis would that have been?

6 A Well, it would be -- here, this is all dealing with
7 the cyber security focus.

8 Q And does the dean express an opinion with regard to
9 your idea?

10 A Well, it says here -- I think my response is it says
11 here they need 15 to 16 credits if an emphasis must
12 be in criminal justice, 15 credits in theory and so
13 forth -- or should have been probably five credits,
14 brings you to 21, and an emphasis would need a total
15 of about 36. Outside would fall short. A
16 certificate may be more appropriate.

17 We had three emphasis at that time, and it
18 was Law Enforcement, Corrections, and at one time
19 they could get a Forensic Investigation emphasis.
20 And it was just -- each one was about five credits --
21 five courses for an emphasis. So that's what I'm
22 referring to here, trying to come up with a number of
23 courses that would meet the emphasis requirement.
24 There is generally no requirement for a certificate.

25 Q All right. Then --

1 A Terrific, yeah, sounds like progress is being made.

2 (Exhibit 28 marked for identification.)

3 BY MR. HAWKS:

4 Q Do you have Exhibit 28 in front of you?

5 A Yes, sir.

6 Q This appears to be a letter from you to Dr. Burton
7 congratulating her on moving one step closer to
8 getting a system grant; is that correct?

9 A That's what it says.

10 Q What would that system grant have been for?

11 A Well, if you go down towards the bottom of the page,
12 it appears to be an e-mail from a Dr. Gill, and it
13 says, Dear Sabina, thank you for submitting a
14 pre-proposal for an applied research wifi technology
15 advancement grant. It has been reviewed. And I
16 believe that is -- they submitted a pre-proposal.

17 Q What is a pre-proposal?

18 A Well, apparently, if you go to the next one, We look
19 forward to receiving your full proposal no later than
20 January 14, 2013. So I hate to make assumptions, but
21 it's probably saying this is what we're looking at or
22 this is what we propose.

23 Q You certainly didn't discourage Dr. Burton from
24 proceeding with this request for a system grant, did
25 you?

1 A No.

2 Q Dr. Caywood, could you refer back to the exhibit

3 which is the January 24, 2013, letter from you to

4 Dr. Burton. It would have been early in the day.

5 MS. BENSKY: Exhibit 6.

6 MR. HAWKS: Some of the extra copies are

7 folded in there with those.

8 Q In that January 24, 2013, letter from you to

9 Dr. Burton, you wrote, and I'm quoting, You're

10 advertising in press releases and websites that the

11 department and university are supportive of what you

12 are doing. That is in error.

13 MS. BENSKY: Where are you reading from?

14 Okay, I found it. It's the second page. It's right

15 here (indicating).

16 THE WITNESS: Okay.

17 BY MR. HAWKS:

18 Q We just reviewed several exhibits in which you acted

19 in a manner supportive of what Dr. Burton was doing.

20 MS. BENSKY: Object. It mischaracterizes

21 the exhibits.

22 BY MR. HAWKS:

23 Q Subject to that objection would you say that the --

24 that as of December -- that -- hang on just a second.

25 Would it be -- it's an open-ended question

1 here, Dr. Caywood. Please explain how it is that

2 Dr. Burton was advertising that the department and

3 university are supportive of what she was doing?

4 A I took that to mean that the cyber security program

5 had been approved by the department and was

6 sanctioned by the university which is not true.

7 Q You took that to -- based upon the press release?

8 A None of this had gone through any curriculum

9 committee. To establish a program you have to come

10 up with courses. You have to have FTE positions to

11 fill those courses. And none of that had ever

12 happened. It's one thing to ask for a grant. We're

13 always looking for money.

14 Q In part though you relied upon information contained

15 on the websites that were created, the open websites

16 that were created, correct?

17 A What was stated in those websites, I think, if you

18 have a copy of it, I believe it referred to that

19 those were in existence or it was going to be

20 approved or something along that line.

21 Q Those are the same websites that Dr. Burton informed

22 you about back in September of 2012?

23 A That she owned, yes.

24 Q In your January 24, 2012, letter to Dr. Burton you

25 wrote, quote, Current Topics courses can be offered

1 three times before it must be decided whether it

2 becomes a permanent course offering. That decision

3 is a departmental decision, and it must be approved

4 by the department.

5 Why did you include that sentence in this

6 letter?

7 A Are you referring to the January 24, 2013, letter,

8 Exhibit 6?

9 Q I am, I misspoke.

10 A Well, it's one thing to offer a Current Topics

11 course, and there's not a great deal of say other

12 than what the faculty member does to create that

13 course, but it can only be taught so many times. If

14 it's taught three times, then it has to become a full

15 course. It has to go through all the procedures.

16 A Current Topics course does not have to go

17 through any curriculum review. It's something --

18 it's hot, it's current, we've got someone that can

19 talk about it, present that course, but it is not

20 part of the established curriculum. And it can only

21 be taught three times before it would have to be

22 approved as part of a curriculum of a program.

23 Q But my question was why did you include that

24 sentence?

25 A Well, I just want her to know what's required here.

1 You're talking about creating a program, you know,

2 the steps to go through to get these courses approved

3 to be part of a program.

4 Q You must have believed that Dr. Burton didn't know

5 that, otherwise you wouldn't have written it?

6 A I just want to clarify.

7 Q Did you believe that Dr. Burton didn't know what was

8 required?

9 A Sir, to be honest I just put that in there so she

10 would be aware this is what the procedures are.

11 Q Do you think that Dr. Burton wasn't aware that a

12 program had to be reviewed by the multiple levels you

13 had described earlier in your testimony?

14 A I don't know.

15 Q You must have assumed she didn't know, otherwise you

16 would have been preaching to the choir?

17 MS. BENSKY: Asked and answered.

18 BY MR. HAWKS:

19 Q In that January 24 letter, you write that the FI

20 program had the overwhelming support of the

21 department. Did that support include Dr. Fuller?

22 A No.

23 Q You also write in that letter, We got courses passed

24 through the appropriate curriculum committees before

25 offering a single course.

1 Were you intending to imply that Dr. Burton
 2 had done otherwise?
 3 A Are you referring to here for the creation of the FI
 4 program?
 5 Q We got courses passed through the appropriate
 6 curriculum committees before offering a single
 7 course.
 8 And my question is did you think that
 9 Dr. Burton had done something differently?
 10 A All right. Let me try to find that. That is in
 11 reference to the FI program explaining to her how
 12 that program came into existence, and she was not in
 13 the department at the time that program was created.
 14 Q Are you -- but by writing that sentence, did you
 15 intend to insinuate that she had done something
 16 wrong?
 17 A I was just laying out the procedure how that program
 18 went through and said in the next sentence that it
 19 was a long process to go through to get a program
 20 approved.
 21 Q And again, you must have believed that Dr. Burton
 22 didn't know it was a long process to get a program
 23 approved?
 24 A As I said previously she was not present. That was
 25 the last program that was approved, and she was not

1 MS. BENSKY: Do you know what the date for
 2 this document is?
 3 THE WITNESS: Stan's was May 10, 2014.
 4 MR. HAWKS: I don't know what the date is,
 5 but I believe there were --
 6 MS. BENSKY: Is this the exhibit you
 7 intended to give to him? You gave me something else.
 8 MR. HAWKS: I gave you two, 29 and 30.
 9 (Discussion held off the record.)
 10 BY MR. HAWKS:
 11 Q So Dr. Stojkovic refers to the program as a train
 12 wreck. Is that a sound criticism in your opinion?
 13 A Firstly on the date I was no longer department chair
 14 at that time, so I had no say on what was going on
 15 inside the department. Stan objected to the creation
 16 of the FI program from the very get-go. As I alluded
 17 to earlier, we were competing with courses offered at
 18 his university.
 19 Q Do you recall a search conducted and chaired by
 20 Mr. Dutelle when the decision was made to hire
 21 Danelle Bemis into an FI position instead of Rachael
 22 Moore?
 23 A Danelle Bemis was the person that was hired.
 24 Q Danelle by the way, is that a male or female?
 25 A Female.

1 in the department at that time.
 2 Q Are you familiar with a Professor Stan Stojkovic?
 3 A Yes, sir.
 4 Q Has he been critical of the FI program?
 5 A Yes, sir.
 6 Q And have there been others outside the department who
 7 have been critical?
 8 A For example?
 9 Q I'm asking you have there been others outside the
 10 department that are critical of the FI program?
 11 A The current dean brought in two individuals -- Stan
 12 Stojkovic is one. I don't recall the other man, but
 13 he was from the university of I think Eastern
 14 Kentucky -- to look at -- to evaluate the forensic
 15 investigation program, and they were both critical of
 16 that program.
 17 Stan was critical of that program because
 18 it competed with programs and courses he had at his
 19 college where Stan is the dean of the college of
 20 social work.
 21 (Exhibits 29 and 30 marked for
 22 identification.)
 23 BY MR. HAWKS:
 24 Q I believe Dr. Stojkovic describes the program as a
 25 train wreck?

1 Q You considered Mr. Dutelle to be the logical choice
 2 rather than Dr. Burton to chair five search and
 3 screen committees while Dr. Burton chaired only one.
 4 Could you elaborate on the reason for why it was a
 5 logical choice?
 6 A I think it would probably depend upon what the
 7 specific search was for. If it was for something in
 8 the FI field, then yes, he would be the logical
 9 choice because he is the director of the forensic
 10 investigation program. If it was for a law
 11 enforcement position, then he would be the logical
 12 choice because he had been a law enforcement officer,
 13 and he had a background in law enforcement.
 14 Q Mr. Dutelle chaired a search committee that hired
 15 Dana Cecil. Are you familiar with that search
 16 committee and that hiring decision?
 17 A I hired her initially for the two-year positions, and
 18 then we opened up to a search. And if you say he was
 19 the chair, then he was the chair.
 20 Q All right. Was there a personal relationship between
 21 Dana Cecil and Mr. Dutelle at the time he chaired
 22 that committee?
 23 A No.
 24 Q Did you socialize with Mr. Dutelle while he was
 25 employed by UW Platteville?

1 A Yes.

2 Q At any of those social events was Mr. Dutelle
3 accompanied by Dana Cecil?

4 A Afterwards.

5 Q After when?

6 A After she had been hired in that position. At some
7 later date they did start dating.

8 Q In the academic staff position or in the tenure
9 faculty position?

10 A Dana was never offered a tenure track position. Hers
11 was an academic staff position.

12 Q She began initially this two-year period you
13 described?

14 A I appointed her -- or I -- here's what happened. We
15 had -- Amy Nemmetz left, quit at the eleventh hour,
16 took another position on campus, so we were
17 scrambling to try to find someone to basically take
18 over the online undergraduate program.

19 Dana was a graduate of that program. I
20 spoke with the dean, with the provost, Nimocks, and
21 Jean Durr to see if we could possibly get a two-year
22 period, just a two-year contract for her to come in
23 and take that over so in that two-year time period we
24 could do a search, open it up to a search, because we
25 just did not have time with Amy leaving.

1 And they agreed to that, so it was a
2 two-year appointment and Ms. Cecil knew that's all it
3 was was a two-year appointment. During that time
4 frame we went through the process then of creating a
5 committee then to conduct a search for a person to
6 fill that academic staff position.

7 Q And you said that Mr. Dutelle began dating Ms. Cecil
8 at some point in time, and I guess the reference I
9 need is whether or not it was before or after Dutelle
10 chaired that search.

11 A It was after.

12 Q Do you know why Danelle Bemis was fired?

13 A I know, I believe, some of the reasons.

14 Q Can you please share with us the reasons that you
15 know?

16 A She was conducting intern visits. In our program for
17 internship they would go out and meet with the
18 students and someone within the department, talk
19 about the internship and so forth. And what was, I
20 think, given to me by the dean, one, she made passes
21 at the person that was -- that she was visiting, the
22 member of the department. And she also made
23 allegations that Mr. Dutelle had been sleeping with
24 some of the undergraduate students.

25 Q Were those allegations investigated?

1 A I was not involved in that. That was handled by the
2 dean.

3 Q What year was that?

4 A Whatever year she was dismissed. I mean she was
5 dismissed like in end of summer or in August of
6 whichever year. I don't remember the year.

7 Q Do you know why there was a position created called
8 director of first year experience for Dr. Nemmetz?

9 A Why, I do not know.

10 Q Do you know whether or not Dr. Nemmetz complained
11 about unfair treatment in her application process?

12 A For that position I do not know.

13 Q Any other complaints of unfair treatment?

14 A You'd have to ask her.

15 Q You don't know of any others?

16 A I'm not -- I just don't recall.

17 Q Do you know why that director position was canceled
18 after she was hired into the criminal justice program
19 in 2014?

20 A No, sir.

21 Q Did Dr. Fuller ever complain about sexual harassment
22 or sex discrimination to your knowledge?

23 A No, sir.

24 Q Have there ever been any complaints or allegations of
25 professional wrongdoing lodged against you between

1 '96 and 2 -- until the present or until the date of
2 your retirement?

3 A Say the first word again, please.

4 Q Have there ever been any complaints or allegations of
5 professional misconduct lodged against you?

6 A The grievance.

7 Q Besides this.

8 A Not that I'm aware of.

9 Q Do you have any information to explain the absence of
10 Mr. Dutelle's DRB file?

11 Explain why Mr. Dutelle -- the file was
12 missing on January 10; on April of 2013 -- April 19,
13 2013; April 22, 2013; and again on May 24, 2013.

14 I'll reframe the question. I understand an objection
15 would be appropriate.

16 Do you have any knowledge that
17 Mr. Dutelle's file was missing at any time?

18 A No, sir. You understand that file is retained by the
19 faculty member.

20 Q Except there are certain periods of time --

21 A Yes.

22 Q -- as I understand when it's open for review by the
23 appropriate committee?

24 A At the department and college level, yes.

25 Q And even -- at those times when it should be

1 available, if it was not, you have no knowledge of
 2 that?
 3 A No.
 4 Q Do you know that your spouse called Dr. Burton's
 5 husband on July 11, 2013?
 6 A Yes, sir.
 7 Q And did she attribute to Dr. Burton the pressure you
 8 received from Dean Throop?
 9 A I was not privy to that conversation.
 10 Q Did you ever share -- strike that.
 11 Did you ever tell anybody that one of the
 12 reasons that you believe the writing was on the wall
 13 for you to depart as chair of the department was a
 14 function of Sabina Burton's grievance and complaint?
 15 And by complaint I mean the federal court complaint.
 16 A Did I believe that?
 17 Q Uh-huh.
 18 A No.
 19 Q And you never told anybody anything to that effect?
 20 A I don't recall saying that, no.
 21 Q Do you believe that Dean Throop and the provost acted
 22 outside of university policy when they met with you
 23 and you observed that writing was on the wall and
 24 that you needed to go?
 25 A I believe -- and I filed a grievance against both of

1 Dr. Burton?
 2 A In what manner?
 3 Q With regard to the ATT grant?
 4 A As far as I know, she received that money, and it
 5 went forward from there.
 6 Q Do you recall saying at the grievance -- this is
 7 Dr. Burton's grievance hearing, I misunderstood what
 8 was going on. I did not see it as sexual harassment
 9 and, you know, when we had the meeting with the dean
 10 and HR, it was brought to my attention that that's
 11 what this is.
 12 Do you recall saying that?
 13 A If that's in the statement, then I said it.
 14 Q How could that handwritten note with a faculty
 15 member's cell number on it given to a female student
 16 in a class not constitute sexual harassment?
 17 A I can't answer that.
 18 Q Do you recall saying during the hearing, And so did I
 19 screw up? Oh, yeah, yeah, but then nothing has been
 20 done since then either.
 21 A If that's in the statement, I said it.
 22 MS. BENSKEY: The question was do you recall
 23 it, so just answer the question.
 24 THE WITNESS: Yes.
 25 BY MR. HAWKS:

1 them -- that they did not follow the university
 2 procedures for removing a department chair or for
 3 appointing of another department chair, yes, I filed
 4 a grievance against both of them.
 5 Q Did you take that grievance to hearing?
 6 A Yes, sir.
 7 Q What was the outcome?
 8 A I think it's basically too bad, so sad. We won't do
 9 it again. I'm just para -- that's how -- that they
 10 sided with them. A, they acted inappropriately, but
 11 they promised they wouldn't do it again.
 12 Q It's 3:40 in the afternoon. Anything you can do to
 13 shorten up your answers is greatly appreciated.
 14 A I'm just telling you the truth.
 15 Q During the grievance proceedings, in the hearing in
 16 particular, one of the board members -- or do you
 17 recall one of the board saying, quote, Just reading
 18 what I read, I did have the feel like the rug was
 19 pulled out from under Dr. Burton (as read), or words
 20 to similar effect?
 21 A In which grievance, hers or mine?
 22 Q Hers.
 23 A Whatever is in the transcript. I don't recall that
 24 being said by one of the members of the committee.
 25 Q Do you believe the rug was pulled out from

1 Q What did you mean by saying that nothing had been
 2 done since?
 3 A There was -- as far as I was aware, there was nothing
 4 ever, you know, implemented to say here are the
 5 appropriate procedures and so forth, how this -- a
 6 situation like this should be handled.
 7 Q Would it be a fair summation then to say from your
 8 perspective this was a problem, but it was never
 9 fixed?
 10 A From my perspective this was an incident that
 11 happened. It wasn't in my point of view clear
 12 guidelines on how it should be handled, and I
 13 thought, you know, there should be some clear
 14 guidelines, in situations like this involving a
 15 student and a faculty member, this should be the
 16 procedure. Now, I do not believe that was ever done.
 17 Q All right. Between 2004 and 2006 four faculty
 18 members had been hired by the department.
 19 A I believe that's 12, correct?
 20 Q Uh-huh.
 21 A Okay.
 22 Q Aric Dutelle. I think it's Susan --
 23 A Should be Susan with an N.
 24 Q Hilal, Dale Kapla, and Laura Khorhy?
 25 A Correct.

1 Q Could you explain -- all four are no longer there,
 2 correct?
 3 A That is correct.
 4 Q Could you provide the explanations why each of them
 5 left?
 6 A It is laid out in this document, but we'll go first
 7 with Laura Corey. Her husband was in the criminal
 8 justice department at the University of Wisconsin
 9 Parkside. She was teaching someplace back east. And
 10 she applied for a position, wonderful credentials so
 11 that she was hired in our department within that
 12 year. And she was -- received a job there at
 13 Parkside to be with her husband. So she left for
 14 personal reasons to be with her husband at Parkside.
 15 Dale Kapla was hired -- Dale's Ph.D. was
 16 from West Virginia. If I remember correctly it was
 17 in political science. Dale was from UP Michigan,
 18 upper peninsula. That's where he was raised. He
 19 worked for a sheriff's department up there. During
 20 his time at UWP, a position opened up there at -- I
 21 don't know if it was Marquette, but it was some
 22 university there in the UP relatively close to where
 23 he lived.
 24 Dale came in, and we talked about this.
 25 And he was torn by the fact that he'd had just been

1 Aleppo, and I reached out to her to find out how her
 2 family was doing, and that's the last contact I had
 3 with her. And they were doing okay.
 4 MR. HAWKS: Why don't I take a few minutes
 5 with Dr. Burton in the hall and see if there's any
 6 additional questions.
 7 (Recess taken from 3:48 to 3:55 p.m.)
 8 BY MR. HAWKS:
 9 Q Just a couple questions with regard to the timing of
 10 your conversation with the student who was your
 11 advisee and had been the victim of the breach
 12 experiment. You were advising her for the purpose of
 13 advising her with regard to the courses she should be
 14 taking for the second semester, was that correct?
 15 A It is an advising appointment where we look at the
 16 their schedule, look at the courses they have
 17 selected to make sure they are taking the courses
 18 they need to graduate. That's the purpose. They
 19 also have to meet with a faculty member to get their
 20 secret number to log in and enroll in class, so it
 21 was an academic advising meeting.
 22 Q So isn't it true that would have occurred by mid
 23 November of 2012 because you would be --
 24 A No.
 25 Q -- advising of taking the courses for 2013?

1 here a year, but there was this opportunity for him
 2 to get home. I said, go for it if you can get that,
 3 because that doesn't come along that often where a
 4 person can get a job in this career field that close
 5 to home. And so that's why he left. He was hired to
 6 teach that university there in upper Michigan.
 7 Susan left to accept a position in
 8 Minneapolis. She was from that area. Her Ph.D. was
 9 from I believe South Dakota state. It's just right
 10 on the border between South Dakota and Minnesota.
 11 She was from the Minneapolis area. And so there was
 12 an opportunity for her to move up there. She moved
 13 back up there to be with her family.
 14 Aric, you know the story. He stayed and
 15 went -- eventually went over to work in sponsored
 16 programs and then accepted a position as a grant
 17 writer out in Oregon.
 18 Q Do you have contact information for any of them
 19 currently?
 20 A Probably Aric. I think Dale is -- I think is a dean
 21 in one of the colleges where he's at in northern
 22 Michigan. The other two I do not.
 23 I did e-mail Susan at one time because
 24 Susan was originally -- her family was from Syria,
 25 and during the uprising there -- her family is from

1 A It had to have been after all this, so in the spring.
 2 Because advising I think was generally sometime in
 3 October of the fall semester and March/April time
 4 frame in the spring semester on that. But this was
 5 after all this happened. Because I was told not to
 6 talk to her, so I didn't. I never approached her.
 7 Q This happened on October 10 or 11 though, so after
 8 October 10 or 11 could be November of 2012?
 9 A I don't think it was resolved by then. It could have
 10 been. You know, I don't remember. I know I spoke to
 11 her sometime after August had transpired.
 12 Q One other question then is -- relates to these
 13 websites that you were upset about which you
 14 criticized Dr. Burton for that it misrepresented the
 15 nature of the program at UW Platteville as did Dean
 16 Throop. Did you ever look at those websites?
 17 A I can't honestly say whether I in fact actually
 18 visited those websites, no. I know I saw printings
 19 of them.
 20 Q And if those websites said on their face words to the
 21 effect that UW Platteville is considering a program,
 22 then they would not have offended you at all,
 23 correct?
 24 A I still think it was a misrepresentation, what was
 25 said. There had been no approval of the program.

1 Nothing had been approved by anyone. This is someone
 2 saying here's what I'm hoping to do.
 3 Q But you couldn't of course know that without having
 4 viewed the sites?
 5 A Or I saw a printout of them.
 6 Q And did you see a printout of it?
 7 A It seems to me that I did.
 8 Q But you don't recall clearly?
 9 A No. No, sir.
 10 Q And did you have any conversations with Dean Throop
 11 about this subject?
 12 A About the websites?
 13 Q About the websites and the -- yeah, about the
 14 websites.
 15 A Well, I know there are other people on campus
 16 involved in that as well about those websites.
 17 Q Who else?
 18 A I think it was the people in OIT. You'd have to talk
 19 to the dean or those individuals.
 20 Q Remind me what OIT stands for.
 21 A Office of information technology. They're the ones
 22 that -- all the computer people on that, so I think
 23 there was someone involved in that from there as
 24 well. Again, you'd have to speak with Dean Throop
 25 about that.

1 STATE OF WISCONSIN)
 2) SS:
 3 MILWAUKEE COUNTY)
 4
 5 I, Tammy R. O'Neal, RPR and Notary
 6 Public in and for the State of Wisconsin, do hereby
 7 certify that the preceding deposition was recorded by
 8 me and reduced to writing under my personal
 9 direction.
 10 I further certify that said deposition was
 11 taken at Wisconsin Department of Justice, 17 West
 12 Main Street, Madison, Wisconsin, on the 21st day of
 13 August, 2015, commencing at 10:07 a.m. and concluding
 14 at 3:59 p.m.
 15 I further certify that I am not a relative
 16 or employee or attorney or counsel of any of the
 17 parties, or a relative or employee of such attorney
 18 or counsel, or financially interested directly or
 19 indirectly in this action.
 20 In witness whereof, I have hereunto set my
 21 hand and affixed my seal of office on this 28th day
 22 of August, 2015.
 23
 24 TAMMY R. O'NEAL, RPR
 25 Notary Public
 My commission expires 8/2/19.

1 Q You wouldn't know how they'd be involved?
 2 A No.
 3 MR. HAWKS: All right. We have no further
 4 questions.
 5 MS. BENSKY: All right. Thank you.
 6 (Deposition concluded at 3:59 p.m.)
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