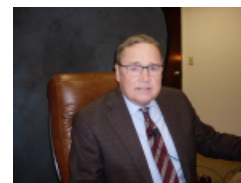


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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

TABATHA BARNES, et al.,)
)
Plaintiffs,)
) No.
vs.) 16-CV-0184-HE
)
CITY OF OKLAHOMA CITY, et al.,)



VIDEOTAPED DEPOSITION OF BILL CITTY
TAKEN ON BEHALF OF THE PLAINTIFFS
IN OKLAHOMA CITY, OKLAHOMA
ON FEBRUARY 19, 2020

REPORTED BY: KAREN B. JOHNSON, CSR

1 Q Well, and the incident that you -- that
2 we're discussing, the in-custody death, were you
3 aware that Mr. Holtzclaw was placed on
4 administrative leave for one day?

5 A I don't remember that, but that's a
6 possibility.

7 Q You wouldn't have any reason to dispute
8 that?

9 MR. SMITH: Object to the form.

10 THE WITNESS: I would not have any reason
11 to dispute that.

12 Q (By Mr. Solomon-Simmons) And if
13 Mr. Holtzclaw was placed on administrative for one
14 day, then that means that you, as the chief, would
15 have cleared him to go back to work after the one
16 day; correct?

17 A Yes, that's correct.

18 Q Beyond the in-custody death case that we
19 were -- we've been discussing, when is the next
20 time you recall having any conversations with
21 anyone about Daniel Holtzclaw?

22 A I don't recall any, I don't recall, I'm
23 not saying it didn't happen, I just don't
24 remember.

25 Q Would you agree that in May and June of

1 2014, Mr. Holtzclaw had black hair?

2 A Yes.

3 Q Would you agree that in May and June of
4 2014, Mr. Holtzclaw had a muscular build?

5 A Yes.

6 Q Would you agree that in May and June of
7 2014, Mr. Holtzclaw was clean shaven?

8 A Yes.

9 Q Would you agree that in May and June of
10 2014, Holtzclaw was a -- what we consider a
11 dark-skinned white male?

12 A I'm not sure whether I would say
13 dark-skinned --

14 Q How would you describe him?

15 A -- white male. I would say dark
16 complected, but I wouldn't -- I -- I couldn't tell
17 you whether he would be a white male or what type
18 of ethnicity he might be.

19 Q Would you agree that it's reasonable for
20 someone to believe that Mr. Holtzclaw was a -- a
21 Latino?

22 MR. SMITH: Object to the form.

23 THE WITNESS: Yeah, they probably could.

24 Q (By Mr. Solomon-Simmons) Would you agree
25 that it would be reasonable someone to think

1 Mr. Holtzclaw was Native American?

2 A Possibly.

3 Q Would you agree with -- reasonable for
4 someone to believe Mr. Holtzclaw was Asian?

5 A Possibly, sure.

6 Q Would you agree that in May and June of
7 2014, Mr. Holtzclaw was around six feet tall?

8 A Yes.

9 Q How long did you know Deputy Chief Johnny
10 Kuhlman?

11 A I've -- I've -- I've known him for quite
12 some time, I couldn't tell you how many years.

13 Q How long did you guys work together?

14 A You know, my earliest recollection of
15 Kuhlman was when he was in homicide, we were not
16 in homicide together, but I -- and I can't
17 remember what years he was there, but that would
18 have been my earliest -- you know, when I recall
19 knowing him, knowing the name, who he was, that
20 type of thing.

21 Q How long was Chief Kuhlman your deputy --
22 one of your deputy chiefs?

23 A Johnny -- Johnny was made -- I did not
24 make Johnny deputy chief, M.T. Berry, Chief Berry
25 made Johnny deputy chief, so he made deputy chief

1 characteristics of Jeff Sellers?

2 A He's medium height and slender.

3 Q He's not -- he -- you wouldn't consider
4 him to be dark complected?

5 A No, he's -- he's not, he doesn't have the
6 same characteristics as Holtzclaw.

7 Q You wouldn't consider Jeff Sellers to be
8 muscular?

9 A Huh-uh, no, sir.

10 Q And you wouldn't consider Jeff Sellers to
11 be about six feet?

12 A I would -- he might be about six feet, I
13 know he's -- yeah, he's -- he's probably six feet,
14 I would think. A little bit taller than me.

15 Q Were you aware that Terri Morris described
16 her assailant as clean shaven?

17 A Yes.

18 Q Were you aware she described her assailant
19 as having muscular build?

20 A Yes.

21 Q Were you aware she described her assailant
22 as having black hair?

23 A Yes.

24 Q And being dark complected?

25 A Yes.

1 Q And that description meets Daniel
2 Holtzclaw; correct?

3 A Yes.

4 Q And then Daniel Holtzclaw had contact with
5 her in May of 2014, according to your system;
6 correct?

7 A Correct.

8 Q Now, your investigative experience over
9 your 41 years doing investigations and
10 supervising, it would be reasonable then for
11 Mr. Holtzclaw to at least be interviewed about his
12 contact with Ms. Morris; correct?

13 MR. SMITH: Object to the form.

14 THE WITNESS: Not necessarily interviewed,
15 I would -- it would be reasonable to consider him
16 as a person that -- of interest for us to look
17 into and try -- because you still haven't -- you
18 still haven't identified him as the person that
19 she's alleging had sexual contact with.

20 Q (By Mr. Solomon-Simmons) Sure. I just
21 thought you had testified earlier that it was
22 important in situations like this to -- to talk to
23 any relevant individual that may be involved, even
24 if it was just IA, to discuss with them and find
25 out, you know, what happened.

1 A Well, I believe the supervisors were
2 notified, and I believe supervisors contacted the
3 supervisor in sex crimes, the on-call supervisor
4 in sex crimes to make a determination whether
5 somebody would -- came out that night.

6 Q Are you aware if anyone came out that
7 night?

8 A They did not.

9 Q According to Oklahoma City call out
10 procedures, someone should have come out that
11 night; correct?

12 A I would have -- I would have -- I would
13 have sent somebody out if I was them, they do have
14 some discretion based on the circumstances, there
15 is some discretion, so it's not a violation for
16 them to not go out immediately, because they have
17 to make that decision based on the circumstances.
18 And I don't know what went into the person's
19 decision, I can't tell you, I mean, they would
20 have to ask that, I'm not aware of what the
21 particular reasons for not sending somebody out
22 immediately. So, but, yeah, I mean, if it's an
23 officer, I would prefer they go out immediately,
24 but again, there has to be some discretion if
25 there's circumstances there.

1 officer accountable.

2 I mean, that's -- I have a much larger
3 responsibility of holding officers accountable
4 than the FOP does. They have a much larger
5 responsibility or they feel like -- they
6 shouldn't, but they feel like they have a much
7 larger responsibility in creating policies and
8 procedures of not being able to hold them
9 accountable, you know. Body worn cameras is a
10 good example.

11 So there's, you know, you just have to --
12 you have to go through that process. And part of
13 that process can end up in front of an arbitrator,
14 whether, I mean, contractually, so if you're
15 looking at your interest arbitration, which would
16 be over the contract, which involved salaries,
17 which could involve policies and procedures, then
18 the arbitrator could be involved in that, but it's
19 a little bit different arbitration process than
20 discipline, so. But either way, it's -- it's --
21 it's -- you know, I was involved in -- in the
22 negotiations involving the police department one
23 way or the other.

24 Q All right. You had testified earlier
25 about Officer Sellers, that you said you had fired

1 him?

2 A Uh-huh.

3 Q Then he got his job back. Can you tell me
4 a little bit about that?

5 A Sellers, who I had known since he was a
6 child, because his dad was my partner in homicide,
7 and I had known Jeff forever, since he was, you
8 know, just knee high, became a police officer, and
9 he ended up having -- having sex, physical
10 contact, intercourse, actual intercourse in a
11 police car with three different prostitutes on
12 duty.

13 So with the due process, put him -- put
14 him on the ground, administrative leave with --
15 with pay while we investigated it, and then I
16 terminated him based on the investigation. And
17 then FOP grieved that, the grievance obviously
18 was -- was declined by myself and by the city
19 manager, and so they took it to an arbitrator and
20 it was heard by an arbitrator and overturned by an
21 arbitrator, so I had to put him back to work.

22 Q What was the basis of his termination
23 being overturned, do you recall?

24 A No, the only thing I ever recall about the
25 dispositions on those is they don't make any sense

1 and had nothing to do with the evidence. That's
2 pretty consistent with most of them.

3 So I don't remember the details as to why
4 the arbitrator, bottom line is, I think -- bottom
5 line is I think he just said he didn't believe
6 that it happened. But in that arbitration we had
7 three, which is unusual, we had all three
8 prostitutes, one who had completely turned herself
9 around, was no longer in the business, come and
10 testify in person in those arbitrations, which you
11 rarely have, and they were very, very believable
12 and very, you know, I mean, I don't care what
13 their profession was, they were very credible.

14 Q Was the allegation or was it consensual
15 sexual contact?

16 A Yes.

17 Q Or did they feel like it was --

18 A Consensual.

19 Q How did you guys -- how did the
20 management, how did you find out about it?

21 A You know, I don't really remember how we
22 found out about it. I think it came about
23 internally from another officer that knew about
24 it. I'm pretty sure that's how it happened. Or
25 it may -- no, it -- that case, I think, came from

1 one of the prostitutes, one of the participants,
2 because I think she had been stopped somewhere
3 else and said I've got information on an officer,
4 blah, blah, that's exactly how that happened.

5 Q And at what point in that investigation
6 was Officer Sellers put on administrative leave?

7 A I don't -- I don't remember. At some
8 point after we got in and looked at some of the
9 evidence and things like that and felt like it
10 probably did happen, then he was.

11 Q But he was -- but he was put on
12 administrative leave before it was proven that he
13 did it; correct?

14 MR. SMITH: Object to the form.

15 THE WITNESS: Well, there was -- there --
16 there was never any charges filed on that, that
17 was pretty much just administrative.

18 Q (By Mr. Solomon-Simmons) Well,
19 administratively proven that he committed the acts?

20 A Yeah, I mean, at some point in time in the
21 investigation, in -- in a case like that, you
22 know, on the initial -- on the initial allegation,
23 on -- on initial allegation on something like
24 that, and I -- and I can't tell you because I
25 don't remember for sure, depending on what I had,

1 depending on what we have, I will make a decision
2 on whether or not it justifies admin. Because you
3 got to remember, there's allegations that are made
4 on -- on officers at different times, and I'm
5 going to put somebody on admin leave if the
6 evidence is strong enough, because I could put an
7 officer on admin leave, which in many cases labels
8 that officer where nothing happened.

9 It's kind of like a suspect, we don't
10 release suspect information to the public, it's
11 not public -- we don't release that public until
12 that person's arrested, until we feel like we have
13 enough evidence to charge that person and they --
14 and they're arrested. Now, open record allows for
15 any person that is arrested, there's enough
16 evidence to arrest a person on it, that's open
17 record.

18 So, but if it's a suspect, it's listed in
19 a report, these are the allegations and this is
20 what they say they did, we don't release that
21 information until that person -- until we have
22 enough information to arrest them and then it
23 becomes public record. And that's -- that's --
24 that's, you know, that's our -- that's the policy,
25 that's the policy, which I agree with, because we

1 professional standards as determined by the chief
2 of police." So in this scenario with the
3 allegation or the complaint that Ms. Morris made,
4 the decision was made by you or your designee for
5 those -- that complaint by Ms. Morris to be
6 initially investigated by the sex crimes unit; is
7 that correct?

8 A Yes.

9 MR. SMITH: Object to the form.

10 THE WITNESS: Yes, that's correct.

11 Q (By Mr. Solomon-Simmons) All right. So
12 once the investigation was completed, Ms. Morris'
13 investigation was completed on June 3rd, it was at
14 that point that utilizing the powers underneath this
15 procedure that you -- you could have opened up an
16 office of professional standards investigation?

17 A Correct.

18 Q Okay. But you don't recall doing that;
19 correct?

20 A Right, I don't believe I did.

21 Q Okay. Why didn't you?

22 A Because at -- at that point, I felt like
23 there was nothing more that could be done on it.
24 It would have to be -- it would have to be based
25 on -- on -- on the evidence that I felt like there

1 needed to be more work done on it or could have
2 been done for administrative purposes and I -- I
3 did not feel like there could be. Felt like that
4 the investigation of the criminal was about as
5 complete as it could get, based on the information
6 I had.

7 Q That's the criminal, but on the
8 administrative side, you could have got -- you had
9 the power to bring Mr. Holtzclaw in, according to
10 this procedure, and actually, you could have
11 directed him to take a polygraph; correct?

12 A I could, but I don't do that very often.
13 The thing is, is that most of the evidence that
14 you -- that you have on a criminal side, very
15 rarely, if you do a criminal investigation by
16 another unit, very rarely will you have something
17 you need to do at IA, other than review it for
18 violation of policies or procedures.

19 In other words, you go in and you find out
20 what you've proven in the criminal investigation
21 and what policies and procedures they may -- that
22 may apply to what they violated versus criminal.
23 So if there's something specific to a policy and
24 procedure that -- that you feel like they could be
25 charged with and there's something else that

1 hadn't been covered by the criminal, then you need
2 to -- you need to clarify that.

3 But in most cases, if you do a thorough --
4 like in homicide investigations, all homicide,
5 officer-involved homicides go to IA automatically
6 afterwards, so you do a criminal investigation, it
7 goes to the D.A., he reviews it, he decides
8 whether or not it's justified or not. So in most
9 cases, they are. Recently had one that wasn't,
10 Sweeney, but most cases, they'll come back,
11 they've been cleared, I have IA review the whole
12 thing to make sure there's not something there
13 that we see, may have -- there may be a violation
14 of policy and procedure, and it may be something
15 that's not even related to the homicide or the
16 shooting.

17 It may be they didn't turn their body worn
18 camera on, well, that had nothing to do with the
19 criminal aspect of it, but it is a policy
20 violation that they didn't turn their camera on.
21 So those are the kinds of things that -- that I
22 look at or I want looked at by IA. Very rarely
23 will they come to me and say, well, homicide
24 really messed this up, they didn't interview this
25 person, very rarely will that happen. Every once

1 in a while there will be somebody I want them, you
2 know, to talk to to clear some things up, but, you
3 know, usually during those investigations,
4 they're -- they're very, very thorough in what
5 they do. And that's -- that would be the reason I
6 wouldn't send this case over is that I felt like
7 everything was done that could have been done.

8 Q What would have been the downside to
9 just -- to talk to Mr. Holtzclaw about why did he
10 stop Ms. Morris?

11 MR. SMITH: Object to the form; asked and
12 answered repeatedly. Go ahead, Chief.

13 THE WITNESS: Well, again, I mean, if
14 you're going to interview somebody, I'm just not
15 sure what I would interview him for. I don't
16 have -- I have -- I have an allegation that
17 somebody made that I -- I have -- I have -- I
18 don't have any evidence that I think can even
19 prove that he did or he was even there, I mean,
20 unlike Ligons where I could show he did make that
21 traffic stop, I had nothing. I didn't have -- we
22 didn't -- we didn't have anything. And, in fact,
23 most of what we had was -- was not true.

24 So I'm not calling an officer in and
25 providing him with allegations of something that I

1 can't even come close to proving occurred, and the
2 downside of that is that you put -- you put
3 investigators in a position to basically go into a
4 -- any kind of argument or any type of -- any type
5 of situation without evidence, without -- it would
6 be like going into a gun fight without a gun. You
7 don't have any reason to even accuse them of it.

8 Now, you can let them know, listen, this
9 lady said this, just want to let you know, in case
10 you go out there, you better cover your bases
11 better, because that's basically what you're
12 doing, because now he knows you're on him, because
13 he's not -- he is not going to come in there and
14 tell you what he's doing.

15 Q (By Mr. Solomon-Simmons) Chief, I agree
16 with that.

17 A And --

18 Q I'm sorry, go ahead.

19 A Go ahead, no.

20 Q No, I -- I understand that, I guess I'm
21 trying to understand the difference between when
22 he came in with Ligons, I understand that you knew
23 a stop had happened, I understand that, but he did
24 not confess to the crime, you guys asked him
25 questions about what happened, and from there

1 additional information came out.

2 I'm saying when you had the conversation
3 -- could have had the conversation with him about
4 Ms. Morris, not saying, hey, you did -- you know,
5 accusing him of something, but finding out, did
6 you stop her on this day, what was the stop about,
7 and getting more information in that standpoint.
8 I mean, I been practicing law a long time, I know
9 a lot of clients who the police want to ask them
10 questions about things with less information.

11 A Right.

12 Q So why couldn't that be done in this
13 situation?

14 A They probably get what they went in with,
15 less. But one thing I'm not going -- I am not --
16 if I accused every officer and brought them in of
17 claims that were made against them with citizens,
18 I would be bringing them in constantly.
19 Constantly.

20 One, that's not really fair for me to
21 start labeling an officer without evidence of some
22 type of serious allegation of sexual assault,
23 something like that, if I don't have evidence to
24 do that. People may disagree with that, but --
25 but I'm not going to do that. They've got tough

1 jobs to do and they get allegations all the time.
2 And I had nothing, we had nothing to prove what
3 she was saying to be true. Nothing. And I'm not
4 bringing -- I'm just not going to bring an officer
5 in without those, so.

6 Q Are you familiar with Demetria Campbell?

7 A Yes.

8 Q Okay. Are you familiar with the
9 allegations that she made against Mr. Holtzclaw?

10 A Yes.

11 Q What are those allegations?

12 A That he stopped her, I guess, handled her,
13 rubbed up against him with -- with -- up against
14 her with his genitals.

15 Q Okay. Now, that happened before the
16 allegation from Ms. Morris; correct?

17 A Correct.

18 Q Was that taken into consideration, that
19 this individual had had -- had another African
20 American female has complained that she had been
21 stopped, had force used against her, and sexually
22 assaulted by Mr. Holtzclaw?

23 MR. SMITH: Object to the form. You're
24 continually misrepresenting the facts.

25 THE WITNESS: So there was no

1 A Not the AVL, we're not talking about AVL
2 here, we're talking about content, we're talking
3 about sexual type content that's being accessed
4 and used. This isn't -- this isn't talking about
5 AVL. Now, if we want to talk about AVL, I can
6 talk about that, but I -- go ahead.

7 Q Well, if you finished.

8 A I am.

9 Q What systems are you saying are actually
10 monitored by the city? I just want to make sure
11 I'm clear.

12 A Well, any system that we use is monitored,
13 they look -- they look at every employee's -- they
14 can look at every employee's use of -- of the
15 system, okay, because this -- this is talking
16 about right here are systems that officers can use
17 for non-professional use, right.

18 Q Well, I -- from my perspective, that's why
19 I'm asking you, you're the -- you're the expert.

20 A I'm not an expert at all in systems, but
21 that's -- and I may be reading it wrong.

22 Q I read this to say officers utilizing
23 their police systems for non-professional,
24 personally motivated reasons, meaning I want to --
25 I want to look up someone's license plate number

1 because I want to see if they're cheating with my
2 spouse or whatever.

3 A Right. And we -- and we will follow up on
4 those, now, to randomly go in and start checking
5 every officer randomly on their usage of those
6 systems, I would be fighting the unions over that
7 because I've fought them over that in the past, to
8 just randomly go in and look at a particular
9 officer without having a specific reason.

10 We have gone in and we'll look at an
11 officer's usage if we have, say, a person calls,
12 listen, I was stopped, now this officer's calling
13 me, I don't know how he got my number, we will go
14 in and we will look at the systems just like we
15 went in and looked at the systems to find out, you
16 know, who had contact with Morris. So we can go
17 in and look at the system if we have a specific
18 reason on a specific officer.

19 Q Are you saying by union contract, you're
20 not allowed to do periodic checks as they were, I
21 guess, recommending that should happen?

22 A I can't random, no, they won't -- I can't
23 randomly go in and look at AVL, I can't randomly
24 go in and look at their body worn camera.

25 Q And why can't you do that?

1 people he worked around and stopped were African
2 Americans.

3 Q (By Mr. Solomon-Simmons) And I do mean
4 across the board, stops, AVL. What about the fact
5 that he was -- once you guys checked, that he was
6 running his name often through VARUNA?

7 A Running whose name?

8 Q His name, Daniel Holtzclaw was running his
9 name through VARUNA often.

10 A Running his own name?

11 Q Own name.

12 A I don't know what you're talking about.

13 Q Are you aware that Daniel Holtzclaw was
14 running his own name through VARUNA often while he
15 was on duty?

16 MR. SMITH: Object to the form.

17 THE WITNESS: I would have to know more
18 about that. Because, no, I mean, was it after the
19 investigation started or when he suspected an
20 investigation started or when he was called in
21 after that, was it before that? There has to be a
22 reason for him to run his own name.

23 Q (By Mr. Solomon-Simmons) So my point, my
24 question is, if you had the ability to check these
25 systems --

1 A Uh-huh.

2 Q -- and you came across and said, wow,
3 Daniel Holtzclaw ran his own name seven times in
4 the last whatever, that may be a red flag; right?

5 MR. SMITH: Object to the form.

6 THE WITNESS: Yeah, I'm not -- I'm not --
7 I'm not sure how I could answer that. Because I
8 don't know -- I don't know when it occurred, I
9 can't imagine what reason that would occur unless
10 he thought that he was being investigated for
11 something.

12 And randomly, we could still go in and
13 check individuals if we think there's a reason to
14 go in and check the officers, but again, anything
15 we do randomly, it's going to be -- and there's
16 nothing specifically about an officer -- and
17 there's nothing specifically about VARUNA and us
18 not being able to go in and just check randomly,
19 there would be if we started to do it, because I
20 know that the FOP -- anything we do random in
21 checking on officers, they're going to disagree
22 with and they're going to fight. So, I mean, I
23 don't know how to answer that.

24 I'm just -- I'm just telling you that some
25 of the things we're talking about here, you're