

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
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 :
 DAVID W. TIDD :
 FORMER MAGISTERIAL DISTRICT JUDGE: NO. 3 JD 2016 :
 MAGISTERIAL DISTRICT 03-2-04 :
 THIRD JUDICIAL DISTRICT :
 NORTHAMPTON COUNTY :

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BEFORE: HONORABLE DAVID J. BARTON, CONFERENCE JUDGE
HONORABLE JEFFREY P. MINEHART
HONORABLE MICHAEL J. BARRASSE

DATE : JANUARY 20, 2017, 9:38 A.M.

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1 JUDGE BARTON: Good morning, everyone.

2 Are we ready to proceed?

3 MR. STRETTON: We are.

4 JUDGE BARTON: Board may call its next
5 witness.

6 MS. FLAHERTY: Board calls Brenda
7 Anthony.

8 BRENDA ANTHONY, called as a witness,
9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. FLAHERTY:

12 Q. Good morning, Ms. Anthony.

13 A. Good morning.

14 Q. Could you please introduce yourself to the
15 court and spell your last name for the court reporter.

16 A. My name is Brenda Anthony, A-n-t-h-o-n-y.

17 Q. May I call you Brenda during this direct
18 exam?

19 A. Certainly.

20 Q. Brenda, where do you reside?

21 A. In Danielsville, Pennsylvania.

22 Q. Could you provide your address, please.

23 A. _____ and that's all one word,
24 _____

25 Q. Tell us about your educational background.

1 A. I attended high school and finished 11th
2 grade. I received my GED at the end of what would have
3 been my senior year. And I did take some college
4 courses and have some college credits.

5 Q. Were any of those toward paralegal
6 certification?

7 A. That is correct.

8 Q. And where did you study the paralegal work?

9 A. I did study online with Foster College, and I
10 also studied at Northampton Community College.

11 Q. And please describe your employment history.

12 A. How far back?

13 Q. Well, what's relevant to the position that
14 you held, any legal positions.

15 A. In 1996 I was hired as a legal secretary at
16 Haber, Corriere & Backenstoe, and I worked there until
17 approximately 2004 I believe it was. At that time I was
18 also a notary public during that time, and I went out on
19 my own and completed real estate closings and
20 transactions of that nature as a notary public.

21 In 2010 I went to work for Attorney Stan
22 Vasiliadis for approximately nine months. And then I
23 went to work for Attorneys Nancy Wallitch and Abele
24 Iacobelli until approximately March of 2011. And then
25 in April of 2011 I began working at the district court

1 in Lower Saucon Township.

2 Q. And how long did you work there?

3 A. Until June of 2015.

4 Q. And who was the presiding judge?

5 A. David Tidd.

6 Q. And how did you first meet Mr. Tidd?

7 A. I don't recall how I found out about the job
8 opening. Actually I applied for a job at his law
9 office, and he told me about the opening at the district
10 court. Mr. Tidd told me about the opening at the
11 district court.

12 Q. And is he the one who interviewed you at his
13 office?

14 A. Not at first. At first it was his associate,
15 Attorney Everett Cook.

16 Q. But then was it Judge Tidd that offered you
17 the job at the court?

18 A. Correct. He came in later during the
19 interview.

20 Q. And what were your work responsibilities when
21 you worked at Judge Tidd's court?

22 A. We were required to know how to do
23 everything, not just in the district court, but as far
24 as the county was concerned. We needed to do docketing.
25 We needed to know, you know, handle criminal cases,

1 civil cases. We do filing. We needed to order supplies
2 and keep track of things like that. We were required to
3 know everything.

4 Q. And what was your title when you worked
5 there?

6 A. Magisterial district judge technician.

7 Q. And were you a supervisor at any time?

8 A. Supervisor would not be the correct word.
9 There is what's called a protected person in the court
10 which when I went to work there I believe that was
11 Diane. And then when Diane left, then it became myself.
12 It was me.

13 Q. And who decides who the protected person will
14 be?

15 A. The county asks who wants to do that, so when
16 that -- when Diane left, then they -- I had been asked
17 if I wanted to do that, and I said yes.

18 Q. Tell us about the scheduling when you first
19 arrived in 2011.

20 A. The schedule was a mess. Nobody knew when
21 the officers were on duty, when they had off from work.
22 They were scheduling officers when they were off from
23 work, and they were requesting continuances just
24 repeatedly. It was a mess. And I asked if I could work
25 on the scheduling to make it easier not only for the

1 district court but at the request of the police
2 departments.

3 Q. And did Judge Tidd have input as to when
4 things were scheduled at the court?

5 A. Input in what way?

6 Q. Did he request certain hours for appointments
7 for hearings?

8 A. Yes. He preferred morning appointments only.
9 He did not want us to schedule in the afternoons or
10 Fridays.

11 Q. And did he say why he didn't want to schedule
12 in the afternoon?

13 A. I believe so he could go back to his law
14 practice and work there.

15 Q. And when did you stop working at Judge Tidd's
16 district court?

17 A. My last day -- official last day was June --
18 I believe it was June 18th. I actually had off from
19 work on June 16th, 17th, and 18th and was transferred up
20 to Judge Hawke's court on June 27th. That was my first
21 day at Judge Hawke's court.

22 Q. Is that where you work now?

23 A. That is correct.

24 Q. Is that in Northampton County, also?

25 A. Yes, in Walnutport.

1 Q. Can you describe the circumstances of your
2 transfer from Judge Tidd's court to Judge Hawke's court?

3 A. Yes. I actually had requested a transfer
4 prior to June of 2015. I had sent a letter to the
5 county requesting a transfer up there and was told there
6 was not an opening yet at that time which I was aware
7 of. I had asked for a transfer as soon as an opening
8 became available. But I was told there was not one at
9 that time. And then in June I got a call to come down
10 to court administration. I wasn't sure why at the time.
11 But when I got down there, I was told that I was being
12 transferred to Judge Hawke's court effective immediately
13 after my three days of vacation.

14 Q. I apologize, Brenda, could you just repeat
15 that last -- I was distracted by looking at one of the
16 exhibits. I apologize.

17 A. That's okay.

18 Q. So you had written a letter to court admin
19 asking for the transfer, and what were your reasons
20 asking for the transfer at that time?

21 A. The first time?

22 Q. Yes.

23 A. At the time I believe the letter that I wrote
24 states that with the rising gas prices that I had a
25 40-45 minute commute to work, and Judge Hawke is

1 5 minutes from my house, and to me it made more economic
2 sense for me to work 5 minutes away from home. I did
3 also state in that letter not to let Judge Tidd know
4 that I was requesting a transfer.

5 Q. And why did you want to keep that from him?

6 A. Because I know one of the other secretaries
7 had requested a transfer out and he came -- he found
8 out. He took her and he came in and he yelled at her
9 for requesting a transfer. I did not want him to know.

10 Q. And you had observed him doing that?

11 A. Yes, I did.

12 Q. And who was that clerk?

13 A. Diane Kale.

14 Q. So then take us to June, and what were the
15 circumstances in June of 2015?

16 A. I received a phone call from Debbie French on
17 June 16th asking me to come down that day because they
18 needed to speak with me right away. I was on my way to
19 a preplanned day at Knoebel's park. I said, I cannot
20 come down today, I can change my plans for tomorrow and
21 come down, which is what I did. I asked her what was
22 wrong, and she said, I can't discuss it with you until
23 you get down here. So of course I was upset because I
24 thought I did something wrong. But I went down the next
25 morning, and I was taken into court admin with Jermaine

1 Smith and Debbie French.

2 Q. And who is Jermaine?

3 A. Jermaine is now -- I don't know what his
4 exact title was at that time, but now he is I believe
5 the court administrator. He took Joe Cicero's place.
6 From what I understood, Jermaine did not know about what
7 had been going on, and he wanted to hear from me what
8 had been going on in the court and told me that they
9 were -- because of the circumstances and the hostility
10 that they were transferring me out immediately.

11 Q. At that time did they share with you that
12 Judge Tidd requested you be transferred?

13 A. Yes, they did.

14 Q. And what was your reaction of the opportunity
15 to be transferred?

16 A. I was relieved. I cried. I was relieved.

17 Q. Why were you so relieved?

18 A. Because I couldn't take the stress in that
19 court anymore.

20 Q. Take a moment, please.

21 MS. FLAHERTY: For the Court's reference,
22 I refer to a letter -- it's actually an e-mail from
23 David Tidd to Debra French which I will introduce again
24 via Ms. French, but it's at Exhibit 21.

25 BY MS. FLAHERTY:

1 Q. Are you ready, Brenda?

2 A. (Witness nods head.)

3 Q. Besides the letter from Judge Tidd, did Debra
4 French -- did the court administrators express any
5 concern for you?

6 MR. STRETTON: Objection.

7 JUDGE BARTON: What's the basis of your
8 objection?

9 MR. STRETTON: Hearsay.

10 JUDGE BARTON: Ms. Flaherty, do you have
11 a response?

12 BY MS. FLAHERTY:

13 Q. What was your understanding of the purpose of
14 the transfer?

15 MR. STRETTON: Objection.

16 JUDGE BARTON: Sustained.

17 BY MS. FLAHERTY:

18 Q. Had you ever worked in an MDJ office before
19 you worked for Judge Tidd?

20 A. No, I had not.

21 Q. And how is it that you learned the duties of
22 the job?

23 A. We -- you're required to go for -- in fact,
24 my first day of work was considered April 5th, 2011, but
25 we were actually in training down in the county with the

1 AOPC trainers for that week. So I actually didn't go to
2 the district court until I believe that Monday.

3 Q. And was there any on-the-job training as
4 well?

5 A. Yes. But, again, that was more hands on. I
6 mean, Diane and Lisa who were there would show me what
7 to do, but a lot of it was me learning it on my own. At
8 the beginning I frequently came in early and I
9 frequently stayed late to learn that job to the best of
10 my ability.

11 Q. Now, you've been at Judge Hawke's court for
12 how long?

13 A. Approximately a year and a half.

14 Q. And is -- can you describe for us at Judge
15 Hawke's court have you ever observed him conducting
16 hearings at the counter?

17 A. Absolutely not.

18 Q. Where does he conduct hearings?

19 A. In the courtroom.

20 Q. And how is he attired?

21 A. With his robe on. And he is always in dress
22 pants and a dress shirt, and occasionally he'll have
23 a -- have like a sport jacket on. But every day it's
24 dress pants and a dress shirt and a tie.

25 Q. And have you observed him conduct preliminary

1 arraignments?

2 A. At the counter?

3 Q. Where does he --

4 A. In the courtroom. So, no, I have not
5 observed him do an arraignment because he's in the
6 courtroom.

7 Q. And you do not go in the courtroom with him?

8 A. No.

9 Q. And he does --

10 A. Not unless he buzzes out and requests a paper
11 or something that he needs. But honestly I would have
12 to say no because he usually keeps all of that -- the
13 paperwork in the courtroom, so it would be very rare,
14 like maybe he ran out of -- very rare that we would go
15 in the courtroom during a preliminary hearing or any
16 hearing.

17 Q. Have you ever observed Judge Hawke conducting
18 a waiver of a preliminary hearing at the counter?

19 A. Absolutely not.

20 Q. Where does he conduct those?

21 A. In the courtroom.

22 Q. And how is he attired?

23 A. With his robe on.

24 Q. And have you ever observed Judge Hawke
25 conducting landlord/tenant hearings at the counter?

1 A. Absolutely not.

2 Q. And, again, where does he conduct those?

3 A. In the courtroom with his robe on.

4 Q. Does Judge Hawke preside over a large number
5 of traffic summary trials?

6 A. Yes.

7 Q. Does he interact with the officers at the
8 district court when they arrive for a hearing?

9 A. Yes. I mean, he'll say good afternoon,
10 officer so and so, you know, speak like more socially.

11 Q. Does he discuss a case with an officer in the
12 absence of a defendant?

13 A. No, absolutely not.

14 Q. Does he discuss a case with a defendant in
15 the absence of the officer?

16 A. No, absolutely not.

17 Q. Does he accept plea deals at the counter?

18 A. No.

19 Q. What you've described at Judge Hawke's court
20 how does it compare with your experience at Judge Tidd's
21 court?

22 MR. STRETTON: I'm sorry, could you say
23 that again. I didn't hear the question.

24 MS. FLAHERTY: Do you want to repeat the
25 question.

1 (The court reporter read back the
2 previous question.)

3 MR. STRETTON: Objection.

4 JUDGE BARTON: What's the basis?

5 MR. STRETTON: I don't think it's a
6 matter of comparison. If they want, I don't know what
7 you want to do, I have a lot of evidence about that
8 judge and how he runs the courtroom, and we can have
9 another trial on that if you wish in these matters.
10 Some of our witnesses, lawyers who appear there
11 regularly, will directly refute what she's saying.

12 And, further, there's no prohibition
13 about standing at your counter taking pleas, taking
14 waivers. There's nothing, nothing in the rules, nothing
15 that says you can't do that. So every judge does it
16 differently. So what. And I don't think she's in a
17 position to make that kind of comparison. But do you
18 really want to begin another -- this trial becomes a
19 subtrial as to how Judge Hawke runs his courtroom
20 because I have a lot -- I've talked to a lot of
21 attorneys up there, and we could present things a little
22 bit differently than she's telling.

23 JUDGE BARTON: Okay. Ms. Flaherty.

24 MS. FLAHERTY: This objection arose
25 before, and my response was that Mr. Stretton has listed

1 an attorney for his case who -- and the testimony
2 anticipated has to do with how Judge Hawke conducts
3 proceedings at his court. And, therefore, that
4 information has been introduced, and the comparison was
5 permitted under -- with another witness as well.

6 JUDGE BARTON: I really think it's a
7 collateral issue. I think you've covered it already, so
8 I'm going to sustain the objection.

9 BY MS. FLAHERTY:

10 Q. Brenda, could you give a chronological
11 listing of the clerks that you worked with at Judge
12 Tidd's district court starting in 2011 when you arrived?

13 A. When I arrived, it was Lisa LeVan and Diane
14 Kale that worked there. That was in 2011, like I say
15 April 5th, 2011 when I started. Lisa LeVan retired
16 right around September 1st, 2012. And it was Diane and
17 I for a few months. And then my daughter, Amber Glass,
18 came to work in I believe it was December of 20 -- I'm
19 sorry, she came in September of 2012, and she worked
20 until December of 2013. Cassie Bettler, Cassandra
21 Bettler, came to work there then.

22 Q. Is that in 2014?

23 A. I think she came to work I believe it was
24 January of 2014, if I remember correctly. And so then
25 it was Diane, I, and Cassandra. And then in December of

1 2014 Diane retired. Krystal Padula came to work there
2 in December of 2014 I believe a week before Diane left.
3 And then Tracie Drayton came to work there in I believe
4 it was February of 2015. I'm not sure. I know it was
5 early 2015. I'm not sure which month.

6 Q. Please describe your working relationship
7 with Judge Tidd.

8 A. At first it was good. Everyone, you know,
9 seemed to get along okay, but we started to see -- I
10 started to see things going on, and that relationship
11 deteriorated not just with me but with all of us.

12 Q. Can you define you saw things going on? What
13 do you mean by things?

14 A. Well, when we go for training, they do try to
15 tell us about what procedures and policies should be
16 followed, so we knew how hearings should be handled --

17 MR. STRETTON: Objection.

18 THE WITNESS: -- from what we were told
19 by the county.

20 MR. STRETTON: Objection.

21 JUDGE BARTON: One second.

22 MR. STRETTON: What she's directly trying
23 to get, oh, we learned to train, therefore, I'm an
24 expert here is how hearings are to be handled has
25 absolutely no relevancy. She has no training in the

1 law. She is trained as a clerk. That's it. And we
2 should not have people -- say in a malpractice case you
3 wouldn't have the licensed practical nurse come in and
4 tell us how to do an operation or things of that nature.

5 Whatever misconception she may have,
6 whether it was bad training or misunderstanding of
7 training, should not be -- we don't need to hear what
8 she thinks how hearings should be conducted or things at
9 a counter or not. She can testify this was done at a
10 counter or that. But we don't need her opinion this was
11 wrong or against her training.

12 JUDGE BARTON: Ms. Flaherty.

13 MS. FLAHERTY: Ms. Anthony when asked
14 what she meant when she said she saw things going on is
15 giving background information how she -- what she
16 learned in her training from the county as to how
17 proceedings were handled at the district court. It's
18 didactic information that she learned. She's not given
19 any opinion about whether Judge Tidd did something right
20 or wrong. She's trying to say what she learned how
21 things should be done.

22 MR. STRETTON: That's not the question.
23 The question was I was upset about things that were done
24 wrong. How did you learn about that, oh, I went to
25 training and they told us. And I objected.

1 JUDGE BARTON: I'm going to sustain the
2 objection. We're in quite a narrative answer. So let's
3 sort of bring it into a question-and-answer format a
4 little bit more.

5 BY MS. FLAHERTY:

6 Q. Ms. Anthony, when you were referring to
7 things, I believe you said that the relationship
8 deteriorated because of some things going on, so were
9 you upset about these things that were going on?

10 A. Yes.

11 Q. And did you try to discuss these things with
12 Judge Tidd?

13 A. At times, yes.

14 Q. Could you describe what those things were
15 that you discussed with Judge Tidd?

16 A. Well, I know he would ask me at the beginning
17 to run files over to his house, night duty work over
18 to -- paperwork over to his house, to run down to the
19 store to get him something to eat and drink. And I
20 just -- you know, I didn't say anything at first. I
21 felt uncomfortable doing it, but he's my boss, so we did
22 it. But eventually I just started making excuses why I
23 couldn't do it because I didn't think it was
24 appropriate.

25 There were times when I did say something to

1 him about how he was handling something in the court,
2 and he just would say, just do it the way I told you to
3 do it. So eventually I stopped -- you know, you stop
4 saying anything and just do what you're told to do
5 because that's your boss, and we were told he's the
6 judge, you have to do what he tells you to do.

7 Q. Who told you that?

8 A. The county.

9 Q. And when you say the county, who do you mean?

10 A. Debra French.

11 Q. So Debra French told you that he's your boss
12 and you have to do what he tells you to do?

13 A. All of us, yes, not just me, all of us.

14 Q. So after you had expressed your concerns
15 about the way things were done at the court to Judge
16 Tidd, did anything change?

17 A. Not really, no.

18 Q. And did you voice complaints about it?

19 A. Yes, yes, we did.

20 Q. Where did you direct those complaints?

21 A. Debbie French.

22 Q. And did she -- did you contact her -- what
23 was the method by which you first contacted her?

24 A. I'm sure it was by telephone.

25 Q. And what did she tell you to do?

1 A. She told us to write down things that were
2 happening which we did. And then I know we requested a
3 meeting with her because we had a lot of -- we had a lot
4 of notes even at the beginning. So we requested a
5 meeting with her.

6 Q. And did she come to meet with you at the
7 court?

8 A. She did come up to the court, but I don't
9 recall if it was about that. I know that we went down
10 to the county ourselves, Diane and I. Diane Kale and I
11 went down to the county to meet with them, Debbie
12 French.

13 Q. And what did you complain about?

14 A. We complained about him making deals with
15 defendants when police officers weren't there, with
16 police officers when defendants weren't there. He met
17 with defendants outside of the police officer, about him
18 sleeping on the floor on his robe, never wearing his
19 robe in the courtroom, never having hearings in the
20 courtroom, about how he treated us, his cursing, just
21 everything. It's just so much.

22 Q. And you voiced those complaints to Debra
23 French?

24 A. Yes.

25 Q. And did she instruct you to continue writing

1 those things down?

2 A. Yes, she did.

3 Q. Did she ask you to send those writings to
4 her?

5 A. Yes, she did.

6 Q. And did you do that for a while?

7 A. Yes, we did.

8 MS. FLAHERTY: May I approach the
9 witness?

10 JUDGE BARTON: Yes.

11 BY MS. FLAHERTY:

12 Q. Could you please take a moment to look at
13 these three documents and then identify them.

14 JUDGE BARTON: What are you showing the
15 witness?

16 MS. FLAHERTY: Exhibits 8, 9, and 10
17 which are communications previously identified as those
18 sent to Debra French.

19 BY MS. FLAHERTY:

20 Q. Brenda, did you recognize those as the
21 documents that you sent along with Lisa LeVan and Diane
22 Kale to Debra French?

23 A. Yes.

24 Q. Did Debra French inquire if you'd like to
25 submit a written complaint about Judge Tidd's conduct?

1 A. To her or to the Judicial Conduct Board?

2 Q. Yes, to the Judicial Conduct Board.

3 A. I believe that she did, yes.

4 Q. And did you have a concern about that?

5 A. Yes. We did not want -- we were worried
6 about losing our jobs. So at that point I believe we
7 declined. At the beginning we declined.

8 MR. STRETTON: I'm sorry, I couldn't hear
9 the last sentence.

10 THE WITNESS: I'm sorry, we declined.

11 MR. STRETTON: And your next sentence I
12 couldn't hear.

13 JUDGE BARTON: She repeated that several
14 times.

15 MR. STRETTON: Oh, did she?

16 THE WITNESS: I'm sorry.

17 BY MS. FLAHERTY:

18 Q. So is it -- are you stating that you
19 preferred to keep anonymous because of job security?

20 A. Correct.

21 Q. So at any point after complaining to Debra
22 French did things improve?

23 A. After complaining to Debra French, Judge Tidd
24 was called down to the county, and I believe Judge
25 McFadden spoke to him on more than one occasion, and

1 things would improve for a short period of time and then
2 go back to the way they were or worse. And we weren't
3 only worried about job security, we were also worried
4 about what he would do to us if he found out that we
5 filed a complaint.

6 MR. STRETTON: Objection. There's no
7 basis for that kind of statement, worried about what he
8 would do to us. I move for a mistrial. There's no
9 basis for that kind of comment.

10 JUDGE BARTON: That motion is denied.

11 MR. STRETTON: I ask that be stricken,
12 though.

13 JUDGE BARTON: I'll strike that.

14 MR. STRETTON: Thank you.

15 BY MS. FLAHERTY:

16 Q. Was your primary concern job security,
17 Brenda?

18 A. Yes.

19 Q. So you stated that things improved for a
20 short time after Judge Tidd met with President Judge
21 McFadden and court administrators. Then did he resume
22 the same conduct?

23 A. That is correct.

24 Q. So at some point did you decide that you
25 would file a complaint with the Board?

1 A. Yes, that's correct.

2 Q. And in preparation for that, did you continue
3 to keep notes?

4 A. Yes, that's correct.

5 Q. And initially you kept a writing and then
6 forwarded that to Debra French, correct?

7 A. Correct.

8 Q. And then you kept notes, but you no longer
9 forwarded them?

10 A. That is correct.

11 Q. Can you recall when it is -- did you file a
12 Board complaint?

13 A. Yes, we did.

14 Q. And did you affix your signature to it?

15 A. No, we did not.

16 Q. And when you say, yes, we did, who filed that
17 complaint?

18 A. Diane Kale, myself, and Cassandra Bettler.

19 Q. Do you remember when you filed that
20 complaint?

21 A. August of 2014.

22 MS. FLAHERTY: May I approach with Board
23 Exhibit 1?

24 JUDGE BARTON: Certainly.

25 BY MS. FLAHERTY:

1 Q. If I might ask the witness to look at it
2 generally, there's no reason to read it specifically, as
3 well as what's attached to it. Brenda, did you
4 recognize that exhibit?

5 A. Yes.

6 Q. And is that the confidential request for
7 investigation that you submitted?

8 A. Yes, it is.

9 Q. And did you verify that it was submitted
10 anonymously?

11 A. Yes.

12 Q. And were there attachments to that request
13 for investigation?

14 A. Yes, there were.

15 Q. And what were those attachments?

16 A. There were some of our notes along with
17 copies of traffic citations and non-traffic citations
18 and some other cases to corroborate our notes.

19 Q. And your reason for submitting this
20 anonymously was?

21 A. Because we still didn't want him to find out
22 that it was us. We didn't want to lose our jobs.

23 Q. Could you please describe Judge Tidd's
24 demeanor or conduct toward you personally?

25 A. Throughout my entire employment?

1 Q. From the time that you feel things
2 deteriorated. Did he treat you in a patient manner?

3 A. No, not always.

4 Q. Did he yell at you?

5 A. At times, yes.

6 Q. Did you stand up to him?

7 A. At times, yes.

8 Q. Did he use foul language when addressing you?

9 A. Yes.

10 Q. What type of language?

11 A. Well, he used the word fuck frequently. He
12 used the word bitch frequently not only to me but the
13 other girls as well. I do recall an instance when he
14 called me, I can't remember if it was from the law
15 office or his cell phone, but he did -- he cursed at me
16 on the phone, and I was very upset. But he did
17 apologize in that instance. But there were other times
18 when he used -- like I said, he used that word
19 frequently. I don't know that it was always addressed
20 to me. Sometimes I thought it was. Other times it
21 wasn't, it was addressed to somebody else.

22 Q. Were you offended by it?

23 A. Yes.

24 Q. Did you tell him that?

25 A. Yes, we did.

1 Q. Did he change that conduct?

2 A. No.

3 Q. Did Judge Tidd conduct summary traffic trials
4 at the counter?

5 A. Yes, he did.

6 Q. And what was his attire?

7 A. Well, he did not have the robe on. And
8 usually when he came into work it was in wrinkled pants,
9 a wrinkled shirt. He frequently wore the same clothes
10 day after day. Sometimes he had sneakers on. Sometimes
11 he had sandals on. But he did not wear the robe. He
12 was very -- he looked very much in disarray, very
13 unorganized, unkempt. It was not professional at all.

14 MR. STRETTON: I object to those
15 comments, not professional, maybe 70 years ago. But
16 walk into any law office, walk into judicial chambers
17 all the time, many judges shorts, shirts. There's no
18 such change. If you're in a courtroom, it's different.
19 It's a very different world we live in.

20 JUDGE BARTON: Overruled. You can
21 explore it in cross-examination if you choose.

22 BY MS. FLAHERTY:

23 Q. When a defendant arrived prior to an officer
24 in a traffic matter, did Judge Tidd discuss the charges
25 with the defendant?

1 A. Yes.

2 Q. Did Judge Tidd engage in a plea deal with the
3 defendant in the absence of the officer?

4 A. Yes, frequently.

5 Q. If an officer arrived prior to the defendant
6 for a traffic matter, did Judge Tidd discuss the charges
7 with the officer at the counter?

8 A. Yes.

9 Q. In the absence of the defendant?

10 A. That is correct.

11 Q. Did he discuss changing the charge to a
12 lesser offense before the defendant even arrived?

13 A. Yes, that's correct.

14 Q. Did you observe Judge Tidd conduct waivers of
15 preliminary hearings at the counter?

16 A. Yes.

17 Q. Did you observe Judge Tidd conducting
18 preliminary arraignments at the counter?

19 A. Yes.

20 Q. How was he dressed when he handled those
21 waivers and arraignments at the counter?

22 A. The same way, unkempt, wrinkled clothes,
23 sneakers, sandals, shorts sometimes.

24 Q. Did you tell Judge Tidd that he should
25 conduct those matters in the courtroom?

1 A. Yes.

2 Q. Did you tell Judge Tidd that he should put
3 his robe on and go in the courtroom?

4 A. Yes, we did.

5 Q. Did you recall Judge Tidd telling you after
6 his February 13th, 2012 meeting that court
7 administration and the president judge told him to go
8 into the courtroom with his robe on?

9 A. Yes, he did tell us that.

10 MR. STRETTON: Objection. She wasn't
11 there.

12 JUDGE BARTON: Sustained. She wasn't
13 present when court administration told her. She can't
14 testify to what -- I'll sustain the objection. Next
15 question.

16 BY MS. FLAHERTY:

17 Q. Did Judge Tidd tell you about his meeting on
18 February 13th, 2012 with court administration and
19 President Judge McFadden?

20 A. Yes, he did.

21 MS. FLAHERTY: May I approach with
22 Exhibit 10 to refresh the recollection of the witness
23 about that incident?

24 JUDGE BARTON: We haven't established the
25 witness is unable to recall.

1 MS. FLAHERTY: Oh, thank you.

2 JUDGE BARTON: She may not need to have
3 it refreshed. We don't know that.

4 MS. FLAHERTY: In the prior question I
5 believe I asked her do you recall Judge Tidd telling you
6 about the meeting, and there was an objection to that,
7 and I believe that the objection was different from what
8 my question was. So I'm trying to get it in, in another
9 manner, so.

10 JUDGE BARTON: I'm fine with alternative
11 means. That's the practice of law. My point is ask the
12 witness if she recalls what Judge Tidd told her --

13 MS. FLAHERTY: I will.

14 JUDGE BARTON: -- about the meeting with
15 President Judge McFadden.

16 MS. FLAHERTY: That's going to be my
17 question. Thank you, Your Honor.

18 BY MS. FLAHERTY:

19 Q. Do you recall what Judge Tidd told you about
20 the meeting with court admin and the president judge?

21 A. Yes.

22 Q. What did he tell you?

23 A. He told us that he was told by Judge McFadden
24 that he needed to wear his robe in the courtroom and
25 hold the hearings in the courtroom.

1 Q. Do you recall if after that meeting Judge
2 Tidd told you that he was told not to curse?

3 A. Yes, that's correct. He did tell us he was
4 not allowed to curse. He was not supposed to be cursing
5 in the court.

6 Q. And in telling you that do you recall if
7 Judge Tidd did indeed curse?

8 A. After that meeting?

9 Q. Yes.

10 A. Yes. He came back in and he said they told
11 me I say fuck too much, fuck, fuck, fuck, fuck, fuck,
12 fuck, fuck.

13 Q. Did Judge Tidd say he was going to stop
14 swearing?

15 A. Yes.

16 Q. And did he?

17 A. No.

18 Q. Do you recall if Judge Tidd made a comment
19 about everything getting recorded from then on?

20 A. Yes, I do recall him making a statement about
21 that, yes.

22 Q. And was there any audio equipment at that
23 time?

24 A. No, I do not believe so, not at that time.

25 Q. Did Judge Tidd say that you would get audio

1 equipment at that time?

2 A. He did say he was going to request audio
3 equipment, yes.

4 Q. Do you recall after that February 13, 2012
5 meeting did Judge Tidd say to you that he had offered to
6 resign?

7 A. At the meeting with Judge McFadden?

8 Q. Yes.

9 A. I do recall that he did say something of that
10 nature.

11 Q. Did Judge Tidd say those words to you at
12 other times during your experience there?

13 A. Oh, yes, absolutely.

14 Q. How often?

15 A. Pretty frequently. Most especially when he
16 got called down to talk to Judge McFadden, you know, he
17 would say I'm sick of this shit, I'm just going to
18 resign, this isn't worth it, this job isn't worth it,
19 it's just traffic court, it's no big deal, this is
20 ridiculous.

21 Q. The logs that you submitted both to Debra
22 French and to the Board, who participated in preparing
23 those logs?

24 A. Lisa LeVan, myself, Diane Kale, Amber Glass,
25 and Cassandra Bettler.

1 Q. And after Lisa LeVan retired, did you assume
2 the role of typing up all the notes?

3 A. Yes, that's correct.

4 Q. And do you recall that when the notes that
5 you submitted to Debra French that it was Lisa that
6 mailed those to the office -- to Debra French?

7 A. I do not recall that, no.

8 Q. Do you recall that you would review the notes
9 together for accuracy?

10 A. Yes, that's correct.

11 MS. FLAHERTY: We're now going to turn to
12 more specific paragraphs within the Board complaint.

13 And we're looking at Paragraph 9.

14 BY MS. FLAHERTY:

15 Q. Brenda, do you recall an incident on
16 April 23rd, 2015 when Judge Tidd came to the district
17 court and locked the front door?

18 A. Yes, I do.

19 Q. Would you please describe that for the Court.

20 A. Judge Tidd came flying in the parking lot,
21 came into the court and locked the door and said,
22 nobody's leaving here until I talk to you all. And he
23 was yelling and carrying on about who filed the
24 complaint against him. He wanted to know which one of
25 us filed the complaint against him, who was involved in

1 it. And we denied that we filed the complaint against
2 him. And he said that he had heard it from one of the
3 police departments that we filed the complaint against
4 him. And we asked him who was it, tell us who it was.
5 He would not tell us who it was. This was around -- I'd
6 say around 3:00, 3:15 that he came in. Defendants came
7 to the door and couldn't get in. And he just -- he just
8 was yelling at us and carrying on until we got him
9 calmed down. He finally calmed down. He still would
10 never tell us who allegedly told him that. And we
11 denied that we said anything -- or filed a complaint,
12 I'm sorry, at that time because we were told we weren't
13 allowed to say anything.

14 Q. You were told you weren't allowed to say
15 anything by whom?

16 A. The Judicial Conduct Board.

17 MR. STRETTON: Objection. That's absurd.
18 There's privacy, but it doesn't go to the person making
19 the complaint. I mean, for them to tell people they
20 can't tell the person there's no such rule.

21 JUDGE BARTON: Overruled. That goes to
22 the substance of the answer. You can explore it on
23 cross-examination if you choose. You may proceed,
24 Ms. Flaherty.

25 BY MS. FLAHERTY:

1 Q. Do you need a moment?

2 A. (Witness shakes head.)

3 Q. How did you react about being locked in that
4 office?

5 A. Well, at first I was scared because I
6 didn't -- we didn't know what he was gonna do the way he
7 came in there. His behavior's always been very erratic.
8 He's up one minute, down the next. You never knew what
9 was going to set him off. He's very moody. So we
10 didn't know -- we didn't know what to think. I didn't
11 know what to think. I was scared at first. And then I
12 thought, well, if I have to or if we have to at least
13 one of us can get out the back door. And then I
14 thought, he can't do this, this is holding us against
15 our will, he can't do this.

16 MR. STRETTON: Objection, objection to
17 this kind of testimony. A boss comes in and talks to
18 them. There's a door that's open at all times. He
19 closes the front door so they can talk for a few minutes
20 privacy. I mean, this is ridiculous testimony.

21 MS. FLAHERTY: Your Honor, he's making
22 argument while the witness is testifying to what went on
23 and her reaction to it, and it goes to the weight of the
24 evidence.

25 JUDGE BARTON: Overruled.

1 MR. STRETTON: The fact that her reaction
2 is extreme in that --

3 JUDGE BARTON: If you choose to explore
4 it on cross-examination, you certainly can do so. I
5 have overruled the objection. Ms. Flaherty, you may
6 proceed.

7 MS. FLAHERTY: Thank you.

8 BY MS. FLAHERTY:

9 Q. Did you report that incident to Ms. French?

10 A. Yes, immediately as soon as he left.

11 Q. Did you formulate a plan with the other
12 clerks what you might do should that occur again?

13 MR. STRETTON: Objection.

14 THE WITNESS: I don't recall.

15 JUDGE BARTON: One second, please.

16 MR. STRETTON: What is that, did you
17 formulate a plan? Of course I'll be hearing she doesn't
18 recall, so I'll withdraw the objection.

19 JUDGE BARTON: Okay, you may proceed.

20 BY MS. FLAHERTY:

21 Q. Did Ms. French advise you after you
22 complained about that incident? What did she tell you?

23 MR. STRETTON: Objection.

24 JUDGE BARTON: Sustained.

25 BY MS. FLAHERTY:

1 Q. That was an isolated incident that you were
2 locked in there, correct?

3 A. That is correct.

4 MR. STRETTON: Objection to locked in
5 there. They weren't locked in there. The testimony is
6 clear there's a back door.

7 JUDGE BARTON: Overruled.

8 BY MS. FLAHERTY:

9 Q. So you told us that during that meeting Judge
10 Tidd was asking who filed the complaint and that he had
11 heard it from officers. Is that correct?

12 A. That is correct.

13 Q. And did he also question if anyone had spoken
14 to his political opponent, David Repyneck?

15 A. That is correct.

16 Q. And had you spoken to David Repyneck at that
17 time?

18 A. Not at that time, no.

19 Q. So did you deny that you had spoken to him?

20 A. Yes.

21 Q. Later you did speak with David Repyneck,
22 correct?

23 A. That is correct.

24 Q. Do you recall if you called him or if he
25 called you?

1 A. I believe he called me.

2 Q. And do you recall that conversation?

3 A. I would say yes. When he called me, he was
4 asking me questions about how the court was run and
5 things like that. He was asking me questions about the
6 investigation because he knew about it.

7 Q. And how did he know about the investigation?

8 JUDGE BARTON: Ms. Flaherty, excuse me,
9 if I may, can you help me understand how this is
10 relevant because I'm just not getting it?

11 MS. FLAHERTY: It's in anticipation of
12 the defense on this issue.

13 JUDGE BARTON: If it becomes relevant at
14 a later time, perhaps on redirect you can explore it.
15 It strikes me as being --

16 MS. FLAHERTY: I'll be happy to. I'll be
17 happy to.

18 MR. STRETTON: In her defense it's
19 probably pretty relevant because we're alleging she was
20 in cahoots. Remember that May 19th showing up how can
21 you schedule me. I don't usually agree with the other
22 side, but it will be covered, so you may just want to do
23 it now. I'd hate to have to bring her back in April
24 when we put evidence on, on that particular point.

25 JUDGE BARTON: I'm hoping that we'll

1 complete her cross-examination and any redirect today.

2 MR. STRETTON: Oh, that we'll do. I
3 thought --

4 JUDGE BARTON: We'll hold that for
5 redirect.

6 MR. STRETTON: Sure, okay.

7 BY MS. FLAHERTY:

8 Q. Is there anything else about that April 23rd,
9 2015 incident that you can recall?

10 A. About the conversation during that incident
11 or --

12 Q. Do you believe we've covered that?

13 A. For the most part. The only other thing I
14 would say is I did also call -- I called Debbie French
15 immediately, and I also called the investigator and left
16 a message about what happened.

17 MS. FLAHERTY: That was not presented as
18 a Board exhibit, but Mr. Stretton does have that on
19 discovery. That was the April 23rd, 2015 report of
20 interview.

21 BY MS. FLAHERTY:

22 Q. Let's turn now to primary election day of
23 2015. Can you describe for us whether you had any
24 experience at a district court during an election cycle?

25 A. No, I did not.

1 Q. Were you aware that Judge Tidd planned to
2 take primary election day off on May 19, 2015?

3 A. No, I was not.

4 Q. Were there hearings scheduled for primary
5 election day?

6 A. Yes.

7 Q. And were they written on the court calendar?

8 A. Yes, they were.

9 Q. And had Judge Tidd become aware that there --
10 prior to primary election day, was he aware or did you
11 discuss that there were hearings scheduled that day?

12 A. Yes, we did.

13 Q. And tell us about that conversation.

14 A. Well, we had had those hearings, and there
15 were only a few, three, maybe four. We had had those
16 hearings scheduled for a good month before the primary,
17 and we did tell him, and he asked us not to schedule any
18 more hearings that day. One of them was a criminal
19 hearing that had to be heard because the defendant was
20 in jail, and our understanding is we only have 30 days
21 to get them in for a preliminary hearing if a defendant
22 is sitting in jail. So we were already at the time
23 frame. I believe it had already been continued, and he
24 was being brought in from prison. We had transport
25 scheduled. The constables were bringing him up.

1 Everything was in place for that hearing, so it had to
2 go that day, and he was aware of that. And he asked us
3 not to schedule any more hearings, and we did not. He
4 did ask me not to schedule anything from May 20th on.

5 Q. When Judge Tidd would ask you not to schedule
6 things for a period of time, did you mark that in a
7 specific way in the calendar?

8 A. Yes. We would mark Judge Tidd out or Judge
9 Tidd on vacation. But it would be -- the day would
10 be -- have an X through it, and we'd have something
11 written in about, you know, him being out.

12 Q. Do you recall if there were any X's drawn on
13 the page for May 19, 2015, on the calendar page?

14 A. I believe there was an X for the afternoon
15 because the three to four hearings were scheduled in the
16 morning.

17 MS. FLAHERTY: This is Exhibit 7 -- oh,
18 excuse me, Exhibit 40, and may I approach the witness to
19 refresh her recollection about the calendar page?

20 JUDGE BARTON: She hasn't demonstrated
21 that she's unable to recall. If you want to
22 authenticate the exhibit, that's fine.

23 MS. FLAHERTY: She has stated that she
24 believes there was an X on the page, and I think she
25 needs to have her recollection refreshed. Thank you. I

1 will approach.

2 MR. STRETTON: I will stipulate there's
3 no X on that page.

4 JUDGE BARTON: Mr. Stretton is
5 stipulating there's no X on the page.

6 MS. FLAHERTY: Fine.

7 BY MS. FLAHERTY:

8 Q. Can you describe for the Court how you first
9 notified Judge Tidd on primary election day?

10 A. I believe I sent him a text message on his
11 cell phone. It was around 8:45, I believe. I don't
12 recall what I said. I'm sure it was along the lines of
13 are you on your way for your hearings or where are you,
14 are you on your way, something along that nature for
15 your hearings.

16 Q. And did you hear back from him?

17 A. Yes. I no sooner wrote then I sent that
18 message that I got a phone call at the court, and I
19 answered the phone, and he was screaming at me, what the
20 fuck did you do, you are fucking unbelievable, I'm
21 supposed to have off today, didn't you know that. I
22 said, I didn't, you should, common sense tells you. He
23 just was fuck this and fuck that.

24 And then he came -- he must have called me on
25 his way to the court. He came flying into the court

1 again, and he walked in the court, and he's yelling at
2 me in front of a defendant and a police officer and my
3 coworkers and telling me, you know, I should have known
4 they're supposed to have off. And I said, I didn't
5 know, I've never been through an election with -- common
6 sense tells you you're supposed -- I'm supposed to have
7 off this day, what's wrong with you. It just went on
8 and on. And I think I stayed relatively calm. I even
9 think I said I was sorry because I didn't know. And he
10 knew about the hearings.

11 Q. Brenda, why don't you take a moment and
12 collect yourself and we're going to watch the video of
13 the event, and then we'll get back to you unless you
14 feel you need more time.

15 MR. STRETTON: I'd object to watching the
16 video again. We've already seen it.

17 JUDGE BARTON: Is there a purpose by
18 watching the reruns?

19 MS. FLAHERTY: Yes, because I want to ask
20 her specific questions about certain instances within
21 the video. I did ask earlier -- perhaps I should have
22 asked permission of the Court and discussed with
23 Mr. Stretton.

24 MR. STRETTON: She has the transcript.

25 MS. FLAHERTY: Ms. Anthony was not

1 present for the screening of the video, and she has not
2 seen the video in a very long time. I think her
3 accuracy and her reaction to viewing it now is important
4 to the weight of the evidence before this Court.

5 MR. STRETTON: Well, she has the
6 transcript. You could ask her he said this, do you
7 remember that or did he say that. If you want to see it
8 again, it just seems to me -- if this was a jury trial,
9 I could understand wanting to play it again, but I think
10 all of you remember that video.

11 MS. FLAHERTY: May we approach, please.

12 JUDGE BARTON: Certainly.

13 (Discussion held off the record at
14 sidebar)

15 (The video recording was played.)

16 BY MS. FLAHERTY:

17 Q. Brenda, you've had an opportunity to view
18 that video now and hopefully collect yourself. Have you
19 ever been treated that way by another employer?

20 MR. STRETTON: Objection. What relevance
21 does that have honestly?

22 JUDGE BARTON: Counsel.

23 MS. FLAHERTY: It goes to the
24 inappropriateness of the conduct toward her.

25 JUDGE BARTON: I think that's a decision

1 the Court will make. I'll sustain the objection.

2 BY MS. FLAHERTY:

3 Q. What was your reaction to those events?

4 MR. STRETTON: Objection. She already
5 told us.

6 JUDGE BARTON: Overruled.

7 BY MS. FLAHERTY:

8 Q. You may go ahead.

9 A. I was humiliated. I thought -- he made me
10 feel like I was stupid, that I didn't know what I was
11 doing. And the truth is I didn't. I didn't know he was
12 supposed to have off on election day. That's not
13 stupid. I didn't know.

14 MR. STRETTON: Objection. I object to
15 this kind of testimony. I mean, it's absurd. Election
16 day? I mean, if that's the kind of testimony we're
17 going to hear, as a boss you can't at times express
18 displeasure, I mean we're all done.

19 JUDGE BARTON: You can explore it on
20 cross-examination.

21 MR. STRETTON: I just object that this
22 has no relevancy to this hearing at all.

23 JUDGE BARTON: Please proceed,
24 Ms. Flaherty.

25 BY MS. FLAHERTY:

1 Q. Did you notify Ms. French about the incident?

2 A. Yes.

3 Q. And did you notify the Board investigator?

4 A. Yes.

5 Q. And did you memorialize the events of that
6 day in a writing?

7 A. Yes.

8 Q. And that writing is at Exhibit 7, Page 61.
9 So we did stop the video following Judge Tidd's
10 interaction with you. And do you recall the events that
11 followed?

12 A. Yes.

13 Q. Could you tell the Court what you saw?

14 A. Officer Bencsics was at the counter over by
15 the postage machine. And when Judge Tidd walked out and
16 said all hearings were continued, Officer Bencsics
17 didn't know -- he didn't know -- none of us knew what to
18 think. And then Judge Tidd you saw him come back in and
19 say Mark Minotti is here with the defendant, they're
20 going to hold that traffic hearing.

21 Well, there was no hearing. It was at the
22 counter. Judge Tidd at one point went out and talked to
23 Attorney Minotti. I believe the defendant was out
24 there, also. I'm not a hundred percent sure of that,
25 but I believe he was out there, also. And then when

1 Judge Tidd came back in, he said something to the effect
2 of here, do it, it's done, be quick.

3 MR. STRETTON: Objection.

4 JUDGE BARTON: What's your objection?

5 MR. STRETTON: It's not what the
6 transcript shows. We already saw it and read it
7 yesterday.

8 JUDGE BARTON: Sustained. Let's move
9 forward.

10 BY MS. FLAHERTY:

11 Q. Is it your recollection that Mr. Minotti
12 spoke with the officer?

13 A. About a deal? No, I don't recall that. I
14 know he spoke to him. I think he said, hello, Officer
15 Bencsics. He might have went over and shook his hand.
16 I don't recall a hundred percent. But he did speak with
17 him, but I don't recall the two of them working out any
18 deal, the officer and the attorney. I don't recall
19 that.

20 Q. Well, we stopped the video short for -- we've
21 already got testimony, and the Court's aware of that, so
22 we're going to move on from that. I just had one more
23 question on that incident, and that is, do you recall if
24 you spoke directly with Attorney Minotti after that?

25 A. Yes, yes, I did. I was so upset because he

1 was carrying on in front of Attorney Minotti, and I
2 apologized to Attorney Minotti for his behavior.

3 MR. STRETTON: Objection. None of this
4 is on the video and doesn't show he's upset. He came
5 back in. He did something. There was no ranting and
6 raving from Minotti. There's not even any cursing in
7 the video.

8 JUDGE BARTON: Are we done with this
9 area?

10 MS. FLAHERTY: Yes. She's just --

11 JUDGE BARTON: Let's just move on.

12 MS. FLAHERTY: May we request a short
13 recess, Your Honor.

14 JUDGE BARTON: Okay. We'll be in recess
15 for 10 minutes.

16 (Recess taken)

17 JUDGE BARTON: We're back. Let's
18 proceed.

19 BY MS. FLAHERTY:

20 Q. Brenda, were you present at court on
21 August 28th, 2014 during a case Commonwealth versus
22 Snyder?

23 MR. STRETTON: What paragraph are we on?

24 MS. FLAHERTY: This is Paragraph 51.
25 Docket and case file is at Exhibit 38. Log entry's at

1 Exhibit 7, Page 48.

2 BY MS. FLAHERTY:

3 Q. This is an incident where Judge Tidd had
4 walked behind Cassie and she didn't hear him say
5 something. Were you present at the court that day?

6 A. Yes, I was.

7 Q. And can you describe the incident, please.

8 A. Judge Tidd said something to Cassie, and she
9 didn't hear him, and she answered, huh. And he just
10 turned around and yelled at her. I thought he said
11 don't fucking say huh to me, I can't stand it. And
12 Cassie was -- we were all in shock because he just
13 blurted it out. But, I mean, she did answer sometimes
14 huh because she couldn't hear. She had a problem
15 hearing, and if you're not always talking directly at
16 her, it was difficult for her to hear if you were like
17 walking away from her.

18 Q. And did you observe Judge Tidd apologize to
19 her for that?

20 A. No, he did not.

21 Q. And is that one of the incidents you recorded
22 in the log?

23 A. Yes, it is.

24 MS. FLAHERTY: We're now at Paragraph 73
25 of the Board complaint.

1 BY MS. FLAHERTY:

2 Q. Brenda, were you at district court on
3 January 23rd, 2012? This was a case where Attorney
4 Potts was present.

5 A. I believe so, yes.

6 MS. FLAHERTY: And this is at log entry
7 at Exhibit 7, Page 16.

8 BY MS. FLAHERTY:

9 Q. Do you recall that Attorney Potts and Judge
10 Tidd went into his chambers and closed the door?

11 A. Yes, they did.

12 Q. And when they emerged, did you observe if
13 Judge Tidd encouraged Attorney Potts and Officer
14 Gunshore to have a conversation?

15 A. No, I don't recall that. What I recall is
16 that he -- the two of them walked out, Attorney Potts
17 and Judge Tidd, and he said, we have a deal.

18 Q. At any time did Attorney Potts and Gunshore
19 go into a private area of the courthouse to discuss the
20 matter? Did you observe that?

21 A. I don't recall.

22 Q. And did you observe Officer Gunshore's
23 reaction when he heard we've got a deal?

24 A. Yes. He said, I don't know what you're
25 talking about.

1 MR. STRETTON: Objection what he says,
2 move to strike.

3 JUDGE BARTON: I'll strike her response
4 to the extent that it's hearsay what the officer said.
5 Please proceed.

6 MS. FLAHERTY: We're now going to turn to
7 the section on special consideration, Section D which
8 begins on Page 25.

9 BY MS. FLAHERTY:

10 Q. Did Judge Tidd ask you to track warrants
11 issued to Attorney Burke?

12 A. Yes.

13 Q. Did you object to doing that?

14 A. Yes, we did.

15 Q. And how did Judge Tidd respond?

16 A. He didn't think it was right that we did
17 warrants against Attorney Burke. He did not want us to
18 do the warrants at all, but we did do the warrants
19 because that's what we're supposed to do. When a
20 defendant doesn't respond to a ticket in the allotted
21 time, we are to issue a warrant. It doesn't matter who
22 they are. That's what we're supposed to do.

23 Q. And when Judge Tidd asked you to inform him
24 when warrants were to issue or about to be issued to
25 Attorney Burke, did you tell him that?

1 A. Yes.

2 Q. And what would happen? Did he ever ask you
3 to withhold a warrant?

4 A. Yes.

5 Q. And did you withhold the warrant?

6 A. Sometimes.

7 Q. And if a warrant was ready to issue, you
8 reported that to Judge Tidd?

9 A. Yes.

10 Q. And what did he do next?

11 A. If a warrant was ready to issue?

12 Q. Yes.

13 A. He would call Attorney Burke and tell him to
14 get in there and take care of the ticket, otherwise we
15 were going to have to issue a warrant even though we had
16 already been past the time to issue the warrant.

17 Q. And then would Attorney Burke come in and
18 pay?

19 A. Not always, no.

20 Q. What about when the warrant did issue to
21 Attorney Burke, what would happen then?

22 A. We would give it to one of the constables,
23 and they would go and try and serve it. I believe they
24 were successful a few times serving the warrant. And
25 then he would finally come in, and we'd have to mark the

1 warrant back. And then it got sent down to county, so
2 they would have to pay it.

3 Q. What do you mean you had to mark the warrant
4 back? Who told you to do that?

5 A. Well, if a defendant responds, that means the
6 warrant was effectuated and we have to mark the warrant
7 back as served. Constable went out, the defendant came
8 in, he responded. We mark the warrant back as served.
9 I do recall a few times where I believe we might have
10 canceled the warrant and so the constable didn't get
11 paid. But most of the time it was we sent it down to
12 county and county had to pay it.

13 Q. Did Judge Tidd instruct you to do that?

14 A. Yes.

15 Q. On more than one occasion?

16 A. Yes, that's correct.

17 Q. Did you ever have a discussion with Judge
18 Tidd about the appropriateness of holding back warrants
19 for an attorney?

20 A. I don't recall that I did, no, I don't recall
21 that.

22 Q. Do you recall that in March of 2015 you spoke
23 with Judge Tidd after speaking with a clerk at Judge
24 Manwaring's court?

25 A. Yes.

1 Q. Do you recall what your discussion was with
2 Judge Tidd after that?

3 A. Yes.

4 Q. Could you --

5 A. Attorney Burke had a ticket at Judge
6 Manwaring's office, and he was scheduled for a hearing,
7 and he did not show up for his hearing.

8 MR. STRETTON: Objection. She wasn't
9 there.

10 THE WITNESS: I confirmed it with
11 Judge --

12 JUDGE BARTON: Excuse me, there's an
13 objection. Mr. Stretton.

14 MR. STRETTON: She's testifying to
15 something she wasn't present. She's Judge Tidd's court,
16 not Judge Manwaring's court. She wouldn't know except
17 through hearsay.

18 JUDGE BARTON: Do you have a response?

19 MS. FLAHERTY: I can rephrase the
20 question.

21 JUDGE BARTON: Please do.

22 BY MS. FLAHERTY:

23 Q. Did you have a conversation with a clerk at
24 Judge Manwaring's office?

25 A. Yes.

1 Q. After that conversation, did you discuss with
2 Judge Tidd whether or not it was appropriate to be
3 notifying Attorney Burke before warrants should issue?

4 A. Yes.

5 Q. Could you explain that?

6 A. The discussion was about -- we do not get
7 defendants' telephone numbers. That's not -- that's not
8 something that police departments do. So if a defendant
9 is scheduled -- if their time is running out on a ticket
10 or if they're scheduled to come up for a warrant or they
11 have a hearing, we do not call them and remind them of
12 their hearing. That does not happen. We can't because
13 we don't have their telephone numbers. And all
14 defendants are the same. No one defendant is different
15 than another.

16 And Judge Tidd said to me it wasn't right
17 what Judge Manwaring's court did, they should have
18 called Attorney Burke and reminded him of his hearing.
19 And I said, no, that's not right, he's a defendant like
20 any other defendant, he should not get special
21 treatment. And he said, yes, he should, he's an
22 attorney. And I did not argue but disagreed with him a
23 little bit more that that's not right. If we're going
24 to do that, we have to do that for all defendants, not
25 just attorney defendants.

1 Q. Brenda, do you recall a case that was in your
2 court, Commonwealth versus Blair?

3 A. Yes.

4 MS. FLAHERTY: This is on May 17th, 2013,
5 and we're at Paragraph 118 of the Board complaint.

6 BY MS. FLAHERTY:

7 Q. Tell us what you remember about that case.

8 A. I believe it was a traffic citation filed
9 against Susan Blair who was the landlord, could still be
10 the landlord for that district court building. The
11 county rented that building from the Blairs. I don't
12 recall what the citation was for, like what charge. I
13 believe there was an accident involved. And my best
14 recollection is we had asked -- one of us had asked
15 Judge Tidd if he wanted the case transferred out, and he
16 said, no. And we're like, but that's the landlord,
17 don't you think that's conflict.

18 MR. STRETTON: Objection. I don't think
19 we have to hear people give reasons for recusals that
20 don't understand. It would not be a basis for a
21 recusal. He's not the landlord. He's not on the lease.
22 It's the county. What does that mean, she can never go
23 to any judge in Northampton County? That's my
24 objection. Why are we listening to a clerk tell us what
25 the law is, and it's just not true.

1 JUDGE BARTON: Ms. Flaherty.

2 MS. FLAHERTY: Again, I would respond
3 that Mr. Stretton is arguing. This is part of our case
4 that we're presenting about conflicts of interest.
5 Ms. Anthony has direct knowledge of how it was handled
6 at court level and her interaction with Judge Tidd. She
7 spoke with him. He responded to her. The
8 appropriateness we will be presenting more evidence when
9 the court administrator is here that has to do with this
10 case, and this is laying the foundation for that.

11 JUDGE BARTON: The witness is recounting
12 her conversation with Judge Tidd. I'll overrule the
13 objection. I can assure you that we're not considering
14 points of law in the witness's testimony as binding.
15 Let's move forward.

16 MS. FLAHERTY: Thank you.

17 BY MS. FLAHERTY:

18 Q. During your conversation with Judge Tidd, did
19 he tell you that he would ask the citing officer about
20 the circumstances of the citation?

21 A. I believe so, yes.

22 Q. Did Judge Tidd also tell you that he was
23 going to ask the officer if the police chief made him
24 write the citation?

25 A. Yes.

1 Q. Did Judge Tidd also tell you that he would
2 retain the case and dismiss it if possible?

3 A. I believe so, yes.

4 Q. And, finally, did he tell you he'd transfer
5 that case if it was necessary?

6 A. I believe that's what he said.

7 Q. Ms. Anthony, while you were working for Judge
8 Tidd, did he ever tell you personally to handle court
9 matters?

10 A. At times, yes.

11 Q. And what did handle court matters mean?

12 A. There were times when we were told to explain
13 waiver paperwork to defendants. We were told if he
14 wasn't there to handle the case. If a defendant came in
15 and police officer and we were to do the disposition if
16 he wasn't there, and we did. I think it was more
17 frequent with Diane Kale than it was with me, but there
18 were times when we did do that.

19 Q. And besides traffic citations, what else did
20 you handle at the counter -- or, excuse me, what else
21 did you handle when Judge Tidd was absent or in the
22 courtroom or otherwise unavailable? Did you handle
23 waivers for preliminary hearings?

24 A. Yes.

25 Q. Did you handle preliminary arraignments?

1 A. Yes. And we would do the paperwork and
2 process it, and we wouldn't be able to give it to the
3 defendant or their attorney. We'd have to wait for him
4 to come in like the next day or whenever and sign it.
5 Then we would mail it out to the defendant and his
6 attorney if they had one.

7 Q. And you worked at the district court for a
8 period of time after Diane Kale had retired from Judge
9 Tidd's court, correct?

10 A. Correct.

11 Q. She left in December 2014, and you were there
12 through July --

13 A. June.

14 Q. -- excuse me, June of 2015. Is that correct?

15 A. That is correct.

16 Q. So during that year and a half after Diane
17 Kale left, did that expectation continue that you should
18 handle matters in Judge Tidd's absence?

19 A. It was six months, not a year and a half.

20 Q. Excuse me. My mental math is failing me.

21 A. I would say yes, but, again, not as frequent
22 because I was -- Diane was quicker than me. I was a
23 little bit slower than her as far as processing things,
24 so he wouldn't give me as much to handle because I
25 wasn't as quick as Diane. So we still did it, but it

1 was probably less frequent.

2 Q. Were you present at the court on July 23rd,
3 2014 for a case Commonwealth versus Clark?

4 MR. STRETTON: What paragraph is this?

5 MS. FLAHERTY: Paragraph 146.

6 MR. STRETTON: Thank you.

7 BY MS. FLAHERTY:

8 Q. That was a case with Officer Piotrowski, and
9 there were three different traffic tickets before Judge
10 Tidd.

11 A. I vaguely recall it. I believe I was there.

12 Q. While we're looking for the log, does it
13 refresh your recollection if I state that there were
14 three different citations, operation following
15 suspension of registration, operation without required
16 insurance, and operation while driving privileges
17 suspended? Do you recall that?

18 A. Yes, I recall that.

19 Q. And do you recall if that -- whether or not
20 that case was taken care of at the counter?

21 A. Yes, it was.

22 MS. FLAHERTY: We had an opportunity --
23 Your Honor, just for the Court's information,
24 Paragraph 150, the matter of Hazeltine, the Board has
25 withdrawn that from consideration by the Court and has

1 informed opposing counsel of that, and we also removed
2 that matter from your notebooks prior to handing them up
3 on day one.

4 JUDGE BARTON: Hearing no objection, the
5 Court will strike that paragraph from the Board
6 complaint.

7 MR. STRETTON: I'm a little confused
8 here. 150 is withdrawn? This is the first I'm hearing
9 this.

10 JUDGE BARTON: Yes.

11 MS. FLAHERTY: We discussed that day one,
12 Sam, I told you that we were -- Mr. Stretton, we had
13 removed that from the notebooks before handing them out.

14 MR. STRETTON: It's possible I've
15 forgotten.

16 BY MS. FLAHERTY:

17 Q. Ms. Anthony, we already covered your
18 testimony regarding Judge Tidd and his attire at court
19 when he was at the counter. Did you occasionally see
20 him go into the courtroom for hearings?

21 A. Occasionally.

22 Q. And when he went into the courtroom, did he
23 wear his robe in there?

24 A. Not always, but sometimes.

25 Q. Did you ever hear him or observe him handle a

1 landlord/tenant hearing right at the counter?

2 A. Yes.

3 Q. And was testimony provided during those
4 landlord/tenant hearings at the counter? Did you hear
5 testimony?

6 A. If you want to call it that, yes. I mean,
7 they talked back and forth. The landlord would say he
8 owes him this much money, and the defendant might say,
9 yeah, I do, or, no, I don't, it's not that much, I paid
10 him some in the meantime. That all happened at the
11 counter. There was no swearing in of a witness or
12 anything like that. That did not happen ever.

13 Q. But as far as those hearings in the
14 courtroom, you were not present for those?

15 A. No.

16 Q. Did you ever personally observe Judge Tidd
17 sleeping in his robe in his office?

18 A. Yes.

19 Q. And did you ever personally observe him using
20 his robe as a pillow?

21 A. I believe so, yes.

22 MS. FLAHERTY: I think we're done on
23 direct, Your Honor.

24 MR. STRETTON: Just a few questions.

25

CROSS-EXAMINATION

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BY MR. STRETTON:

Q. Good morning, Ms. Anthony.

A. Good morning.

Q. I don't have a lot to question you about, but I do have a couple of things I'm interested in. We saw that video of May 19th, 2015, the election day matter where he came in and we saw what we saw. Do you remember that?

A. Yes.

Q. How was that video saved? Did you ask someone to save it?

A. How was it saved?

Q. Yes.

A. It was saved on the audio equipment.

Q. That audio equipment recycles every few months, and then if it's not pulled out, it would be erased. Am I right?

A. Correct.

Q. So who asked to pull that particular audio, you?

A. Did I ask to pull it?

Q. Or save it somehow so it wouldn't be in the erase cycle.

A. Yes, we did save it onto a flash drive.

- 1 Q. Who did that, you?
- 2 A. No. I didn't know how to do it.
- 3 Q. Who did you ask to do it?
- 4 A. I believe Cassandra did it.
- 5 Q. How about the other one with the huh incident
6 with Cassandra, you guys decided to save that one, too?
- 7 A. I believe so. I believe so, yes.
- 8 Q. And so you and Cassandra or you and
9 Ms. Drayton, whoever was there, at times would decide to
10 save certain instances like the May 19th instance we saw
11 this morning. Am I right?
- 12 A. Correct.
- 13 Q. Did you then give them to Ms. French or let
14 her know that these three -- there's three times that we
15 have videos of, that they were saved?
- 16 A. Correct.
- 17 Q. Did you tell Judge Tidd that they were saved?
- 18 A. I don't recall, no.
- 19 Q. Now, there's a lot of other allegations as
20 you know. You've read the complaint. Am I right?
- 21 A. Yes.
- 22 Q. And of course you've read the logs and the
23 complaints that you collectively submitted in 2014. Am
24 I right?
- 25 A. Correct.

1 Q. So there was a lot of other instances of
2 supposed cursing, yelling, and things of that nature.
3 Am I right?

4 A. Correct.

5 Q. But you never saved any of those?

6 A. We couldn't save -- believe me, if we could
7 have saved everything, we would have.

8 Q. I know, but you couldn't.

9 A. We couldn't. We had to do our jobs, too.

10 Q. How about the F, F, F, F, F that you talked
11 about, that would have been a good one to save.

12 A. I don't know if we had the audio yet then.

13 Q. How about all this standing at the counter
14 when deals were made and officers weren't there, did you
15 ever say let's pick one or two? You didn't, did you?

16 A. I don't recall. But honestly you can see it
17 right on the video from May 19th, he did it at the
18 counter.

19 Q. We saw that one.

20 A. And I believe it's also you can see it on the
21 one from when Cassie said huh.

22 Q. But there's no evidence -- of all those four
23 years that you're there until you leave, three or four
24 years, however it was, only two, three videos were
25 actually saved?

1 MS. FLAHERTY: Objection.

2 JUDGE BARTON: What's your objection?

3 MS. FLAHERTY: We did argue this in the
4 briefs. There was another video that was not submitted
5 to the Court because it wasn't relevant to the evidence
6 we're presenting here today. I just wanted,
7 Mr. Stretton, it may be confusing to the witness because
8 she's aware that there was another besides the one --

9 JUDGE BARTON: With that noted, it is
10 overruled. Mr. Stretton can continue his
11 cross-examination of this witness.

12 BY MR. STRETTON:

13 Q. So four were saved, boom, over --

14 A. Correct. But --

15 Q. -- four years?

16 A. That is correct. No, I don't think it was
17 four years. It's not four years. But --

18 Q. The time you were there.

19 A. -- the equipment was broke for a time.

20 Q. Now, let me just make sure I understand. You
21 had conversations with Mr. Repyneck who was the
22 political opponent of David Tidd in the May election,
23 correct?

24 A. Correct.

25 Q. And if I understand it, Mr. Repyneck had

1 called you at the judicial office before the election
2 day. Am I right?

3 A. At the court?

4 Q. Yes, he called you, talked to you?

5 A. Not at the court.

6 Q. Where did he call you?

7 A. I believe on my cell phone.

8 Q. But you were in the court?

9 A. No, I don't believe I was in the court when
10 he called me on my cell phone.

11 Q. And he was questioning you about how the
12 court was run and things of that nature, that is
13 Mr. Repyneck, correct?

14 A. Correct.

15 Q. And you were aware he was the opponent of
16 David Tidd?

17 A. Correct.

18 Q. And he wanted to know specifics about how
19 things were handled, how he treated staff, things of
20 that nature, correct?

21 A. No, I don't think that's what he asked me,
22 no.

23 Q. Well, he asked you about things about how the
24 court was run. Am I correct?

25 A. Right, like what kinds of hearings we had and

1 things like that.

2 Q. And he called you a second time, too. Am I
3 right?

4 A. I believe so, yes.

5 Q. And asked you similar things?

6 A. Yes.

7 Q. And, in fact, he even told you his wife had a
8 civil case there. Am I right?

9 A. Yes, he did.

10 Q. And when were these calls, like April of
11 2015, a month before the election?

12 A. I believe it might have been a week or two.
13 I don't really recall.

14 Q. Now, when you were asked about that in a
15 deposition by judicial counsel, you indicated you
16 weren't sure who initiated the call, if it was you or he
17 but you thought it was him.

18 A. Correct.

19 Q. In fact, your answer on Page 39 was, you're
20 not sure who initiated the call?

21 Answer, no, I don't recall if he -- I really
22 think he called me, but I'm not a hundred percent
23 certain of that.

24 A. Correct.

25 Q. And then he asked you how the court was run.

1 Am I correct?

2 A. Yes.

3 Q. And you told him things about how the court
4 was run. Am I correct?

5 A. No.

6 Q. He asked you about the complaint. Am I
7 correct?

8 A. He did, yes.

9 Q. On Page 40 you were questioned I guess by
10 Ms. Flaherty in these unilateral depositions, question,
11 so your conversation was it limited to his questions
12 about procedure and then you went on to discuss the
13 complaint?

14 Answer, he asked me questions, and I said I
15 can't answer.

16 A. Right, I did not answer him.

17 Q. Question, about the complaint?

18 Answer, about the complaint. He asked me
19 questions about the campaign, and I said I really can't
20 answer those questions or I'll go get -- I will get in
21 trouble.

22 A. Correct.

23 Q. Remember that?

24 A. Yeah, I cannot do that.

25 Q. And then he called you back to try and get

1 more information.

2 A. Correct.

3 Q. He told you according to your testimony that
4 he was aware of the complaints you people had, when I
5 say you people, you and your colleagues, sorry, that had
6 about Judge Tidd. Am I right?

7 A. I believe that's correct.

8 MS. FLAHERTY: Objection.

9 JUDGE BARTON: One second. There's an
10 objection.

11 MS. FLAHERTY: I'm not sure where
12 Mr. Stretton's referring to, if you could just --

13 MR. STRETTON: Page 40. This is the
14 deposition of April 19th, 2016, Page 40, Line 20.

15 BY MR. STRETTON:

16 Q. Question, and then he let you know that he
17 heard about the complaints against Judge Tidd? And then
18 did he offer information about his own complaint to the
19 Board?

20 Answer, he did.

21 Is that right?

22 A. His wife's complaint, yes.

23 Q. Now, question, what did he tell you?

24 Answer, he told me that his wife had a civil
25 case and went on and on about that.

1 Remember that?

2 A. Yes.

3 Q. Then you were asked by Ms. Flaherty at the
4 bottom of Page 41, question, and did you have any other
5 conversations with Candidate Repyneck?

6 Answer, I think -- I think -- I think I
7 talked to him twice, top of 42, Line 2.

8 Question, do you recall who initiated the
9 second call?

10 Do you?

11 A. I don't recall what --

12 Q. Your answer then was, answer, I don't -- I do
13 not.

14 Question, in your communications with
15 Candidate Repyneck did you ever malign Judge Tidd?

16 Answer, I might have. I don't recall.

17 A. I don't recall.

18 Q. So there were at least two conversations when
19 you were talking to then Candidate Repyneck who you knew
20 was running against my client, David Tidd. Am I right?

21 A. Correct.

22 Q. And there was discussions about at least
23 office procedure. Am I right?

24 A. I did not tell him anything about office
25 procedure.

1 Q. And then you said you may have maligned or
2 said some bad things about Tidd but you don't remember,
3 if I recall your testimony in the deposition. Am I
4 right?

5 A. I'm sorry, I'm not understanding the
6 question.

7 MS. FLAHERTY: Objection. There's
8 nothing about bad things in the deposition I don't
9 believe.

10 JUDGE BARTON: Overruled.

11 MR. STRETTON: Maligning.

12 MS. FLAHERTY: Yes. But --

13 JUDGE BARTON: The objection is
14 overruled. Mr. Stretton, you can finish your questions.

15 BY MR. STRETTON:

16 Q. So you're not sure if you said some
17 maligning, that means bad things, about Judge Tidd?

18 A. I don't believe that I did.

19 Q. Ma'am, you never told Judge Tidd about that,
20 did you, about that conversation, did you?

21 A. No.

22 Q. You're working for him, he's your boss. Am I
23 right?

24 A. Correct.

25 Q. That's the opponent he's running against. Am

1 I right?

2 A. Correct.

3 Q. And you're talking to the opponent who's
4 asking you about office procedures and other matters.
5 Am I right?

6 A. Yes. But that is typical. There are many
7 candidates that will actually go into the court and talk
8 to the staff there to assure them if they win the seat
9 that they will retain the staff. That happens
10 frequently when there are elections.

11 Q. And that staff then tells their judge, Joe so
12 and so or Mr. Repyneck came in. Am I right?

13 A. No, they don't always tell their judge that.

14 Q. And it got back to Judge Tidd, former Judge
15 Tidd through the police about that conversation. Am I
16 right?

17 A. Through the police?

18 Q. Yes.

19 A. Yes, I believe so, yes.

20 Q. And when Judge Tidd came in that day and
21 locked the door, he raised that issue with you about you
22 and others talking to the opponent and not telling him,
23 right?

24 A. Correct.

25 Q. Now, when you say lock the door, the front

1 door is locked on the inside by just turning a knob
2 clockwise. Am I right?

3 A. Correct.

4 Q. It's not like you need a key or anything. Am
5 I correct?

6 A. No.

7 Q. So when you say locked the door, if you had
8 walked to the front door, all you had to do is turn the
9 knob back counterclockwise and you could have opened the
10 door. Am I right?

11 A. That's correct.

12 Q. And about 10 feet behind you was a back door
13 which you just walk out, push the bar and you walk out.
14 Am I right?

15 A. Correct.

16 Q. Now, so you're telling us you didn't think or
17 know anything about election day or think of any
18 importance of election day even though you're talking to
19 his opponent. Am I right?

20 A. I did not know he was supposed to have off on
21 election day. That had nothing to do with his opponent.
22 I did not know he was supposed to have off on election
23 day.

24 Q. So you didn't know he'd be campaigning? You
25 didn't know that people vote for someone?

1 A. Yes, I understand that. But he knew he had
2 hearings that day. He told me not to add or any of his
3 staff to add any more hearings that day, and we did not.
4 We kept the hearings on he requested us to keep on.

5 Q. I take it you have nothing in writing that
6 says that, nothing in writing?

7 A. Not that I'm aware of. He said it in front
8 of the staff. The staff heard him say, clear my
9 schedule from May 20th on because he knew he had
10 hearings on the 19th. They were scheduled for more than
11 a month.

12 Q. May 20th he had scheduled for vacation for a
13 couple days after the election. Am I right? That was
14 his vacation?

15 A. We were made aware of that after the fact,
16 yes.

17 Q. But on May 19th you mention a criminal case
18 where someone was incarcerated and you were concerned
19 about some 30-day rule. Am I correct?

20 A. Yes. There was a criminal case, and there
21 was a defendant being brought up from the prison.

22 Q. But the practice was if a defendant's brought
23 up from the prison that's noted on the calendar, right?

24 A. Usually, yes, we put something there that
25 they're in prison.

1 Q. I'm going to show you the actual calendar.
2 The copy's in the exhibits. I'm going to show
3 Ms. Flaherty first.

4 MR. STRETTON: I believe it's somewhere
5 at Exhibit 40 in your book, if I can approach the
6 witness.

7 JUDGE BARTON: You may.

8 BY MR. STRETTON:

9 Q. I'm handing you what I believe is the
10 official court calendar, and I can show you Exhibit 40
11 which I believe is a photocopy. I'm going to stand back
12 here a second. Is that your handwriting on May 19th,
13 the four entries?

14 A. Not all four of them, no.

15 Q. But some of them are yours?

16 A. Correct.

17 Q. And there's one of the cases there is a
18 criminal case. Is there any reference that that was an
19 incarceration or constable would have to bring the
20 person in?

21 A. No. But if you'll note, it's whited out.
22 That's whiteout across it. That's where it would have
23 been, where the whiteout is.

24 Q. Where the whiteout is?

25 A. Yes.

1 Q. Well, that's the document you kept.

2 A. It was there. It's whited out. Somebody
3 whited it out.

4 Q. All right, we'll take a look. With your
5 permission, I'm just going to put that here.

6 MS. FLAHERTY: Mr. Stretton, if you want
7 to use the original that you showed to me as your
8 exhibit.

9 MR. STRETTON: I could.

10 MS. FLAHERTY: Did you mark this as an
11 exhibit that you showed to me?

12 MR. STRETTON: Mr. Tidd, you have no
13 objection to me marking the original, do you?

14 MR. TIDD: No. I want to say something.

15 MR. STRETTON: One second. I think I'll
16 mark it as an exhibit.

17 BY MR. STRETTON:

18 Q. I'm showing you Exhibit 40. It's the second
19 full page, same whiteout?

20 A. You can see that it was whited out. That's
21 what that spot is.

22 Q. That would be you?

23 A. I didn't white it out.

24 Q. Now, the constable's name is written on the
25 far right. It's not written on or by the person. Am I

1 correct?

2 A. I don't know if we always wrote the
3 constable's name in. If they were bringing him -- a
4 defendant up from prison, we would put a copy of the
5 release with their name on it in the file. We didn't
6 always -- we didn't always write a constable's name in
7 the book.

8 MR. STRETTON: Well, I'm just going to
9 mark collectively this calendar for 2015, the judicial
10 calendar. I was going to put it in through him, but
11 maybe I can just do it through this witness.

12 BY MR. STRETTON:

13 Q. Is this the actual official calendar that
14 your office was using? You can take a look at it again.
15 You don't have to look at it from a distance.

16 JUDGE BARTON: Attorney Stretton, I think
17 your client is trying to get your attention.

18 MR. STRETTON: Oh, thank you.

19 BY MR. STRETTON:

20 Q. I'm sorry, did you say that's the official
21 book to the best of your recollection?

22 A. To the best of my recollection, yes.

23 MR. STRETTON: I'm going to mark that I
24 believe as R-20. I have earlier R exhibits which we'll
25 get to when we start our case. R-20, and then I'm going

1 to mark the 2016 as R-21 and give it to the court
2 reporter to do that. In R-20 we referred specifically
3 when I questioned Ms. Anthony to the May 19th entry.
4 I'll have that marked as R-20. And then I have some
5 other questions.

6 (Exhibit Number R-20 marked for
7 identification)

8 BY MR. STRETTON:

9 Q. I'm showing you R-20 again which I
10 specifically put on the May 19th date. Is that correct?
11 I'm just asking you to confirm that R-20 is the May 19th
12 date of 2015.

13 A. According to your exhibit, yes.

14 Q. And then I'm going to show you what I'm going
15 to ask --

16 MS. FLAHERTY: Mr. Stretton, may I ask
17 the Court's indulgence. We were conferring. I missed
18 your last question and answer.

19 MR. STRETTON: Sure. What I asked was is
20 R-20 the page May 19th of the 2015 calendar which we
21 marked just to make it official for the record --

22 MS. FLAHERTY: Thank you.

23 MR. STRETTON: -- or words to that
24 effect. Now I'm going to mark as R-21 the 2014
25 calendar. I just randomly picked a time, November 5th.

1 JUDGE BARTON: I thought R-21 was the
2 2016 calendar.

3 MR. STRETTON: I thought it was, too, but
4 I looked at the calendar and turned out it was 2014's.

5 JUDGE BARTON: 2014, okay.

6 MR. STRETTON: This is R-21.

7 (Exhibit Number R-21 marked for
8 identification)

9 MR. STRETTON: I'm assuming I have
10 continuing permission to approach?

11 JUDGE BARTON: Please do.

12 BY MR. STRETTON:

13 Q. Sorry to keep jumping in front of you,
14 Ms. Anthony. We've marked as R-21 page November 5th of
15 2014 calendar. Can I ask you to look at this and tell
16 me if that, in fact, was the calendar used by the
17 judicial court of former Judge Tidd in 2014 to the best
18 of your knowledge?

19 A. Correct.

20 Q. And on that particular page where we put R-21
21 is that the page?

22 A. Correct, Wednesday November 5th, R-21,
23 correct.

24 Q. And you see in that page on one of the
25 entries in the far right hand side there is an entry

1 like a constable's initial and prison initial. Am I
2 correct?

3 A. It says, NCP Stan.

4 Q. And what's that mean? What would you
5 interpret that to mean?

6 A. Defendant's in Northampton County Prison, and
7 Stan was the constable.

8 Q. And that's the way that would normally be
9 noted on a calendar if a gentleman or lady was
10 incarcerated and being brought into district court for
11 whatever reason, correct?

12 A. Sometimes, yes.

13 Q. Is that your handwriting, or is that one of
14 your colleagues, or don't you know?

15 A. That is Diane's, Diane Kale's.

16 Q. I have just a few more questions, and then
17 I'll let you go. Now, let me just go back. I'm a
18 little confused. You worked for Judge Tidd. He's the
19 one that actually wanted you to work there. Am I right?

20 A. At the district court, yes.

21 Q. I mean, you were interviewing for a job at
22 his office, and he liked you and suggested why don't you
23 come over and be a county employee and work for me?

24 A. Correct.

25 Q. And Judge Tidd at least as he always tells me

1 thought very highly of you. Am I right?

2 A. At the beginning, yes.

3 Q. I mean, you've seen his evaluations. He gave
4 you the best evaluations in the world. Am I right?

5 A. Correct.

6 Q. Do you want me to show you some to remind
7 you? Let me show you.

8 (Exhibit Number R-15A marked for
9 identification)

10 BY MR. STRETTON:

11 Q. I've marked this as R-15A. See R-15A annual
12 employment evaluation dated January 9th, 2015?

13 A. Yes.

14 Q. Signed by Judge Tidd, David Tidd?

15 A. Correct.

16 Q. And you signed for it. Am I right?

17 A. Correct.

18 Q. And in that evaluation he gave you an
19 outstanding in every category. Am I right?

20 A. That is correct. But I also know this was
21 rescinded.

22 Q. Later when things developed about talking to
23 employees -- talking to candidates. Am I right?

24 A. No. It was before that.

25 Q. January 15th and the year before and the year

1 before he gave you the best evaluations you could get,
2 the highest standards?

3 A. Right, because that's what the easiest thing
4 to do was.

5 Q. I understand that.

6 MR. STRETTON: I move for the
7 admissibility of R-15A with the Court's permission.

8 JUDGE BARTON: No objection,
9 Ms. Flaherty?

10 MS. FLAHERTY: No. It's a Board exhibit
11 to begin with, and it's already in the packet.

12 MR. STRETTON: I'm obsessive compulsive,
13 so I always do it separately.

14 JUDGE BARTON: R-15A is entered into
15 evidence.

16 BY MR. STRETTON:

17 Q. Now, with those evaluations, during that time
18 period, he considered himself your friend. He let his
19 hair down with you so to speak. Am I right?

20 A. I guess.

21 Q. I mean most of the time he would be sitting
22 in the office with you and the others. Am I correct?

23 A. In the common area where we were, yes.

24 Q. And part of the reason was because he wanted
25 to see who was coming in and coming out. Am I right?

1 A. I have no idea.

2 Q. And there would be a lot of give and take
3 throughout the day between you he and the staff because
4 all were working together for several years. Am I
5 right?

6 A. Sometimes.

7 Q. I mean, there's a lot of give and take, a lot
8 of jokes?

9 A. Sometimes.

10 Q. And at least from his perspective he
11 considered you and the others like his friends, his
12 colleagues. Am I right?

13 A. At the beginning, yes.

14 Q. And he even -- you even asked him if you
15 could borrow money from him. Am I right?

16 A. That is correct.

17 (Exhibit Number R-5A and R-5B marked for
18 identification)

19 BY MR. STRETTON:

20 Q. Let me show you -- I'm going to show you
21 what's marked R-5A and R-5B. I'm going to show you
22 first what's marked as R-5A.

23 MR. STRETTON: And again continuing
24 permission.

25 BY MR. STRETTON:

1 Q. Sorry I keep approaching you. Handing you
2 R-5A, Ms. Anthony, is that the check Judge Tidd gave you
3 on March 17th, 2014 for \$750 at your request?

4 A. Yes, that's correct.

5 Q. And you asked him because you had some need
6 or financial distress, and he agreed to give you -- help
7 you?

8 A. Correct.

9 Q. Yes?

10 A. Well, he didn't agree off the bat. He said
11 he had to go home and talk to his wife.

12 Q. Right. But when he came back --

13 A. Yes.

14 Q. -- there was the check?

15 A. Correct.

16 MR. STRETTON: I move for the
17 admissibility of that, R-5A.

18 JUDGE BARTON: Exhibit is admitted.

19 BY MR. STRETTON:

20 Q. Now, this was during the same time period,
21 March 17th, 2014, that you had been keeping logs and
22 writing complaints about him for almost two years at
23 that point?

24 A. Yes, that's correct.

25 Q. And they were submitted to Ms. French almost

1 weekly. Am I right?

2 A. I don't think we were submitting to her
3 anymore at this time.

4 Q. But you started submitting them --

5 A. Correct, that is correct.

6 Q. -- again? And yet despite that you asked him
7 for money, and he was willing to help you. Am I right?

8 A. Right. But I didn't ask him because we were
9 friends. I asked him because I was desperate. Believe
10 me, if I had any other choice, I would have never asked
11 him. My husband wasn't working. I had a huge electric
12 bill. They were going to turn my electric off. I
13 didn't have enough time to try and get help from I think
14 it's called LIHEAP. I exhausted every avenue I had. I
15 was desperate. I would have never asked for it.

16 Q. I didn't mean to embarrass you.

17 A. You're not embarrassing me. I'm not
18 embarrassed. Everybody has problems.

19 Q. We're not saying -- you know, I just wanted
20 to put in -- and you started to make payment back on
21 October 31st. You wrote a check back for \$250 which I
22 marked as Exhibit R-5B. Am I correct?

23 A. Correct.

24 Q. And R-5B is the check in question?

25 A. Correct.

1 MR. STRETTON: I move for the
2 admissibility of that.

3 JUDGE BARTON: It's admitted.

4 BY MR. STRETTON:

5 Q. Now, after things -- after you were
6 transferred, you returned the balance of the additional
7 500. Am I correct?

8 A. Correct.

9 Q. That was after you were transferred you paid
10 that back?

11 A. Correct.

12 Q. Now, when you were trained, you were trained
13 there's a duty of loyalty to the judge you're working
14 for?

15 A. No, we were never trained on that.

16 Q. Well, you were trained to consider yourself
17 the employee of the judge. Am I right?

18 A. No. We were trained to consider ourselves an
19 employee of the county.

20 Q. Didn't they ever tell you, you owed a certain
21 duty or loyalty to the judge you're working for?

22 A. No. That was not part of our training.

23 Q. Was your training that you're supposed to be
24 talking behind a judge's back on a weekly basis?

25 A. To whom?

1 Q. To Ms. French.

2 A. We were told Ms. French was -- if we had any
3 trouble with a judge Ms. French is our liaison to try
4 and help us resolve those issues.

5 Q. And after you filed the complaint with the
6 anonymous complaint in August of 2014, you started
7 talking regularly with the Judicial Conduct Board, am I
8 correct, Mr. Brennan and Toni and Ms. Flaherty? Am I
9 right?

10 A. Well, they came up and interviewed us. If
11 there were certain instances that we felt we needed to
12 contact them, the May 19th --

13 Q. You would call them?

14 A. -- primary day, I did call them because I was
15 very, very upset about what happened, and I did call
16 them.

17 Q. And you kept calling them through end of '15
18 and early '16. Am I right?

19 A. Did I call them?

20 Q. Yes.

21 A. Yes, I believe so.

22 Q. Even during times that you were still working
23 with Judge Tidd -- or former Judge Tidd?

24 A. Did I call them?

25 Q. Yes.

1 A. Yes. I just said I did on May 15th. That
2 was just one of the instances.

3 Q. Did they ever tell you he's represented by
4 counsel, you work for him, you can't contact us anymore?

5 A. I don't recall. I don't know.

6 Q. No one ever said that to you?

7 A. Not that I'm aware of.

8 Q. But all this time period you never -- let me
9 ask it this way, if I recall your testimony, you said
10 when you first started there it was okay for a while.
11 Then you started to complain about things you didn't
12 like which you went through in some detail. He wouldn't
13 listen to you, and you stopped complaining. Is that a
14 fair summary of your testimony about an hour or two ago?

15 A. Pretty much.

16 Q. And then you never said anything to David
17 Tidd again?

18 A. For the most part, no. We might have tried
19 another time or two, but it didn't do any good.

20 Q. Well, do you think it might have done some
21 good if you had showed him all those specifics that are
22 in exhibits -- Board Exhibit 7, 8, and 9 among others?
23 If you had sat down with those specifics, showed him, do
24 you think that might have been a wise thing to do, or
25 maybe rephrase that, a fair thing to do?

1 A. In my mind he was a judge. He should have
2 known what to do.

3 Q. All right. But you waited -- there's
4 complaints that were made by Lisa LeVan, I believe,
5 yourself, and others August of 2014, anonymous
6 complaints filed for which there's three years of
7 detailed complaints. Do you think it would be fair if
8 he had a chance to respond --

9 MS. FLAHERTY: Objection, asked and
10 answered.

11 JUDGE BARTON: Sustained.

12 BY MR. STRETTON:

13 Q. But you never said a word to him as you're
14 going behind his back to his friends, to the judicial
15 counsel, or anyone else, never said a word to Judge
16 Tidd, did you?

17 A. I believe that we did, especially Diane Kale.

18 Q. And you never saved any of these videos that
19 would support all this?

20 MS. FLAHERTY: Objection, asked and
21 answered.

22 JUDGE BARTON: I'll permit the question.

23 BY MR. STRETTON:

24 Q. Never preserved any videos, did you?

25 A. From the time the audio equipment came into

1 question?

2 Q. Yes.

3 A. First of all, we didn't know how to work it.
4 None of us knew how to work it. And then the equipment
5 broke, and we didn't get it fixed for a long period of
6 time.

7 Q. Ma'am, you saved four videos. They are the
8 only ones you saved.

9 A. Sir, you have to understand, there was so
10 much stuff going on, we couldn't keep track of
11 everything. We still had to do our jobs and keep that
12 court running. Somebody had to do that.

13 Q. Now, Judge Tidd would come in regularly at
14 7:30, quarter of 8:00?

15 A. No, that is not correct.

16 Q. When did he come in according to you?

17 A. 8:30, quarter of 9:00, 9:00. Sometimes he
18 would come in, and then he'd say, oh, I've got to run to
19 my law office, and he'd leave, and there would be people
20 there for a hearing, and then he'd come back. That's
21 not correct.

22 Q. Judge Tidd liked you. He even hired your
23 daughter at your recommendation. Am I right?

24 A. He did not hire my daughter, no.

25 Q. He had a role in it because she worked with

1 him for a year.

2 A. Correct.

3 Q. He could have said, no, I don't want her?

4 A. I did mention -- you're right, he could have,
5 and that would have been absolutely fine. I did mention
6 to him that she was looking for a job. He did not have
7 to hire her, though, and that would have been fine.

8 Q. But he's helping you, he's hired you, paid
9 you some money, helping your daughter, but yet you're
10 going behind his back without telling him on a daily
11 basis. That's the way that you were running that court.
12 Am I correct?

13 A. That we were going behind his back on a daily
14 basis?

15 Q. Yes.

16 A. No, it wasn't on a daily basis.

17 Q. Now, he did all his hearings in the
18 courtroom. Every time there was a hearing where there
19 was testimony he did that in the courtroom?

20 A. Absolutely not.

21 Q. Show me the cases where there were trials
22 where -- at the counter where he didn't do -- he just
23 stood there, didn't swear anybody in and said you tell
24 me your version, you tell me yours, and I've decided
25 this. Show me one case.

1 A. They're all in the notes. They're in the
2 complaint.

3 Q. We've read those notes and complaints.
4 There's nothing about trials. It's about pre --

5 A. There were no trials. There were no
6 hearings. Everything was done at the counter. People
7 would talk back and forth. No one was ever sworn in.

8 Q. There were plea negotiations that were done?

9 A. No, they weren't.

10 Q. Show me one case where there was a trial.

11 A. I can't because he didn't hold trials in the
12 courtroom.

13 Q. One case at the counter where there was a
14 trial. Show me a case or show me one video that you
15 saved where he's taking testimony unsworn according to
16 you in landlord/tenant matters or anything else at the
17 counter. Show me one case.

18 A. They're all in there. I'd have to look at --
19 I'd have to look at them all to tell you -- I mean,
20 that's why we sent them out there because that's what
21 happened.

22 Q. Ma'am, every case we looked at were pleas,
23 negotiations. Show me a case where there was testimony.

24 A. That's your interpretation. That's not what
25 happened.

1 Q. So you can't tell me one case?

2 A. There were too many of them.

3 Q. One case.

4 A. I have to look at -- I'm sorry, there are too
5 many. I'd have to look at the notes and the complaint,
6 and I'm sure I could pick out way more than one.

7 Q. All right. Now, Mr. Burke appeared in all
8 the courts out there on a regular basis. Am I correct?

9 A. I'm sorry, I didn't understand the question.

10 Q. Mr. Burke appeared in the courts out there on
11 a regular basis. He primarily did criminal type cases,
12 so he'd appear often before district judges in
13 Northampton County?

14 A. That's correct.

15 Q. You see him now when you're with your current
16 judge. Am I right, Mr. Burke comes in pretty regularly?

17 A. I have not seen Mr. Burke since I started
18 there.

19 Q. But you did see him at times when Judge Tidd
20 was the judge in Hellertown court. Am I correct?

21 A. Correct.

22 Q. And Mr. Burke would have some trials there on
23 a regular basis and pleas on a regular basis over the
24 years. Am I right?

25 A. They didn't have trials. I'm sure that there

1 was a plea or two. But lots of them were worked out
2 before he even got there.

3 Q. But Mr. Burke and Judge Tidd knew him from
4 Mr. Burke appearing before him and knew him when he was
5 a member of the bar. Am I right?

6 A. You mean does he know him outside the court
7 as a friend?

8 Q. He knew him as a member of the bar when they
9 were practicing lawyers in the county, and he knew him
10 when he would appear in his courtroom?

11 A. Correct.

12 Q. And Judge Tidd knew a lot of lawyers who
13 appeared regularly in the courtroom. Am I correct?

14 A. I would say that's correct.

15 Q. And Mr. Burke he never told police not to
16 issue tickets, he just said as a matter of courtesy
17 notify him before a warrant goes out. Is that what he
18 told you?

19 A. Who said that?

20 Q. Judge Tidd to you.

21 A. No, not -- no.

22 Q. He never told you to quash a warrant. He
23 said, call him and tell him he's got outstanding
24 tickets, he either comes in and pays or the warrant is
25 issued. Am I right?

1 A. I believe that he did say that once or twice.

2 Q. And that offends you?

3 A. No. He had us hold warrants when they should
4 have been issued.

5 Q. Now, you mentioned something about constable
6 fees.

7 A. Um-hum.

8 Q. And he would tell you -- Mr. Tidd would tell
9 you don't charge the -- Mr. Burke for the 27 or plus 5
10 whatever the fee charge is for constables for picking up
11 someone on a warrant.

12 A. Correct.

13 Q. Don't charge that. So you would submit it to
14 the county to be paid. Am I correct?

15 A. Correct.

16 Q. Now, do you have any of those payments that
17 you submitted to the county where the county paid and
18 not Mr. Burke? Do you have one example of that, one?

19 A. On a specific case?

20 Q. Yes. You said something, and this is an
21 important issue. Is there one case, one document where
22 you can show me where the county paid?

23 A. I don't have it personally, no. Those cases
24 are listed I believe again in the complaint. There is
25 numerous ones of them.

1 Q. Ma'am, you made copies in your complaints,
2 Exhibit 7, 8, 9, and other matters, your anonymous
3 complaint, R--- Board 40 or whatever it is. You
4 attached document after document on this complaint, but
5 there's no document in there at least that I saw of a
6 constable fee being paid by the county as opposed to
7 Mr. Burke. Do you agree?

8 A. Without looking at it, I don't know.

9 JUDGE BARTON: This might be a good time
10 to take our lunch break. We're going to try to shorten
11 the lunch break today so that we'll all return at 1:00.

12 (Recess taken)

13 JUDGE BARTON: Good afternoon,
14 Mr. Stretton. We interrupted your cross-examination
15 before the lunch half hour.

16 MR. STRETTON: Almost done.

17 JUDGE BARTON: You may proceed, sir.

18 BY MR. STRETTON:

19 Q. Ms. Anthony, you had mentioned you don't
20 recall Mr. Burke having any trials before then Judge
21 Tidd. Do you recall that?

22 A. Correct.

23 Q. Can I refresh your recollection, do you
24 remember when the district attorney, Mr. Morganelli's,
25 daughter was charged and Mr. Burke appeared and

1 represented her before Judge Tidd in a full hearing?

2 Does that refresh your recollection?

3 A. I know -- you said it was a DA Morganelli's?

4 Q. District Attorney John Morganelli's daughter
5 was charged with some sort of summary offense, and Jim
6 Burke appeared representing her and appeared before
7 Judge Tidd, and there was a hearing in the courtroom,
8 robe on. Does that refresh your recollection Mr. Burke
9 had hearings?

10 A. I do recall Ms. Morganelli getting I believe
11 it was an underage drinking citation.

12 Q. And that went to a trial. Does that refresh
13 your recollection?

14 A. I don't recall it going to a trial, no. But
15 if it did, it was because it was DA Morganelli's
16 daughter.

17 Q. Now, you are aware during the years that
18 Judge Tidd was the judge and you were working for him
19 that he suffered from a number of physical ailments. Am
20 I correct?

21 A. I know he claimed to suffer from some
22 physical ailments.

23 Q. He had colitis fairly badly, and at times it
24 would act up. Am I right?

25 A. That's what he said, yes.

1 Q. And there was at one point problems or scare
2 about having some tumor on his lung, although it turned
3 out not to be cancerous. Do you remember that?

4 A. I do recall that, yes.

5 Q. You knew at times he was seeing a
6 psychologist for depression during those years. You're
7 aware of that?

8 A. No, I was not aware of that.

9 Q. Now, you like to complain about people, don't
10 you?

11 MS. FLAHERTY: Objection.

12 JUDGE BARTON: Sustained.

13 BY MR. STRETTON:

14 Q. You went on -- you asked for a meeting with
15 the chief of police of Lower Saucon September 30th
16 because you wanted to complain about everything the
17 officers were doing. Remember that meeting?

18 A. September 30th of what year?

19 Q. 2014. You met with Sergeant Barndt because
20 the chief wouldn't meet with you. Do you remember that?

21 A. I remember going out there for -- I believe
22 Diane and I went out there for a meeting because there
23 was an issue with scheduling and things like that.

24 Q. You were the one that called for the meeting.
25 You asked the chief to meet and he refused, right?

1 A. I think he said it would be better to meet
2 with Sergeant Barndt and Julie who was the police
3 administrative secretary at the time.

4 Q. And then you and Julie and Diane and Kal met
5 with Sergeant Barndt?

6 A. I don't know if Kal was there or not. I
7 don't really recall.

8 Q. And you questioned about almost everything
9 they did, the officers, how they wrote their notices.
10 Do you remember that?

11 A. I don't.

12 Q. How hearings were scheduled, do you remember
13 that?

14 A. I questioned them about how hearings were
15 scheduled?

16 Q. Yes.

17 A. I don't recall that. I mean, I know we were
18 having some issues and we were trying to work them out
19 with the police department.

20 (Exhibit Number R-12 marked for
21 identification)

22 BY MR. STRETTON:

23 Q. Let me just show you R-12 which isn't yours.
24 It's the police department's summary of this meeting,
25 see if it refreshes your recollection at all.

1 MS. FLAHERTY: Objection. The Board has
2 not received any of this information. The exhibit was
3 not presented previously in any discovery. It was not
4 listed in the pretrial memorandum. This is a surprise.

5 MR. STRETTON: I found it in their
6 material.

7 JUDGE BARTON: The document comes from
8 documents that the Board produced?

9 MR. STRETTON: I believe so. I don't
10 recall having it. I went through their material that
11 weekend, and I pulled out documents I wanted. But this
12 would be in the way of rebuttal anyway.

13 JUDGE BARTON: This is for impeachment,
14 not as a matter of substantive evidence. Is that
15 correct?

16 MR. STRETTON: That's right, just for a
17 fairly minor point.

18 JUDGE BARTON: That's fine. I'll permit
19 the use of the document.

20 BY MR. STRETTON:

21 Q. This isn't prepared by you, but I've given
22 you R-12. Do you see -- does that refresh your
23 recollection of a meeting on September 30th with
24 Sergeant Barndt? Do you remember such a meeting?

25 A. Yes, yes. I did say that already. I

1 answered that.

2 Q. Did you ever get a copy of this from the good
3 sergeant?

4 A. No, not at all.

5 Q. All right. Then I won't ask you about it.
6 But you do remember such a meeting?

7 A. Um-hum, yes.

8 Q. And that was meeting at your request?

9 A. Diane's and my request, yes.

10 Q. And that meeting you never said anything to
11 Judge Tidd, then Judge Tidd, about the meeting, did you?

12 A. I don't believe so, no.

13 Q. So you just took it on your own to go meet
14 with the police and make your complaints about their
15 procedures, also?

16 A. It was to try to work out issues we were
17 having.

18 MR. STRETTON: Thank you.

19 JUDGE BARTON: Redirect?

20 MS. FLAHERTY: Yes.

21 JUDGE BARTON: Thank you. Please
22 proceed.

23 REDIRECT EXAMINATION

24 BY MS. FLAHERTY:

25 Q. Ms. French, during his cross-examination,

1 Mr. Stretton asked you why the instance that you had
2 earlier described with Judge Tidd saying fuck five times
3 in a row was not on the video. And do you recall in
4 your direct testimony there was a question pertaining to
5 February 13th, 2012? Did you recall that Judge Tidd had
6 a meeting with the president judge and the court
7 administrators?

8 A. Yes.

9 Q. And after that meeting, you responded that
10 Judge Tidd did come back and tell you what had gone on
11 at that meeting, correct?

12 A. Correct.

13 Q. And you also said that that was when he
14 uttered those profanities, correct?

15 A. Yes, I believe so.

16 Q. And do you recall when -- and you said that
17 there was no video of that, correct?

18 A. Not that I'm aware of. I don't believe we
19 had the video yet at that time.

20 Q. And do you recall when the video was
21 installed?

22 A. I think it was 2013, but I am not sure.

23 MR. STRETTON: Objection. I think the
24 record shows the video was there from the beginning.
25 It's the audio that came at a later date.

1 MS. FLAHERTY: I appreciate your
2 assistance with that.

3 BY MS. FLAHERTY:

4 Q. So it was a video recorder.

5 A. Correct.

6 Q. I did misstate that. Do you remember when
7 the audio CCTV and DVR equipped with audio was
8 installed?

9 A. 2013.

10 Q. Thank you.

11 A. At the request of Judge Tidd.

12 MS. FLAHERTY: And we did admit an
13 exhibit yesterday. And Ms. Schreffler has exited for a
14 moment. I can provide -- the SimplexGrinnell showing
15 that it was installed in October of 2013 and that is
16 contained within the Board exhibits.

17 JUDGE BARRASSE: October of 2013?

18 MS. FLAHERTY: Yes.

19 BY MS. FLAHERTY:

20 Q. And then the next issue, when you discussed
21 your conversations with Candidate David Repyneck. Is
22 that how you pronounce his name?

23 A. Yes, I believe that's correct.

24 Q. R-e-p-y-n-e-c-k?

25 A. Correct.

1 Q. And you testified that at the April 23rd
2 meeting -- excuse me, April 23rd incident in 2015 behind
3 the locked door of the courtroom that one of the issues
4 that Judge Tidd was questioning you about and was quite
5 upset about was who it was that spoke with Mr. Repyneck,
6 his opponent, correct?

7 A. Correct.

8 Q. And at that time you told him that you had
9 not spoken with Mr. Repyneck, correct?

10 A. Correct.

11 Q. Do you now recall if the phone conversations
12 that you had with Mr. Repyneck occurred after that
13 meeting?

14 A. Yes.

15 Q. Sometime after the meeting but before the
16 primary election?

17 A. Correct.

18 Q. Thank you. And during those conversations
19 with Mr. Repyneck, did you at any time discuss his
20 campaign in opposition to Judge Tidd?

21 A. No.

22 Q. Did you at any time offer to support him in
23 his quest to become the magisterial district judge in
24 Hellertown?

25 A. No.

1 Q. During direct examination, I posed the
2 question how you marked the calendars typically when
3 Judge Tidd would be off, and you responded that usually
4 you put a big X through it and had a notation, correct?

5 A. Correct.

6 Q. And then when Mr. Stretton showed you the
7 calendar page from May 19, 2015, there was no X through
8 that, correct?

9 A. Correct.

10 Q. No notation that he was off, correct?

11 A. Correct.

12 Q. Do you recall if there were X's drawn through
13 the calendar pages for the days following May 19, 2015?

14 A. No, I don't believe there were X's on those
15 days.

16 Q. Do you recall if Judge Tidd told you he would
17 be off on those days?

18 A. He said to clear his schedule May 20th, 21st,
19 and 22nd.

20 MS. FLAHERTY: Your Honor, I have a --
21 the calendar pages from those days that I'd like to
22 use -- I'd like to submit as Board Exhibit 155. I could
23 present -- I could show it to Mr. Stretton now and
24 then --

25 MR. STRETTON: I have the originals, so

1 I'm well aware of them.

2 MS. FLAHERTY: So I could hand it up to
3 the Court via --

4 MR. STRETTON: This isn't in your book,
5 though.

6 MS. FLAHERTY: No. We would add it to
7 it. May I approach the witness to refresh her
8 recollection?

9 JUDGE BARTON: Yes.

10 BY MS. FLAHERTY:

11 Q. Brenda, now that you've had an opportunity to
12 look at those calendar pages, can you please -- has that
13 refreshed your recollection?

14 A. Yes.

15 Q. How were those calendar pages marked during
16 that time period where Judge Tidd had told you -- what
17 were your words?

18 A. To clear his --

19 Q. To clear his calendar.

20 A. -- calendar.

21 Q. How were those marked?

22 A. There were X's through them.

23 Q. With those X's in place were any hearings
24 scheduled for those days?

25 A. No.

1 Q. Thank you. During his cross-examination,
2 Mr. Stretton asked you if you were communicating with
3 the Board, our investigators, Toni Schreffler, and
4 myself about things that occurred up until the Board
5 complaint was filed. Is that correct?

6 A. Correct.

7 Q. And you did continue to communicate?

8 A. Correct.

9 Q. And you were not under any instruction not
10 to, correct?

11 A. Correct.

12 Q. Was it your understanding that the Board had
13 an ongoing investigation throughout that time?

14 A. Yes.

15 Q. You also discussed on both direct and I
16 believe on cross the issue of the instruction to hold
17 warrants back from issuing to Attorney Burke or if they
18 did issue to -- what were you supposed to do with those
19 constable fees?

20 A. Either we had to ask the constable to eat
21 those fees, waive them and not get paid, or send it down
22 to county so the constable would get paid.

23 Q. Did Judge Tidd ask you to hold back warrants
24 for any other attorneys?

25 A. Not that I can recall.

1 Q. Did he ask you to hold back warrants for
2 anyone else that you can recall?

3 A. I don't remember.

4 Q. Now, did you observe Judge -- and I think the
5 testimony so far is, I'm trying to clear it up, did you
6 observe Attorney Burke come into Judge Tidd's court to
7 represent clients in cases?

8 A. Yes.

9 Q. And did Attorney Burke represent clients on a
10 regular basis in Judge Tidd's court?

11 A. Yeah, I would say yes fairly regular.

12 Q. Did Judge Tidd ever inform you that he and
13 Attorney Burke were going out to lunch after these
14 hearings?

15 A. Sometimes, yes.

16 Q. Did you personally ever question whether
17 Judge Tidd should transfer -- ask Judge Tidd whether it
18 would be a good idea to transfer Attorney Burke's cases
19 to another court?

20 A. I don't specifically recall me asking him
21 that, but I know Diane did.

22 Q. Were you in the presence of Judge Tidd when
23 he was speaking to Diane about that issue?

24 A. Yes.

25 Q. And how did he respond, do you recall?

1 A. I don't. I'm sorry.

2 Q. Do you recall if he said I will transfer his
3 cases?

4 A. No, I don't recall him saying that.

5 Q. Do you recall if he changed his protocol at
6 all? Did he continue to hear Burke's cases after that?

7 A. Oh, yes.

8 MS. FLAHERTY: Thank you, Your Honor.

9 JUDGE BARTON: Did that open up any areas
10 for recross, Mr. Stretton?

11 MR. STRETTON: Just one question.

12 RECROSS-EXAMINATION

13 BY MR. STRETTON:

14 Q. Ms. Anthony, do you remember a fellow -- a
15 criminal -- I mean defendant William Broad who had a
16 warrant being issued for his arrest and Judge Tidd said
17 he's ill, hold off on the warrant? Does that refresh
18 your recollection?

19 A. I don't recall that, no.

20 MR. STRETTON: Nothing further.

21 JUDGE BARRASSE: I have a couple
22 questions, Ms. Anthony.

23 BY JUDGE BARRASSE:

24 Q. You indicated in the record that's been
25 provided to us I believe Exhibit 138 indicates that the

1 audio was put in place on October 4th, 2013. How many
2 different audios are you aware were copied or were
3 saved?

4 A. To the best of my recollection, it was four
5 of them.

6 Q. And who made the decision to save those?

7 A. Collectively Diane and Cassandra and I did.

8 Q. How was that decision made in regard to
9 saving those because obviously there are other
10 instances -- there's the one, for example, where he came
11 in raving you claim that asked -- went to the one clerk
12 on February 19th, 2016 and that one you did keep a copy
13 of. In that he says -- he asks whether or not did he
14 ever look you in the face and call you such a name, and
15 she said, yes, two weeks ago.

16 A. Excuse me, Your Honor, I don't mean to
17 interrupt, but I was no longer at the court at that
18 time.

19 Q. Okay, I was wondering why that wasn't -- the
20 other one wasn't kept or saved. How was it actually
21 saved?

22 A. On a flash drive.

23 Q. So Cassandra would then save that?

24 A. Yes.

25 Q. And keep it?

1 A. Correct.

2 Q. The collection of the notes how is that done
3 among you, and when was that actually decided on, at the
4 end of the day, or did you meet at lunch, or how is that
5 done that you would collect these notes?

6 A. What we did was if an incident happened we --
7 we didn't like meet at lunch or like have a specific
8 meeting time. If something happened, we would try to
9 write it down right away or as quickly as we could so it
10 was still fresh in our memory. There was no like
11 procedure where we would get together. If I took a
12 note -- Diane sat right across from me, and Cassie was
13 right there, and so I would say -- you know, I would
14 write it down, and I'd say, does this -- is this correct
15 as to what you both saw happen. And then, you know, we
16 would write it down. And then I would type it as long
17 as we all agreed that that's what happened, we all saw
18 the same thing, heard the same thing happen, and I would
19 type it up.

20 Q. You had indicated that when you first started
21 working things were okay for a while.

22 A. Correct.

23 Q. And when you say for a while, how long would
24 that be?

25 A. I'd say probably for -- for me specifically

1 probably about a year. But, again, apparently there
2 were already things happening because Lisa was already
3 taking notes prior to me seeing, you know what I mean,
4 starting to see and hear things happen. She was
5 already -- there was already I guess issues, and she was
6 already taking notes.

7 Q. And that's where I'm leading with it
8 because -- and obviously October and November of '11
9 those notes were already being compiled. Now, did you
10 know that they were being compiled at that time? If
11 not, when did you know and when did you get involved
12 with the compiling of these notes?

13 A. I think I actually got involved with the
14 compiling of the notes I believe to the best of my
15 recollection it was somewhere in the beginning of 2012.
16 I do want to say I did know probably at the end of 2011
17 that Lisa was taking notes.

18 Q. And then my final question regard to that is
19 obviously at that point the workplace environment was
20 you didn't believe was a healthy environment?

21 A. That's correct.

22 Q. And my query with that then is why would you
23 then go to your boss whom you felt was not running the
24 office appropriately and tell him that your daughter is
25 looking for a job and bring her into that unhealthy work

1 environment?

2 A. Because she needed a job. She needed a job.

3 Q. But you indicated earlier that it didn't
4 matter if he didn't hire her, that was okay.

5 A. It was okay because I had no control over
6 that, and that's what I mean, I had no control over
7 that. I don't know how much he had control over that.
8 That was up to Debra French, the court administration.
9 Even though Judge Tidd may have interviewed my daughter,
10 she had to go down and fill out an application, and I
11 believe she had to give a resumé, and that all had to go
12 to Debbie French and all had to be approved by Debbie
13 French and the county. So she could -- he might have
14 wanted her and the county could have said no.

15 Q. I'm asking, it's a similar situation for how
16 you got hired, correct, he interviewed you, he basically
17 passed you on as a person he wanted in his office?

18 A. Correct.

19 Q. And you got hired?

20 A. Correct.

21 Q. I'm just a little lost because I see how
22 emotional you get about how bad it was, and I'm just as
23 a parent wondering why you would bring your child into
24 that environment.

25 A. At that point it was 2012. It was bad, but

1 it still wasn't as bad -- it got worse as the years
2 progressed. And my daughter actually left then to go to
3 the 911 center because she did not want to be there
4 anymore.

5 JUDGE BARRASSE: Thanks very much.

6 THE WITNESS: If I could just say, too,
7 Your Honor, I am a glass half full person.

8 MR. STRETTON: Objection, answering as
9 she already answered the question.

10 JUDGE BARTON: Ms. Anthony, thank you.
11 Thank you for your answer. Have the questions from the
12 Bench raised any issues that need to be addressed by
13 counsel?

14 MR. STRETTON: No.

15 MS. FLAHERTY: No. Thank you.

16 JUDGE BARTON: Ms. Anthony, thank you for
17 your testimony today. You may step down. Ms. Flaherty,
18 next witness.

19 MS. FLAHERTY: Yes. The Board calls
20 Debra French.

21 MR. STRETTON: I'd like to cross her the
22 same day she does her direct. It's now quarter of 2:00.
23 I just don't think it would be healthy to direct and
24 then cross her three months later, two months later, but
25 I'll leave that to your judgment. Maybe we just gotta

1 move the case.

2 JUDGE BARTON: Yeah, I think we need to
3 move the case along. The flip side of that analysis I
4 think is you may have the transcript to prepare the
5 cross-examination if, in fact, it runs that long.

6 MR. STRETTON: Thank you.

7 DEBRA C. FRENCH, called as a witness,
8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. FLAHERTY:

11 Q. Good afternoon, Ms. French.

12 A. Hi.

13 Q. Would you please introduce yourself to the
14 Court and spell your last name.

15 A. Debra C. French, F-r-e-n-c-h.

16 Q. Ms. French, if you could please tell the
17 Court about your educational background.

18 A. I graduated from high school. I have a BS in
19 criminal justice from Kutztown University. I have an
20 MS, a master's degree, from American University in
21 justice with a special emphasis in court management.

22 Q. And have you had continuing education in your
23 position as deputy court administrator?

24 A. Yes. Back in 1987 I took the certification
25 course for district justices at the time, and I passed

1 the course, and every year I go to continuing education.

2 Q. And could you please describe your employment
3 history.

4 A. Out of grad school I took a position with
5 Northampton County as the deputy court administrator and
6 have been there for 30 years.

7 Q. And do you belong to professional
8 organizations as well?

9 A. Yes.

10 Q. Can you describe those?

11 A. I belong to the Pennsylvania Association of
12 Court Management. I am a former president of that
13 association.

14 Q. As concisely as possible, could you describe
15 your responsibilities as the deputy court administrator
16 for Northampton County.

17 A. I oversee the 14 magisterial district courts
18 in Northampton County which includes everything from
19 budgeting, purchasing, dealing with landlord/tenant
20 issues with the courts and their landlords. I oversee
21 personnel. I act as a liaison between the MDJs and the
22 president judge. I advise on procedure, practice,
23 things like that.

24 Q. In your role as deputy court administrator
25 have you had the occasion to interact with Judge Tidd?

1 A. Yes.

2 Q. And when did those interactions begin?

3 A. When he -- I had an orientation session for
4 all new MDJs, and that probably was my first interaction
5 with Mr. Tidd.

6 Q. Knowing that Judge Tidd assumed the bench in
7 January 2010, when would he have participated in that
8 program?

9 A. It was probably in December of 2009. I
10 normally hold the orientation sessions the December
11 before the new judges take office.

12 Q. And what kind of information do you cover in
13 that session?

14 A. We cover everything about things as your
15 security system in the court, how to deal with their
16 landlord issues, the proper procedure for that, what to
17 do to get coverage for your office if you're on vacation
18 or sick or not available, how to request a change of
19 venue, basically just anything -- I mean, I do believe I
20 had given you the syllabus for that.

21 Q. Yes.

22 A. There's a lot of different matters that I go
23 over.

24 Q. During that orientation, do you provide
25 information about the procedure for conducting video

1 arraignments?

2 A. We talk about video arraignments, and then
3 there's also some informational sheets that I do hand
4 out to the MDJs on how they should be conducted as far
5 as faxing and e-mailing the paperwork to the central
6 booking center and dealing with the police officer, that
7 kind of thing.

8 MS. FLAHERTY: And we did submit that as
9 Board Exhibit Number 142. That's the outline of the
10 orientation meeting for new MDJs.

11 BY MS. FLAHERTY:

12 Q. Ms. French, can you please to the best of
13 your ability state the court administrators who have
14 been involved in meetings with Judge Tidd concerning
15 complaints about his conduct.

16 A. James Onembo and Jill Cicero.

17 Q. And were you involved in those meetings as
18 well?

19 A. Yes.

20 Q. And in your role as deputy court
21 administrator do you have knowledge of who hires -- or
22 the hiring system for the clerks at the district courts?

23 A. Yes.

24 Q. Has that changed over time?

25 A. Yes.

1 Q. Could you please give the history and how it
2 stands now as well?

3 A. For the most -- for the longest time it was
4 the MDJ would find someone they were interested in
5 hiring. They would then send the resumé to me. I would
6 look at it, interview the person, and then we would send
7 that to the president judge for his approval. All
8 hirings and firings had to be approved by the president
9 judge. So if the person was approved, and most likely
10 they were, if the person was approved by the president
11 judge, then that person would begin work in that
12 district court.

13 And at that time we actually did a court
14 order that would appoint that particular person to that
15 particular court. However, recently when Judge Baratta
16 became president judge, he determined that court
17 administration should do the hiring and we would be the
18 ones to find qualified people and then place them in the
19 district courts. He also was of the opinion that the
20 staff could be moved from one court to another if
21 necessary with the exception of one confidential exempt
22 employee that the judge would be able to say I don't
23 want this person moved from my office either temporarily
24 or permanently.

25 Q. And is that the same as what we've heard

1 earlier, is that what protected employee means?

2 A. Yes.

3 Q. Are you familiar with that term?

4 A. Yes, like a personal or confidential
5 employee.

6 Q. And when is it that -- the Court is aware
7 having heard from President Judge McFadden that she's
8 the -- Judge McFadden that she's the former president
9 judge, and you just mentioned Judge Baratta. When did
10 that shift to president judge to Judge Baratta being
11 president judge?

12 A. I believe that was sometime in I'm gonna say
13 2014 or '15. I'm not sure.

14 Q. And so it was at that time that the system
15 for hiring changed?

16 A. Yes.

17 Q. Did you receive complaints from the clerks at
18 Judge Tidd's court?

19 A. Yes.

20 Q. And can you tell us when that began and give
21 a description of what those complaints consisted of?

22 A. I received a phone call in January of 2012
23 from the staff wanting me to come and meet with them. I
24 went and met with them. I verbally heard their
25 complaints and concerns. And at that time I told them

1 that in order for me to address this with the president
2 judge I would have to have their complaints in writing
3 as I require of any complaint about a DJ from anyone,
4 the public, an attorney, or a staff member. So they
5 were a little bit hesitant to do that. And I said,
6 well, you can't put me in the middle, if you want me to
7 address this with the president judge, you're going to
8 have to give me specific instances.

9 So I left that meeting, and then shortly
10 thereafter I received logs. And I think they had
11 already been keeping some record of incidents that they
12 had then sent to me, and then they continued to keep
13 them for a short period of time and send them to me
14 which I then when I would get them I would share with
15 the court administrator, James Onembo, and President
16 Judge McFadden.

17 Q. So you did receive from the clerks some of
18 the logs they had already been keeping in addition to
19 the start point from the meeting. Is that correct?

20 A. Yes, I believe so.

21 Q. And do you recall if prior to that time you
22 had conversations with any of the clerks on an
23 individual basis concerning issues that arose with Judge
24 Tidd?

25 A. I may have heard some grumblings, but as I

1 stated, anytime anyone calls no matter who it is I
2 always say, if you want me to address this further, it
3 needs to be in writing. So I may have heard some
4 things. I can't recall. They're not documented. I
5 didn't document them unless I received something in
6 writing.

7 Q. So is it possible you may have had
8 conversations in 2011, told them to put it in writing
9 and not seen the writing till later?

10 A. Correct.

11 Q. Could you describe what the complaints were
12 about?

13 A. The complaints had to do with the judge's
14 demeanor, attitude, behavior towards them, swearing at
15 them. I know there was one instance of him having like
16 a tantrum or a tirade type thing. There was also
17 reports of him not wearing business appropriate clothes
18 in the actual office and then not wearing his robe at
19 all. I believe there were some where he would conduct
20 hearings and things at the counter. Those were the
21 things that I recall.

22 Q. Once the -- you met with the clerks in
23 January 2012, how often did you receive phone calls from
24 them?

25 A. I don't know that the calls were made

1 initially to report on his behavior. That may not have
2 been the reason for the phone call. But a lot of times
3 I would -- they would end the phone call stating maybe
4 something that he had done where again he didn't wear
5 his robe today or he wore the same shirt and pants that
6 he wore all week. You know, those kinds of things I
7 would hear not -- that wasn't their sole reason for
8 contacting me maybe, but I did hear those types of
9 things.

10 Q. And did you advise them to continue to write
11 it down?

12 A. I did. I said, if you want the president
13 judge to act on this and take this seriously, you know,
14 we need to have -- we need to have it documented.

15 Q. And did you instruct the clerks to send
16 those -- the documentation to you on a regular basis?

17 A. I asked if -- I mean, as it was happening, I
18 asked if they could send it maybe like every week or
19 every two weeks so we would be able to keep current with
20 what was happening in the court.

21 Q. And did the clerks comply with that request?

22 A. Yes.

23 Q. And for how long -- do you recall how long
24 you received those written reports from them or written
25 notes?

1 A. I think it was only maybe six to eight weeks
2 from our meeting in January.

3 Q. And did you have any additional meetings
4 after that January meeting?

5 A. With the staff?

6 Q. With the clerks, yes.

7 A. Regarding the logs, or?

8 Q. Regarding their complaints.

9 A. I don't require -- I mean I don't recall
10 meeting with them all at one time.

11 Q. Did you offer to file a complaint on their
12 behalf with the president judge?

13 A. Yes.

14 Q. And how did they respond?

15 A. They were hesitant. They were hesitant. It
16 was a cause of concern for them. I mean, I basically I
17 said you can't put me in the middle, you can't tell me
18 something and not follow through it and expect me to
19 deal with the situation when I need the documentation.
20 But they were hesitant about that.

21 Q. So did they tell you they wanted to keep it
22 anonymous?

23 A. With whom?

24 Q. That they didn't want their names to be
25 mentioned attached to a complaint to the president

1 judge.

2 A. I don't recall that. I don't recall them
3 saying don't -- I mean, it wouldn't be hard to figure
4 out who they are.

5 Q. Did you file a complaint with the president
6 judge on their behalf?

7 A. I wouldn't call it filing a complaint. I
8 would call it notifying the president judge and sending
9 her copies of the log and the documentation that I
10 received and advocating for them to a certain extent
11 saying that I believe it's a serious issue and it needs
12 to be addressed and that they are concerned about it but
13 they're also hesitant to come forward.

14 Q. And do you recall Judge Tidd meeting with you
15 and President Judge McFadden?

16 A. Yes.

17 Q. And can you describe -- let's go back further
18 because I believe your first meeting was back in
19 August 2011. Is that correct?

20 A. Yes.

21 Q. And do you recall what that meeting involved?

22 A. Yes.

23 Q. Could you tell the Court about it, please.

24 A. It involved a case with Maria Nieves where we
25 received an anonymous copy of a civil complaint, and it

1 was alleged that this should be checked out. So I
2 went -- I gathered the information that I could gather.
3 I even went down to our prothonotary's office because
4 when I went onto the computer it looked like it had
5 continued down in the court of common pleas in the
6 prothonotary's office. I gathered the information
7 together and brought it to Judge McFadden who then had a
8 meeting with Judge Tidd and I about it.

9 And at that meeting it appeared that perhaps
10 Judge Tidd had represented this person. It was unclear
11 as to whether or not it was before or after the case was
12 filed in his court. And at that point Judge McFadden
13 called him in and said it doesn't -- this doesn't look
14 appropriate, you need to separate your law practice from
15 court business. And that was pretty much how it was
16 handled. We were told that he had asked for a request
17 from the Special Court Judges Association Ethics
18 Commission or board and that he would be getting that,
19 and the judge was interested in getting a copy of their
20 response regarding this matter.

21 Q. And did you receive a copy of the advisory
22 opinion in that matter?

23 A. I did not, and I did follow up two or three
24 weeks later. And I did ask David Tidd for the opinion,
25 and I was told he didn't have it yet. And I never did

1 get the opinion.

2 Q. During that August 11th meeting, did Judge
3 Tidd state that he suspected his court staff had filed
4 that complaint?

5 A. Yes.

6 Q. Was he warned not to retaliate against his
7 court clerks?

8 A. He was by Judge McFadden.

9 Q. Were you aware of an incident on April 23rd,
10 2015 when Judge Tidd locked the front door of his court
11 and spoke with his clerks?

12 A. Yes.

13 Q. Could you describe that incident, please, to
14 the best of your knowledge.

15 MR. STRETTON: Objection. She wasn't
16 there.

17 JUDGE BARTON: Sustained.

18 BY MS. FLAHERTY:

19 Q. Was that incident reported to you?

20 A. It was.

21 Q. And is that in the course of ordinary
22 business that clerks will report incidents to you?

23 MR. STRETTON: Objection, ordinary
24 business. I think it's extraordinary business that that
25 happens.

1 JUDGE BARTON: I think it might be
2 ordinary in the course of court administration to
3 receive such reports. I'll permit the question.

4 JUDGE BARTON: Ms. French, was it
5 ordinary that those types of incidents would be reported
6 to you?

7 THE WITNESS: I believe it would be. We
8 hadn't had any such incident to that extreme in the
9 past, but I have had many different incidents reported
10 to me about what goes on in the different district
11 courts.

12 JUDGE BARTON: When abnormal things
13 happen, it's often that you get a call. Is that fair?

14 THE WITNESS: Yes.

15 JUDGE BARTON: Thank you.

16 BY MS. FLAHERTY:

17 Q. And having received a call about that
18 incident, what did you advise the clerks to do?

19 A. I advised them that they could press the
20 panic button if in the future they felt that they were
21 being kind of held hostage is kind of how it was
22 described to me, that they could press the panic buttons
23 which they have at their desks or they could just walk
24 out of the courtroom and make sure that -- I said make
25 sure that you're safe, walk out of the courtroom, make

1 sure you're safe and call me as soon as you leave the
2 office.

3 Q. Had you heard of any other such incidents at
4 that court prior to that?

5 A. Where they were locked in the office?

6 Q. Well, where an individual was in a confined
7 space with Judge Tidd.

8 MR. STRETTON: Objection. It's all
9 hearsay.

10 JUDGE BARTON: Sustained.

11 BY MS. FLAHERTY:

12 Q. In the course of ordinary business had
13 another clerk reported an incident that she was in the
14 supply closet and Judge Tidd confronted her?

15 MR. STRETTON: Objection, hearsay,
16 leading.

17 JUDGE BARTON: Sustained.

18 BY MS. FLAHERTY:

19 Q. Do you recall any similar incidents?

20 A. Not to my recollection.

21 Q. Do you recall an incident report to you about
22 primary election day at Judge Tidd's court?

23 A. I do.

24 Q. And what do you recall about that incident
25 report?

1 A. I believe it was primary election day in
2 2015, and I had a call from Brenda Anthony who told me
3 that Judge Tidd had just been there -- or, no,
4 actually -- actually wait. I actually heard from Judge
5 Tidd first. What happened was Judge Tidd called me and
6 was very upset, very loud, and very -- I could hear his
7 temper through his words that he was upset that his
8 staff had scheduled hearings for that day. And I said,
9 well, it's not -- I thought maybe he was confused. I
10 said, well, primary election day isn't a state holiday,
11 it's the general election day that's the state holiday,
12 so unless you told them not to schedule, they probably
13 would have scheduled things. Then he said that he did
14 tell them not to schedule hearings or court matters
15 during that day because it was primary election day and
16 he was running.

17 He then said, well -- he asked me what he
18 should do. And I said, David, you're the judge, you are
19 the one that decides what happens with your cases,
20 continuing a case is a judicial decision, and as a
21 judge, you can exercise that decision if you wish to
22 continue the cases. That seemed to calm him down a bit.
23 So then he -- we concluded our conversation. And I
24 would say within the half hour I got a call from Brenda
25 saying that David had --

1 MR. STRETTON: Objection to Brenda's
2 call.

3 JUDGE BARTON: Sustained. We've seen the
4 video. We've heard direct evidence from others directly
5 involved. I'm not sure this witness's hearsay
6 recantation of those events is helpful, and it's
7 certainly hearsay.

8 BY MS. FLAHERTY:

9 Q. Ms. French, was Judge Tidd required to notify
10 you in the event of taking a day off?

11 A. At orientation it's explained that if you are
12 on vacation, sick, not in the office that you will get
13 coverage for your office for emergency matters. I only
14 do that when they go to -- the week they go to
15 continuing ed. I'm the one that arranges for coverage,
16 but it's only for that week because I know when that
17 week is because I set up the continuing ed schedule.

18 They are to notify me through letter letting
19 me know the dates that they will be unavailable or not
20 in the court and let me know which other MDJ is covering
21 for them. Once I receive that information, I then do --
22 we do a court order that basically allows another
23 magisterial district judge to cover for that judge for
24 emergencies only.

25 Q. So had you any contact with Judge Tidd prior

1 to his call to you about him being off on election day?

2 A. I do not believe we received anything in
3 writing, and I don't recall any conversations with him
4 about it.

5 Q. So did you inform him that is not a holiday,
6 that it would have to be a personal day or a vacation
7 day for him?

8 A. I told him that primary election day was not
9 a holiday, a state holiday, one that would normally be
10 covered by the night duty MDJ, that would be a day if he
11 wasn't going to be there would have to find his own
12 coverage. The night duty -- all of our night duty MDJs
13 cover for state holiday. So if it's a state holiday,
14 the night duty MDJ is automatically covering everybody's
15 court on that holiday. And I pointed out that primary
16 election day was not a state holiday so it would not --
17 inferring that it wouldn't be covered by the night duty
18 MDJ.

19 Q. And to your knowledge, had -- were you aware
20 if Judge Tidd had arranged any coverage for his court on
21 primary election day?

22 A. No, I was not aware of that.

23 Q. Had you received a request from Brenda
24 Anthony at any point requesting a transfer to a
25 different district court?

1 A. I did.

2 Q. Can you describe that?

3 A. It was a letter that I got in writing from
4 her I believe after -- I believe we discussed it on the
5 phone. I told her to put it in writing. And it
6 basically said that if there's an opening in MDJ Hawke's
7 office she would like to take it because it's closer to
8 where she lives.

9 MS. FLAHERTY: And that's at Board
10 Exhibit 20.

11 BY MS. FLAHERTY:

12 Q. Tell us about the June 18, 2015 e-mail you
13 received from Judge Tidd requesting a transfer for
14 Anthony.

15 A. He sent me an e-mail believing that she had
16 filed -- or had given information to his opponent in the
17 election and he wanted her removed from his office.

18 Q. So what action did you take?

19 A. I talked to the court administrator who at
20 the time was Jill Cicero, and I basically said -- by
21 that time I knew there was a complaint with the Judicial
22 Conduct Board because I had had a visit from an
23 investigator in 2014. I didn't know at that point if it
24 was from the staff or not. But I did say to the court
25 administrator I think we need to see that Brenda gets

1 transferred to another court. I said, MDJ Tidd wants
2 her out of there, he believes that she has given his
3 opponent some information, and I said, it can't be
4 comfortable for her to be in there with that going on in
5 the office.

6 At that point we arranged then -- there was a
7 vacancy -- there happened to be a vacancy in Hawke's
8 court. I did talk to Judge Hawke about it, and he did
9 not have an objection to Brenda coming to his office.

10 Q. In that June 18, 2015 e-mail which is at
11 Board Exhibit 21 do you recall that e-mail, the content
12 of that e-mail, other than Judge Tidd requesting the
13 transfer?

14 A. I'd have to refresh my memory by looking at
15 it again.

16 MS. FLAHERTY: May I approach the
17 witness?

18 JUDGE BARTON: You may.

19 THE WITNESS: Yes, I remember the e-mail.

20 BY MS. FLAHERTY:

21 Q. In that June 18, 2015 e-mail did Judge Tidd
22 state his reason for wanting Brenda Anthony transferred?

23 A. Yes, because he believes that she filed a
24 complaint against him with the Judicial Conduct Board
25 and also that sources have revealed to him that she may

1 have given some information to his opponent in the
2 election.

3 Q. Within that same e-mail did he make a request
4 pertaining to Diane Kale?

5 A. He did.

6 Q. And what was that?

7 A. Diane had retired from county employment and
8 had taken a part-time position as the floater MDJ tech
9 in our county. It was a new position. And in that
10 e-mail he had said he does not want Diane Kale assigned
11 to his court meaning as a floater technician.

12 Q. And did he state why he didn't want her
13 assigned to his court?

14 A. Because of the filing a complaint with the
15 Judicial Conduct Board.

16 Q. Did he state he believes she was part of
17 that, filing that complaint?

18 A. Yes, in the e-mail.

19 Q. In her role as a floater is Ms. Kale a
20 part-time employee?

21 A. She's a part-time employee. She's only
22 allowed to work 1,000 hours a year because she is on
23 county retirement. That's a county rule.

24 Q. And are there other county employees who are
25 retired from their full-time positions yet work part

1 time following their retirement for the county?

2 A. Yes.

3 Q. One or more?

4 A. Well, one that springs to mind is we have a
5 person who used to work in our prothonotary's office,
6 Roseanne Constantine, who now retired in that position
7 and then came back as a part-time jury clerk and works
8 part time in the jury clerk's office. There's also some
9 people -- there's also another person who worked in the
10 prothonotary's office, Lillian Rhodes, who was a
11 full-time clerk and then retired and came back and works
12 for the prothonotary's office part time on an as-needed
13 basis.

14 JUDGE BARTON: Ms. Flaherty, help me
15 understand how the policies of Northampton County with
16 retired employees is relevant to -- materially.

17 MS. FLAHERTY: Certainly. It was an
18 issue raised in the pretrial memorandum as an accusation
19 that Diane Kale is the only person in all of Northampton
20 County to retire and go back to work for the county. We
21 did discuss this at the pretrial, and you said I would
22 have an opportunity to pursue that further. I'm done
23 with it. I'm done with that.

24 JUDGE BARTON: Okay, great.

25 MS. FLAHERTY: We're now turning to this

1 is at Board Exhibit 21 -- excuse me, Paragraph 21 of the
2 Board complaint and Exhibit 27.

3 BY MS. FLAHERTY:

4 Q. Ms. French, did you receive an e-mail on
5 May 8th, 2016 from Judge Tidd regarding a request to
6 transfer both Cassandra Bettler and Tracy Drayton?

7 A. Yes.

8 Q. And do you recall the content of that e-mail?

9 A. Yes.

10 Q. To the best of your recollection, what was
11 stated?

12 A. He was asking that they be removed from his
13 office because they were giving the Judicial Conduct
14 Board documents and information relating to his office.

15 Q. Did he mention any other issues which were a
16 problem?

17 A. I'd have to look at the e-mail again.

18 MS. FLAHERTY: May I approach the witness
19 to refresh her recollection regarding Exhibit 27?

20 JUDGE BARTON: Go ahead.

21 THE WITNESS: Yes, there was another
22 matter. He addressed an issue with showing contempt
23 toward a constable that works out of the office.

24 BY MS. FLAHERTY:

25 Q. In that e-mail did Judge Tidd ask that it be

1 an immediate transfer of those two clerks?

2 A. I just read it, but I believe so.

3 Q. And did it also -- did Judge Tidd also accuse
4 the clerks, Cassandra Bettler and Tracie Drayton, of
5 being insubordinate --

6 A. Yes.

7 Q. -- regarding the constable matter? Could you
8 briefly describe for the Court what you came to believe
9 was the issue with the constables?

10 MR. STRETTON: Objection. This is all
11 hearsay.

12 MS. FLAHERTY: I didn't hear what his
13 objection was.

14 JUDGE BARTON: His objection was hearsay,
15 calls for hearsay.

16 MR. STRETTON: The constable issue came
17 up, and I wrote on that issue with concerns and then
18 Judge Tidd because there were things he discovered the
19 constables weren't doing right. He didn't want them to
20 get warrants. He instructed his staff to give the
21 warrants to Seeds, and then they overruled that. And
22 then we raised the question how can he continue to work
23 in that office when he has no control over the staff, he
24 gives an instruction give this to a constable and
25 they're told to overrule that. She wasn't --

1 MS. FLAHERTY: Objection. Objection.
2 Mr. Stretton is testifying to the testimony I'm trying
3 to elicit from this witness and --

4 MR. STRETTON: She wouldn't know.

5 JUDGE BARTON: First I don't think you
6 can object to Mr. Stretton addressing the Court.

7 MS. FLAHERTY: I apologize.

8 JUDGE BARTON: Second, I'm going to
9 sustain the objection. You may proceed. Ask the next
10 question.

11 BY MS. FLAHERTY:

12 Q. Ms. French, were you personally involved in
13 handling a matter regarding the constables at Judge
14 Tidd's court?

15 A. I was aware of the issue that was taking
16 place in the court through the staff.

17 Q. Did the staff meaning Cassandra Bettler and
18 Tracie Drayton complain to you that there were problems
19 at the court regarding Judge Tidd's instructions to them
20 about the constables?

21 MR. STRETTON: Objection, hearsay.

22 MS. FLAHERTY: It's in the regular course
23 of business that we've already established on a prior
24 objection that when the clerks have issues --

25 JUDGE BARTON: Overruled.

1 MR. STRETTON: Course of business is a
2 document, not conversations.

3 BY MS. FLAHERTY:

4 Q. Just briefly, Ms. French.

5 A. I received a call from Cassie asking me if
6 there was a change with constable policy in Northampton
7 County, and I said, no, why, David said that there's
8 been a change with the way constables are working --

9 MR. STRETTON: Objection.

10 THE WITNESS: -- and we are not to use --

11 JUDGE BARTON: One moment, Ms. French.

12 Sustained.

13 BY MS. FLAHERTY:

14 Q. So you've established that you were involved
15 in hearing complaints about the constables in Judge
16 Tidd's court?

17 A. Yes.

18 Q. Is there a policy in Northampton County about
19 how constables are assigned?

20 A. Each judge determines which constables work
21 for him.

22 Q. So in this e-mail Judge Tidd had asked that
23 the clerks be transferred because they were
24 insubordinate about the constable who was -- Judge Tidd
25 decided to have work at his court at that time,

1 Constable Seeds?

2 A. I would imagine that's what he meant by that.

3 Q. Did you instruct the clerks how to deal with
4 the problem of a new constable at the court?

5 A. I basically reaffirmed that the judge
6 determines which constables work for him. There were
7 questions from them saying the constables were giving
8 them direction on which warrants they wanted to serve,
9 it wasn't coming from the judge. And I said it must
10 come from the judge, you just can't have a constable
11 come in and hand you 20 docket numbers and say I want
12 the warrant for these. The direction comes from the
13 judge as to which warrant should be issued and which
14 constables get those warrants. They were telling me
15 they were getting faxes from the constables -- from the
16 constable saying that they wanted these particular
17 warrants.

18 MR. STRETTON: Just note my objection
19 because, I mean, I lived through this thing, and it's
20 inconsistent with what happened. I'm trying to find my
21 memos where we were told that they were overridden,
22 that the instructions of Judge Tidd were overridden by
23 her office.

24 JUDGE BARTON: I really think this is a
25 collateral matter, and I'm hoping that we're nearing the

1 end of exploration of this. But you can explore it if
2 you choose in cross-examination and in your case in
3 chief. Are we close to the end of what I truly believe
4 is a collateral matter?

5 MS. FLAHERTY: Yes, I'm ending it now,
6 Your Honor.

7 JUDGE BARTON: Thank you.

8 BY MS. FLAHERTY:

9 Q. Just one question in conclusion to that, did
10 you instruct the clerks, Cassie Bettler and Tracie
11 Drayton, to follow Judge Tidd's directions?

12 A. Yes, when it comes to choosing which
13 constables work for the court.

14 MR. STRETTON: I'm sorry, I didn't
15 hear -- what was the answer to -- yes. I didn't hear
16 what your question was.

17 JUDGE BARTON: The question was, did you
18 instruct the staff to follow Judge Tidd's orders.

19 MR. STRETTON: Thank you.

20 MS. FLAHERTY: Do you want to read him
21 back the -- did you want the answer?

22 MR. STRETTON: No. I have the answer. I
23 just wasn't quite sure I understood the question.

24 BY MS. FLAHERTY:

25 Q. Ms. French, you've already testified that you

1 began -- you may have had some phone calls with staff in
2 2011, you definitely met with court clerks in
3 January 2012. So can you define from that -- that was
4 the origin of the complaints. Judge Tidd retired in
5 June of 2016. How long during that period did you
6 receive complaints about his conduct?

7 A. I didn't receive any written complaints after
8 I believe it was the end of February 2012. As I stated
9 earlier, they may have mentioned -- they may not have
10 specifically called to make a complaint, but they may
11 have added something on at the end of a conversation.
12 But, again, everything that I was -- needed to take to
13 the president judge had to be in writing, and I did not
14 get anything in writing.

15 Q. So after the time the writing submissions
16 ended, did the clerks call you throughout the rest of
17 his tenure as a judge when incidents arose?

18 A. They did.

19 Q. And do you know how many meetings were held
20 between President Judge McFadden and Judge Tidd and
21 court administrators?

22 A. I believe there were three meetings.

23 Q. And how many did you attend?

24 A. Two.

25 Q. And we've already established one was in

1 August 2011. And was the other one February 13, 2012?

2 A. Yes.

3 Q. Do you recall what went on at that
4 February 23rd, 2012 meeting?

5 A. I recall I took notes right after the
6 meeting. I do have a recollection of what occurred,
7 yes.

8 Q. And could you please inform the Court what
9 went on?

10 A. Judge McFadden addressed some issues with MDJ
11 Tidd regarding his demeanor in the courtroom.

12 MR. STRETTON: What meeting is this? Is
13 this -- oh, 2012.

14 MS. FLAHERTY: This is the February 13th,
15 2012 meeting.

16 MR. STRETTON: Thank you. Sorry to
17 interrupt.

18 THE WITNESS: Regarding his demeanor in
19 the court, using curse words, making sure that he wears
20 his judicial robes to conduct court proceedings, and
21 again about his court business taking priority over his
22 law practice. She told him she's been hearing things
23 out in the community about these instances.

24 BY MS. FLAHERTY:

25 Q. Had you heard anything out in the community?

1 A. Yes.

2 Q. Can you describe that, please.

3 MR. STRETTON: Objection.

4 JUDGE BARTON: Sustained.

5 BY MS. FLAHERTY:

6 Q. Did Judge McFadden speak with Judge Tidd
7 about his use of curse words around the clerks?

8 A. Yes.

9 Q. Did you have any feedback from the clerks
10 after those meetings as to whether or not they noticed
11 an improvement in Judge Tidd's conduct?

12 MR. STRETTON: Objection.

13 MS. FLAHERTY: The clerks were reporting
14 their complaints. It's in the same vein that they're
15 reporting back if the conditions have improved.

16 JUDGE BARTON: I think the question as
17 phrased is objectionable because it calls for hearsay,
18 so I will sustain the objection.

19 BY MS. FLAHERTY:

20 Q. To your knowledge, did the issues discussed
21 at the February 13, 2012 meeting continue?

22 A. I'm sorry, could you repeat that.

23 MR. STRETTON: Objection. She wasn't
24 present.

25 MS. FLAHERTY: Wasn't present where?

1 MR. STRETTON: At the courthouse.

2 Anything she heard would be secondhand.

3 MS. FLAHERTY: I believe we resolved that
4 issue in a prior question anyway.

5 BY MS. FLAHERTY:

6 Q. You did state that you continued to field
7 complaints by phone about incidents with Judge Tidd's
8 conduct, correct?

9 A. Yes. As I said, I don't know that they were
10 complaints. They would mention things that would occur
11 to me. I don't believe they were asking for action.
12 They were just mentioning different things, but words
13 that maybe he used, things like that.

14 Q. Prior to that February 13th meeting, did you
15 call Judge Tidd yourself to schedule the meeting?

16 A. Yes.

17 Q. And during that meeting -- excuse me, during
18 that phone call, did he ask you what the meeting was
19 about?

20 A. Yes, very persistently.

21 Q. And do you recall what you told him?

22 A. I told him that I had received a few phone
23 complaints and I brought that to Judge McFadden's
24 attention and I believe they had to do with not
25 scheduling afternoon hearings, not wearing his robe to

1 conduct proceedings, and conducting hearings at the
2 counter instead of in the courtroom. I mean, he was
3 badgering me. He kept -- I didn't want to -- but I --
4 that's what I told him.

5 Q. And was there another phone call with Jim
6 Onembo?

7 A. Yes. I went to inform Jim of the meeting. I
8 went to his office to inform him of the meeting with MDJ
9 Tidd and Judge McFadden, and it just so happened that
10 Judge Tidd called me right back again wanting to know
11 more information about the meeting, what was going to be
12 discussed, why was he being called in by Judge McFadden.
13 And they transferred the call into Jim's office because
14 I was in Jim's office. And then Jim put the call on
15 speaker phone, and we talked to MDJ Tidd who continued
16 to want to know what was going to be discussed at the
17 meeting. And that's where the term fast food court came
18 about. Jim Onembo used fast food court as a way to
19 explain to Judge Tidd one of the issues that was going
20 to be addressed at the meeting.

21 MS. FLAHERTY: Your Honor, may I request
22 a 10-minute break at this point. It's 2:30.

23 JUDGE BARTON: Why don't we take our
24 afternoon break at this point.

25 (Recess taken)

1 JUDGE BARTON: You may proceed.

2 MS. FLAHERTY: Thank you, Your Honor.

3 BY MS. FLAHERTY:

4 Q. Ms. French, an issue has arisen earlier, and
5 I want to try to get some policy and procedure from you
6 in your role in court administration. Could you please
7 explain how constable fees are paid?

8 A. Sure. It can be -- they can be paid one of
9 two ways. The first way would be if a defendant sends
10 in a guilty plea, pays in full, pays everything in full.
11 If the constable was involved because the person didn't
12 enter a plea originally, then he did enter a plea, he
13 gets paid. If he serves a warrant for not making a
14 payment, he gets paid.

15 And what can happen is they can either be
16 paid by the district court, and usually that's if they
17 received the entire payment up front, then they would
18 pay the constable directly from the moneys that were
19 paid by the defendant for the cost.

20 The second way can be is if the person's on
21 time payments and not paying everything at once, they
22 can turn the fines and costs over to the county for
23 payment. The county will issue payment to the
24 constable, and then as the defendant makes his payments,
25 that money will trickle down to the county through their

1 monthly check.

2 Q. And is there any policy or procedure
3 pertaining to a district court asking a constable to
4 waive fees for serving warrants?

5 A. No.

6 Q. And is there any policy for putting the fees
7 back on the county? Have you ever heard that term
8 before?

9 MR. STRETTON: Objection. I don't think
10 she's involved in the constable fees. It usually goes
11 to the treasurer's office. You know, I think she's
12 speculating because we all know district judges can
13 waive fees. I've seen that done.

14 JUDGE BARTON: I'll take that objection
15 as lack of foundation. You can lay a foundation
16 perhaps. Then it wouldn't be objectionable.

17 BY MS. FLAHERTY:

18 Q. In your role as court administrator who
19 supervises the magisterial district court system -- is
20 that correct? Is that your responsibility?

21 A. Yes.

22 Q. -- do you have occasion to instruct the MDJs
23 on how constable fees are paid?

24 A. Yes.

25 Q. So could you please explain -- you've been

1 explaining how it works, and now could you -- have you
2 ever heard the expression putting the fees back on the
3 county?

4 A. I know that the county pays the fees like
5 I've explained if there is a time payment and the
6 constable gets paid immediately by the county, and then
7 once the defendant makes the payments -- you know, the
8 county assumes the costs initially, but then once the
9 defendant makes the payments, those costs come in and
10 eventually get paid to the county unless the person
11 doesn't pay. Then there's another warrant issued, and
12 then more fines and costs become attached, so.

13 Q. So if a judge were to ask a constable to
14 waive the fees for a particular person and put it back
15 on the county, would that mean that the county is then
16 stuck with the expense, or --

17 MR. STRETTON: Objection. It's beyond --

18 BY MS. FLAHERTY:

19 Q. -- what would that mean?

20 MR. STRETTON: -- her expertise.

21 JUDGE BARTON: Overruled.

22 THE WITNESS: To me what that means is --

23 MR. STRETTON: Objection to her what it
24 means.

25 JUDGE BARTON: If you can explain the

1 system and how it works, if you have knowledge of that.
2 If you don't know, please tell us I'm not certain, I
3 don't know. On the other hand, if you have knowledge of
4 how the system works in this regard, please take the
5 question as asking for an explanation of how the system
6 works.

7 THE WITNESS: Can you give me the
8 question again then.

9 BY MS. FLAHERTY:

10 Q. Yes. Could you explain how it works if a
11 judge were to instruct his staff to waive the fee for
12 the constable so the defendant doesn't need to pay it
13 and put it back on the county? Can you explain what
14 that would have entailed?

15 A. It's not something that I am really familiar
16 with.

17 MR. STRETTON: Objection.

18 THE WITNESS: It doesn't happen I mean to
19 my knowledge that often, if at all. I don't -- that
20 practice isn't one I'm familiar with, just say that.

21 BY MS. FLAHERTY:

22 Q. So it's not a policy or procedure --

23 JUDGE BARTON: One second. There's an
24 objection which I'm going to sustain. The witness has
25 explained she's not certain.

1 BY MS. FLAHERTY:

2 Q. Ms. French, in your position as deputy court
3 administrator do you handle requests for change of
4 venue?

5 A. Yes.

6 Q. Can you explain that, please.

7 A. What happens when an MDJ has a conflict of
8 interest they send something to me in writing which
9 would include the docket number of the case, the caption
10 of the case, and the reason for the conflict. I then
11 give that to judge -- President Judge McFadden or
12 Baratta, the president judge, with a list of previous
13 assignments that they've made in the last month or two
14 for all MDJs so we're not sticking one MDJ with all the
15 requests.

16 The judge then will assign -- on the bottom
17 of the letter the judge will write, please assign to MDJ
18 Narlesky or whatever MDJ it would be. We then get it
19 back. We do a court order. I use Judge Baratta's stamp
20 stamping the order with his signature that the case has
21 been changed from one MDJ to another.

22 Q. And in your experience have district court
23 judges requested change of venue when a case is filed in
24 their court against a landlord who owns the building?

25 MR. STRETTON: Objection.

1 JUDGE BARTON: What's the basis for your
2 objection?

3 MR. STRETTON: There's no relevance with
4 her experience. The question is, is it legally required
5 or not, and she's not in a position to answer that.

6 JUDGE BARTON: Do you have a response?

7 MS. FLAHERTY: Yes. In her role as
8 deputy court administrator she handles changes of venue.
9 I asked her if she's handled changes of venue from
10 district court judges pertaining to cases involving
11 landlords. I'm asking her what she has handled -- in
12 her role has she handled those types of requests. It is
13 related to earlier testimony of Judge Tidd's landlord
14 having a case before him.

15 JUDGE BARTON: I understand that it is
16 related to the prior testimony with respect to that. I
17 think Mr. Stretton's right. I think it's a legal
18 question. Whether or not judges have or haven't doesn't
19 make it right or wrong. It's just a simple pure
20 question of law. I'll sustain the objection.

21 BY MS. FLAHERTY:

22 Q. Ms. French, you had stated that Judge Tidd
23 did attend your educational session for MDJs when he --
24 in December 2009?

25 A. Yes.

1 Q. Around that time. So during that instruction
2 process, did you cover how to submit for a change of
3 venue?

4 A. Yes.

5 Q. And did you cover potential conflicts of
6 interest that might require a change of venue?

7 A. I did not go into detail. I just mentioned
8 if there was a conflict of interest.

9 Q. And when a judge requests a change of venue
10 based on a conflict, how much detail is required with
11 that request?

12 MR. STRETTON: Objection, unless there's
13 a specific question here he didn't.

14 JUDGE BARTON: The allegation is he
15 didn't submit such a request, so I don't think that it's
16 relevant.

17 MR. STRETTON: Well, he did -- you'll
18 hear testimony -- there will be testimony he submitted a
19 request all the time for change of venue, but that's not
20 an issue. What she's saying generally -- she has a
21 specific cases is enough. But I just don't see it
22 advancing the ball generally like that.

23 MS. FLAHERTY: It's just asking her a
24 procedural question. It actually lays the foundation
25 for what Mr. Stretton plans to bring in later.

1 JUDGE BARTON: Perhaps on redirect it may
2 be relevant and material. Right now I'm not convinced
3 it is. I will sustain the objection. Let's move
4 forward.

5 MS. FLAHERTY: I will draw the Court's
6 attention to Exhibit 152 in the Board's exhibits.

7 BY MS. FLAHERTY:

8 Q. Ms. French, when you -- I think you
9 previously testified that during your instructional
10 session to new MDJs you cover videoconferencing
11 procedures. Is that correct?

12 A. Yes.

13 Q. And preliminary arraignment procedures as
14 well?

15 A. For videoconferencing, yes.

16 Q. What else do you cover in those instructions?

17 A. If you have a situation where you're having a
18 problem with the building and it's a landlord issue, let
19 me know, I will address it. I ask them to first address
20 it themselves, then address it with me, let them know
21 about the security system and changing the password and
22 getting them added to it, how to do their banking, that
23 they need to go to the bank and sign a signature card
24 and authorize a second person to sign checks for
25 emergencies only. We talk about the sign needs to be

1 changed with their name on it. I instruct them -- give
2 them information on how to do that. As I said before,
3 if you need coverage due to vacation or illness or time
4 out of the office, you need to find coverage, let me
5 know about that. We went over the change of venue
6 process. I gave them just various information of county
7 policies regarding like what's appropriate for staff to
8 wear in the office. There's no smoking in the
9 buildings, just general information like that. Again,
10 you have the syllabus of what we go over at the
11 orientation session.

12 Q. Yes.

13 MS. FLAHERTY: And that's been provided
14 to the Court at Exhibit 142 entitled Orientation Meeting
15 for New MDJs.

16 BY MS. FLAHERTY:

17 Q. Some preliminary arraignments are held at the
18 district court, correct?

19 A. Yes.

20 Q. And then others not necessarily. What are
21 the other -- if it's not in person, how else can an
22 arraignment be conducted in Northampton County?

23 A. By videoconferencing.

24 Q. And is that by a Polycom system?

25 A. It's by a Polycom system in the court when

1 they do it from their court. When they do it from their
2 home when they're on night duty, it would be by a
3 personal computer that's been outfitted with the Polycom
4 software, but it's not the actual Polycom hardware.
5 It's a PC at home.

6 Q. So when a district judge in Northampton
7 County is conducting an arraignment via Polycom at the
8 office or computer with the Polycom software, must that
9 be up and running before the arraignment can be held?

10 A. Yes.

11 Q. Is a district judge permitted to do an
12 arraignment by telephone alone with no video feed?

13 MR. STRETTON: Objection.

14 JUDGE BARTON: What's the basis of your
15 objection?

16 MR. STRETTON: She's not an expert on the
17 rules. Two, there is no prohibition on that under the
18 circumstances where the video breaks down. I mean, you
19 have one case where he supposedly did it. We have the
20 circumstances of that case. That question doesn't
21 advance the law because I don't think she's in a
22 position to know. She isn't a lawyer nor is she a
23 judge.

24 JUDGE BARTON: Do you have a response?

25 MS. FLAHERTY: I've asked her about in

1 Northampton about the requirement. I believe that the
2 rule of criminal procedure is stated clearly within the
3 complaint. We would have to check if there's already
4 been judicial notice of that or if it's already
5 stipulated to.

6 MR. STRETTON: I think most of us know
7 the rule.

8 JUDGE BARTON: Yes, I think this is
9 simply a question of this is what the rules of criminal
10 procedure say --

11 MS. FLAHERTY: Correct.

12 JUDGE BARTON: -- irrespective -- it's
13 not for this witness to instruct a jurist on the rules
14 of criminal procedure necessarily.

15 MS. FLAHERTY: Certainly not.

16 JUDGE BARTON: I think Mr. Stretton is
17 right in that it really doesn't advance the ball. I
18 will sustain the objection.

19 BY MS. FLAHERTY:

20 Q. Just to finish out that line of questioning,
21 was Judge Tidd in attendance at your program when you
22 handed out the MDJ videoconferencing procedures?

23 A. Yes.

24 Q. And does that same handout cover preliminary
25 arraignments?

1 A. Yes.

2 Q. Search warrants?

3 A. Yes.

4 Q. And PFAs?

5 A. Yes.

6 MS. FLAHERTY: Thank you. And that was
7 Exhibit 152. I believe direct exam is completed at this
8 time.

9 JUDGE BARTON: Mr. Stretton, it's 3:00.
10 It's this Court's intention to adjourn at about 3:40. I
11 don't know if you want to start and maybe you'll finish,
12 maybe you won't finish or if you want to defer until the
13 next time we convene on this matter.

14 MR. STRETTON: I can start. I may
15 finish. I'm not sure. I haven't -- because she said it
16 was going to be a couple hours, I wasn't putting it
17 quite together as I thought it was going to be starting
18 at 3:30.

19 MS. FLAHERTY: It has been two hours.

20 JUDGE BARRASSE: Why don't you start.

21 MR. STRETTON: I've never had a problem
22 cross-examining.

23 CROSS-EXAMINATION

24 BY MR. STRETTON:

25 Q. Ms. French, did you know my client, David

1 Tidd, when he was a practicing lawyer?

2 A. Did I know him, I knew of him, yes.

3 Q. And he had a fairly active district justice
4 practice in those years as an active lawyer. Am I
5 right?

6 A. I actually didn't know him that way. I knew
7 him because my secretary prepared the custody list, and
8 he had a lot of custody cases. And those -- that was
9 how I knew him.

10 Q. Now, let me make sure I understand a couple
11 things. You received from 2011 until 2012 approximately
12 weekly complaints filed by various secretaries in Judge
13 Tidd's courthouse. Am I correct?

14 A. I believe they started in January of 2012 and
15 concluded at the end of February of 2012.

16 Q. And you, yourself, never brought Judge Tidd
17 in to show him these complaints or read them to him, did
18 you?

19 A. No.

20 Q. The first meeting in August of 2011 Judge
21 Tidd was not shown any complaints that were written
22 because there were none at that time. Am I right?

23 A. That's correct.

24 Q. And then at the second meeting in
25 February 2012 in Judge McFadden -- then President Judge

1 McFadden although she had to know she didn't read any of
2 those to him, did she?

3 A. No, she did not read the logs to him.

4 Q. The things she talked about were really three
5 things, one, wear your robe. Am I right?

6 A. That was one of them.

7 Q. Two, don't do hearings at the counter?

8 A. Yes.

9 Q. And, three, don't raise your voice or things
10 of that nature or use curse words, if I recall your
11 testimony?

12 A. That was another one.

13 Q. That was the essence of that conference?

14 A. And I believe she did tell him at that time
15 if he -- if it would continue she would be looking to
16 file something with the Judicial Conduct Board.

17 Q. Now, then Judge Tidd did ask Judge McFadden
18 in fact both times can you give me some specifics. Am I
19 right?

20 A. At the February 13th meeting the one that I
21 was -- yes.

22 Q. He asked for specifics, and none were
23 provided other than the general categories you and I
24 just discussed. Am I right?

25 A. I'm not sure what you mean by specifics.

1 Q. On this date with this defendant or this
2 officer or on this date you raised your voice or used a
3 curse word.

4 A. That's correct. That's correct. There were
5 no dates given.

6 Q. And in that conference on February 12th Judge
7 Tidd talked about some of the problems he was facing in
8 the court. Am I correct?

9 A. He mentioned very generally about a medical
10 leave, and the judge explained that she had to send him
11 a letter because I believe it was Rule 704 had recently
12 changed and wanted him to be aware of the requirements
13 of reporting his medical leave illness, that type of
14 thing.

15 Q. Well, let me just show you a document I'm
16 just going to mark as R-21 for ID purposes.

17 MR. STRETTON: With the Court's
18 permission I'll approach the witness.

19 JUDGE BARTON: Yes.

20 MS. FLAHERTY: For the Court's
21 information that's also at Board Exhibit 28. It's the
22 same.

23 (Exhibit Number R-21 marked for
24 identification)

25 BY MR. STRETTON:

1 Q. Now, R-21 is notes of you to the file I
2 guess?

3 A. Yes.

4 Q. And can you turn -- and these are notes that
5 were prepared by you, at least the first two pages of
6 this particular document, R-21?

7 A. I'm sorry, what was the question?

8 Q. These are notes that you prepared, you typed
9 these?

10 A. After each meeting, yes.

11 Q. And could you turn to the notes of the
12 February 13th, 2012 meeting.

13 A. Yes.

14 Q. And do you see in that meeting after Judge
15 McFadden spoke about the curse words, complaints from
16 the community, and wearing judicial robe and taking --
17 office taking priority Judge Tidd talked about problems
18 with scheduling hearings on Tuesdays and Thursdays? Am
19 I right?

20 A. No. He said he now schedules hearings on
21 Tuesday and Thursday afternoons.

22 Q. And that had been going on for some time
23 period. Am I right?

24 A. Well, he said he did it now. I don't know
25 how long he had been doing it prior to that.

1 Q. And he continued to do that, correct?

2 A. I don't know. All that was said with the
3 meeting that he was now scheduling them on Tuesdays and
4 Thursdays.

5 Q. But he said there was a problem with police
6 officers, that a lot of police officers are regularly
7 not available for hearings. He said there are 10, in
8 fact. Am I right?

9 A. That's what he said at the meeting, yes.

10 Q. And then he sort of defended himself to Judge
11 McFadden's, you know, generalities treat people better,
12 don't use curse words, he said, I don't treat them
13 badly. Am I right?

14 A. Yes.

15 Q. And then Judge McFadden didn't give him
16 specifics, she just said, well, that's the perception so
17 change it or be reported. Am I right?

18 A. She said there was a perception that he does
19 treat people badly and it needed to change, his behavior
20 needed to change.

21 Q. And then she said, look, this is your third
22 time, three strikes and you're out so to speak and we're
23 going to the Conduct Board thereafter?

24 A. Yes.

25 Q. And of course you didn't go to the Conduct

1 Board at that point or the following year, did you?

2 A. No.

3 Q. Now, Judge Tidd always got in his office
4 fairly early in the mornings to your knowledge. Am I
5 correct?

6 A. I did receive calls from him at 8:30, yes.

7 Q. And although he had a law practice, his
8 practice usually was in the judicial office most of the
9 morning and early afternoon other than lunch breaks or
10 running for, you know --

11 MS. FLAHERTY: Objection.

12 JUDGE BARTON: What's the basis for your
13 objection?

14 MS. FLAHERTY: Ms. French was not present
15 at the court watching what Judge Tidd's comings and
16 goings or his schedule of any kind.

17 JUDGE BARTON: Sustained.

18 BY MR. STRETTON:

19 Q. At least you weren't getting complaints that
20 he's never here. Am I right?

21 A. I didn't get complaints that he's never
22 there. I did get complaints from police officers and
23 one public complaint again only on the phone that he
24 wasn't there for afternoon hearings.

25 Q. You had two complaints in six years?

1 A. The two that I remember.

2 Q. Now, you're familiar with his statistics, are
3 you not?

4 A. Yes.

5 Q. And he was always one of the top producing
6 judges in the county in terms of moving his cases. Am I
7 correct?

8 A. I'm not sure what you mean by top producing.

9 Q. He moved a lot of cases, more than any of the
10 others?

11 A. He had a lot of cases in his court. I think
12 a lot were guilty pleas that were paid in full and a lot
13 were preliminary hearings that were waived because they
14 were DUI related.

15 (Exhibit Number R-7A marked for
16 identification)

17 MR. STRETTON: Let me show you a document
18 marked R-7A with continuing permission to approach the
19 witness.

20 JUDGE BARTON: You may.

21 BY MR. STRETTON:

22 Q. R-7A is a report that you prepared I guess to
23 all the judges.

24 A. Right.

25 Q. In March of 2016 for the cases year 2015. Am

1 I right?

2 A. Yes.

3 Q. And is not Judge Tidd near the top in terms
4 of production of cases and handling of cases?

5 A. Which year are you talking about?

6 Q. 2015 right now. I believe that's what that
7 particular document is. Do you see Judge Tidd --

8 A. Well, it looks like he's Number 6 out of 15,
9 14.

10 Q. Well, I mean, let's look at it. His listing
11 is fourth down. He had 3,048 traffic cases he handled.
12 Am I right?

13 A. Yes.

14 Q. 207 summary cases he handled. Am I right?

15 A. Right.

16 Q. 171 civil cases?

17 A. Yeah.

18 Q. 331 criminal?

19 A. Right.

20 Q. Total of 3,757 cases?

21 A. Right.

22 Q. You never in 2015 wrote him a note saying
23 you're underproducing, did you?

24 A. I never wrote a note to anybody to that
25 effect ever in my 30 years.

1 Q. Well, if someone wasn't doing their job, if
2 they weren't showing up, you would, right? Am I
3 correct?

4 A. Well, this is the case filings. This doesn't
5 show how many were actually disposed of. This just is
6 the cases that were filed in his court.

7 Q. These are the statistics for the filing in
8 that particular year?

9 A. Yeah, cases that were filed. It doesn't talk
10 about dispositions.

11 Q. And to your knowledge, he moved his cases
12 very quickly. Am I right?

13 A. I can't answer to that based on what you're
14 showing me.

15 Q. Well, you were the administrator. You would
16 have known if he wasn't, right?

17 A. I would have known -- I know -- basically
18 what I do for -- this is to determine secretaries in the
19 office. I also sent out at the same time the number of
20 case filings per secretary.

21 Q. In any event, you never complained or said
22 anything to Judge Tidd during his six and a half or
23 seven years as a district judge that he was not moving
24 his cases rapidly or quickly, did you?

25 A. I never said that to him or to any judge, no.

1 Q. And you were aware that his office was
2 regularly audited by I guess the auditor general's
3 office. Am I correct?

4 A. The last time was 2011.

5 MS. FLAHERTY: Objection, just
6 questioning the relevancy of this direct -- this
7 cross-examination. There's nothing charged in the Board
8 complaint about Judge Tidd's efficiency. There's
9 nothing charged in the complaint about audits. I just
10 question if we're headed in the right direction here.

11 JUDGE BARTON: Mr. Stretton, do you have
12 a response?

13 MR. STRETTON: I think he's been accused
14 of not being a good judge, not handling things right,
15 and I want to show that independent figures and audits
16 there was no question his office is run well, no
17 question of finances of mishandling and he was moving
18 his cases and no one complained. That's all.

19 JUDGE BARTON: We'll give the defense
20 some latitude. I'll permit the question. Objection is
21 overruled.

22 BY MR. STRETTON:

23 Q. Let me just show you some audit matters.

24 JUDGE BARTON: Mr. Stretton, was that
25 last exhibit that Ms. French testified to is that an

1 exhibit?

2 MR. STRETTON: I marked it for
3 identification. I can move if you'd like to see it.
4 I'll move for the admissibility of R-21.

5 JUDGE BARTON: Just for a more complete
6 record. Thank you.

7 MR. STRETTON: Not R-21, R-7A.

8 JUDGE BARTON: R-7A is admitted.

9 (Exhibit Number R-16A marked for
10 identification)

11 BY MR. STRETTON:

12 Q. I'm going to show you audits. I'm going to
13 show you what has been marked as 16A, R-16A, for
14 identification purposes. Is that an audit for the year
15 2009-'10 through December --

16 A. Yes.

17 Q. -- of the court that Judge Tidd I guess had
18 been in for a year at the time?

19 A. It was a county audit, not the state audit
20 that you referred to earlier.

21 Q. Right. But it was a county audit?

22 A. That just audits, yeah, basically county
23 matters.

24 Q. And his office was being run appropriately
25 pursuant to the audit. Am I correct?

1 JUDGE BARTON: Attorney Stretton, can you
2 tell me those dates again for the year it covered.

3 MR. STRETTON: Yes, 2009 through
4 December '10.

5 BY MR. STRETTON:

6 Q. Ms. French, is that the audit that was
7 received?

8 A. Yeah.

9 MR. STRETTON: I'm going to move for the
10 admissibility of that so I can hand it up.

11 JUDGE BARTON: Court admits Exhibit 16A.
12 16A covers a two-year period, only one year of which
13 Judge Tidd was in office. Is that right?

14 MR. STRETTON: That is correct.

15 MS. FLAHERTY: May I make an objection to
16 the fact that these are long documents that we were not
17 notified that they were going to be presented. We
18 didn't have any knowledge. We haven't reviewed them.
19 We don't know what the testimony -- we don't know what
20 he's seeking.

21 MR. STRETTON: These documents have just
22 come into my possession about a few days before, and
23 that's the reason I'm --

24 JUDGE BARTON: I don't think they cause
25 any particular prejudice. The Court's inclined to admit

1 them and assign them their appropriate weight.

2 MS. FLAHERTY: May I ask then based on
3 that if after an opportunity to review if we come
4 back -- when we come back in April if I need to recall
5 this witness that I may be permitted to do so?

6 JUDGE BARTON: Yes, you certainly may.

7 BY MR. STRETTON:

8 Q. Now, the video machine, that video was there
9 from the beginning of Judge Tidd's tenure, am I correct,
10 in the district judge's office?

11 A. Are you talking about video arraignment or
12 the video security system?

13 Q. Video security system. There was a video
14 security system in his office when he first entered the
15 door as the elected judge.

16 A. I'm not quite positive of the dates, but I
17 would believe so.

18 Q. And then at some point in 2013 I guess the
19 video was enhanced and audio was added. Am I right?

20 A. In 2013 there was state money available
21 that -- and a survey that was done for each district
22 court in our county, and based on those survey results,
23 the AOPC determined what was needed in each court.

24 Q. And in his court it was determined the
25 security was going to be enhancing the video and adding

1 an audio --

2 A. No, it was not determined that by the AOPC or
3 by myself. I sent -- the person -- we had to follow
4 county purchasing procedures.

5 Q. Let me just ask this. I don't want to get
6 into the details. I just want to know when was the
7 audio put in?

8 A. I actually don't know. I didn't find this
9 out until your letter accusing that was sent to Judge
10 Baratta about it. That was when it became on my radar.
11 I did not know about that beforehand.

12 Q. Well, during this time period when you
13 were -- you received complaints from the clerks from
14 2012, and then you received phone calls where they
15 mentioned complaints as part of a collective call
16 thereafter. Am I right, the clerks?

17 A. They mentioned certain things that happened,
18 yes.

19 Q. And then you started to receive some written
20 complaints thereafter again in '14 or '15 and '16 from
21 the clerks?

22 A. I don't recall those.

23 Q. Well, did the clerks ever tell you that we
24 have saved some of the videos but not others?

25 A. No, not until this whole thing came to light.

1 Q. So you weren't aware of who was saving or who
2 wasn't saving the audio parts --

3 A. Correct.

4 Q. -- of these tapes?

5 A. I wasn't aware that they were doing that.

6 Q. And would they have authority to have done
7 that, save selectively four and not others, or would you
8 have had the final determination on what was to be saved
9 and what wasn't once you found out about the system?

10 A. No. We didn't save any video. I don't know
11 what the Judicial Conduct Board asked them for or what
12 they sent to the Judicial Conduct Board, but we never
13 save the video. After a certain period of time the
14 video -- it's my understanding that the video would tape
15 over itself.

16 Q. Now, Judge Tidd was concerned even from the
17 beginning of his tenure with security in that office.
18 Am I right?

19 A. Yes.

20 Q. That was one of the reasons he told you he
21 used to sit in the outer area as opposed to the inner
22 office because of his concerns for security, correct?

23 A. I don't know that he ever mentioned that he
24 was sitting out in the outer office.

25 Q. But you knew he was sitting in the office in

1 the outer part, you knew that from the clerks, and you
2 knew that just from visiting once in a while?

3 A. I knew that from the clerks that he sat out
4 there.

5 Q. And there was no -- you never told him nor
6 did Judge McFadden ever tell him, no, you should go into
7 the room?

8 A. Correct.

9 Q. Now, at some point there was no phone in his
10 actual judicial office. Am I correct?

11 A. That's incorrect.

12 Q. Well, he asked for a phone in there several
13 times, did he not?

14 A. There was always a phone in his personal
15 office. I believe he moved that and took it to the
16 courtroom. But every court has a phone in the MDJ's
17 personal office. He wanted one for the bench which we
18 did not provide. And it's my understanding that he
19 either moved his phone to the bench or to the -- out at
20 the fourth desk where he would sit. But his office when
21 he went in there had a phone in his office.

22 Q. But he made a request at least in 2014 he did
23 not have such a phone, and he asked you for one. Am I
24 correct?

25 A. Well, he did have a phone. He moved the

1 phone.

2 Q. Well, I'm going to show you a document which
3 I'm not going to mark as an exhibit, but I want to see
4 if that just refreshes your recollection.

5 A. I mean, he may have asked me for one, but my
6 thing would be you already had a phone, you moved it.

7 Q. Well, let me just show you -- I'm not going
8 to mark. It's a letter from Judge Tidd -- then Judge
9 Tidd to you on December 16th, 2014, Dear Ms. French,
10 this letter is to request a new telephone and
11 installation for my office within the district court.
12 My office currently does not have a phone installed.
13 Our telephone model is Lucent Partner ACS 103GC -- G7
14 should you need any further information, do not hesitate
15 to call the office. Do you see that particular letter?

16 A. I do.

17 Q. Does that refresh your recollection?

18 A. Yeah, I'm not saying that he didn't request
19 it.

20 Q. He didn't have one in there?

21 A. But he moved it. There was one in there.

22 Q. It was moved --

23 A. He could have moved it back. And we were
24 getting new internet-based phone systems for the whole
25 MDJ, so I could not see ordering a phone for an obsolete

1 phone system --

2 Q. In any event, though, you were --

3 A. -- when he had one and could move it from
4 either the desk or the bench to his office, his personal
5 office.

6 Q. You were aware there was a conference room
7 where there was a phone. Am I correct?

8 A. Yes.

9 Q. And that was where his phone that was
10 originally in his office phone went, to the conference
11 room?

12 A. No, that's not correct. Each court had --
13 each secretary had a phone, and there was either a phone
14 in the conference room or either/or at the counter, and
15 the MDJ's office had one.

16 Q. But at least in this case you were aware at
17 least as of December of 2014, presumably even before
18 that December date, he was without a phone for his inner
19 judicial office and was requesting one?

20 A. At his choice. I mean, there was a phone
21 there. He had just moved it. He could move it back.

22 Q. And you denied that request?

23 A. Because we were getting new phone systems,
24 yes. Plus it was the end of the year. I couldn't have
25 ordered anything. After mid-November, we could not

1 order anything in the county. You can't order any
2 equipment at that time of the year. But we were getting
3 new phone systems the very next year in the courts that
4 were internet-based systems. They were starting to put
5 them in. We had a test internet-based system in one of
6 the courts that we were trying out. I was told by the
7 county that we can't get this obsolete phone equipment
8 anymore.

9 Q. Now, make sure I understand, the clerks who
10 worked for your district judges work for the judge. Am
11 I right?

12 A. The judges are immediate supervisor, correct.

13 Q. And there's supposed to be a sense of loyalty
14 and confidentiality when one works for a particular
15 district judge?

16 A. I would imagine so, yes.

17 Q. And they're supposed to follow generally the
18 orders and instructions of a particular judge they're
19 working for?

20 A. Correct.

21 Q. And it's not expected they're going to be
22 calling you or someone else every other day complaining
23 and countermanding --

24 MS. FLAHERTY: Objection.

25 BY MR. STRETTON:

1 Q. -- their instructions?

2 JUDGE BARTON: What's your objection?

3 MS. FLAHERTY: There's been no testimony
4 that the clerks were calling Ms. French every other day.
5 He's exaggerating on cross-examination.

6 MR. STRETTON: The testimony was by the
7 first witness, Ms. LeVan, that she filed starting in
8 2011 every week a complaint for at least a year. There
9 was testimony by the others, particularly Ms. LeVan, and
10 others that they continued to call and complain
11 regularly, and Ms. French confirmed that, although it
12 wasn't --

13 JUDGE BARTON: I'll overrule the
14 objection. Your witness is doing just fine. I have no
15 doubt she'll be able to answer appropriately.

16 THE WITNESS: Can you ask that again,
17 please.

18 BY MR. STRETTON:

19 Q. Yes. It's not expected that you're going to
20 be receiving complaints about everything the judge is
21 doing every day or every week or every month. Am I
22 correct?

23 A. It's not my expectation, no.

24 Q. And, in fact, that destroys the ability for a
25 judge to work in an office when there's no loyalty by

1 his staff, right?

2 A. Well, at the time I don't think he knew that
3 they were calling me. And as I said, they wouldn't call
4 just to complain. They would call about another --
5 something else and then maybe just say, oh, today I got
6 this word thrown at me or today he was back wearing
7 these clothes.

8 Q. But in 2012 every week you were getting notes
9 from Ms. LeVan and Ms. Anthony so at least for one year?

10 A. I never testified to a year. I testified
11 from the beginning of January until the end of February.

12 Q. I understand that. But the others testified
13 differently.

14 A. Okay.

15 Q. So did you ever consider --

16 A. They may have been keeping logs, but I didn't
17 receive them.

18 Q. Did you ever consider calling Judge Tidd when
19 you got these calls -- or got these matters and bringing
20 him in so he could have corrected the conduct or given
21 you an explanation timely as opposed to years later?

22 A. First of all, I explained to the staff that I
23 would only address issues that would come in, in
24 writing. When they came in, in writing, I gave them to
25 the president judge --

1 Q. That's not my question.

2 A. -- to get direction from the president judge.

3 Q. My question is, why didn't you go to Judge
4 Tidd. You're the deputy court administrator, Judge
5 Tidd, come over, your staff is complaining on this day
6 you yelled at them, on this day you did a hearing, on
7 this day they're saying you're talking to parties the
8 wrong way? Why didn't you bring him in and resolve
9 those issues in 2012?

10 A. Again, I felt like I was in a bad position.
11 The staff did not want me -- they did not want it to be
12 reported to the judge. They were fearful of what may
13 happen if that occurred.

14 Q. Whether they were fearful or not, you had an
15 obligation to that judge who you were generally
16 supervising?

17 A. No. I had an obligation to the president
18 judge, and that's who I took my direction from.

19 Q. Well, but you didn't go to Judge McFadden and
20 say --

21 A. Because they weren't in writing. That's why
22 I did not.

23 Q. So we went years then with you getting
24 complaints with Judge Tidd not being told?

25 A. I did not receive very many complaints in the

1 years 2013, 2014. I didn't know what happened. I
2 didn't know if the staff thought they weren't going to
3 continue with the Judicial Conduct Board matter that
4 they were thinking about, if they wanted to file it on
5 their own. The last I had touched base with them is
6 they did not want the president judge to file a
7 complaint, that they were going to pursue this on their
8 own. I did not receive any logs after that.

9 Q. So in 20 -- after February of 2012, all of
10 2013, all of 2014 except for a sporadic complaint once
11 in a while from the ladies who worked with Judge Tidd in
12 his Hellertown office, district judge office, you had
13 heard no complaints during those years?

14 A. From the staff?

15 Q. From the staff, from --

16 A. Like I said, I would occasionally -- I would
17 use the word occasionally hear something.

18 Q. Occasionally?

19 A. Yes.

20 Q. Maybe five, six times?

21 A. I wouldn't say weekly. I wouldn't say daily.

22 Q. So there were -- over a period of three
23 years, '12, '13, '14, you heard just an occasional
24 complaint, that's it?

25 A. And I would ask them -- remind them that if

1 they wanted something addressed it would have to be in
2 writing, so if it wasn't in writing -- they would
3 determine the severity of it whether it was put in
4 writing or not, and it wasn't put in writing. So, no, I
5 did not -- I did not bring it to Judge Tidd's attention.

6 Q. And there was no policy in Northampton County
7 about matters being resolved at the counter that didn't
8 require trial testimony or swearing in. There's no such
9 policy even in your orientation sheet, is there?

10 A. No, there is not.

11 Q. And, in fact, judges do resolve things at
12 counters if there's agreements, you're aware of that
13 from supervising a lot of judges for --

14 A. I mean, resolving, I guess I would need a
15 specific whether to answer yes or no. Can someone come
16 in and plead guilty at the counter and the judge accepts
17 his guilty plea, sure, that happens.

18 Q. That happens all the time in Northampton
19 County?

20 A. It's not a trial. It's not a court
21 proceeding. It's the entering of a guilty plea.

22 Q. And, similarly, if there is a civil case
23 there and the person doesn't show up, the defendant,
24 default judgments are just entered and usually done the
25 paperwork at the counter by the judge?

1 A. I would agree with that, too, yes.

2 Q. And similarly on preliminary hearings, if the
3 defendant appears and decides they don't want a
4 preliminary hearing for whatever reason, they want to
5 waive it, that's oftentimes done in Northampton County
6 at the counter. Am I correct, if you know?

7 A. I would think it would be done in the
8 courtroom.

9 Q. If it was agreed upon, no trial, no
10 testimony, nothing, we don't want a hearing?

11 A. Well, I would think the judge would make sure
12 that the defendant understood what he was giving up, and
13 I think the proper place to do that would be in the
14 courtroom.

15 Q. There's nothing in your notes that say that
16 as long as the judge tells the person?

17 A. No. You're asking me my opinion, and that's
18 what I'm telling you.

19 Q. I'm asking you what you told them.

20 A. I don't address that. That's not anything
21 that they would -- or was ever asked of me.

22 Q. And you never told Judge Tidd in all the
23 years that he was there that at least for waivers of
24 preliminary hearings I prefer you do it in the
25 courtroom?

1 A. Well, it never came up.

2 Q. Because the secretaries didn't complain to
3 you, and you weren't aware of any problems, right?

4 A. We were aware that he was conducting court
5 proceedings at the counter. There were no real
6 specifics what case numbers and specific cases brought
7 to our attention.

8 Q. Now, in terms of election day activities, you
9 were aware that Judge Tidd did have a replacement judge,
10 Judge Barner, for May 19. Am I correct?

11 A. I'm not -- not to my knowledge. I don't --

12 Q. Well, the way it works in Northampton County
13 is a judge has to get his own replacement if he wants to
14 take off?

15 A. Right.

16 Q. And sometimes that's difficult unless you get
17 one of your colleagues to give up a day to come in for
18 you. Am I right?

19 A. Well, they don't come in. They just handle
20 emergencies at their own court. They don't actually go
21 to that other court. They don't handle anything that's
22 scheduled. They just handle an emergency.

23 Q. So you wouldn't know then if another judge
24 was scheduled unless the judge agreed unless someone was
25 called over to their courtroom. In other words, on

1 May 19 --

2 A. The policy is they should send -- if they're
3 getting another judge to cover for them, they should
4 send something to me in writing so we can do a court
5 order giving that judge the authority to cover emergency
6 matters for that judge.

7 Q. I understand that, but that's often honored
8 in the breach, people line up a judge, and then you find
9 out when a case is called over there because the judge
10 has agreed to handle it. Am I right, that's the way it
11 often works in Northampton County?

12 A. In order to do a court order, I need
13 something in writing. Does it come in the day of
14 sometimes, the day after, sure.

15 Q. And then you get Judge Baratta and the old
16 days Judge McFadden and they would sign an order
17 retroactively approving that judge?

18 A. Well, they've given me the authority to use
19 their rubber stamp on those matters.

20 Q. So former Judge Tidd did have this judge
21 lined up, you may or may not have known about it on
22 May 19th, but nothing arose. Am I correct?

23 A. Well, policy should be even if nothing arose
24 we should know if another job is covering for which
25 judge. You know, that's what we go over at orientation.

1 That's what I tell them, if someone is covering for
2 you -- a lot of times maybe a judge doesn't tell me
3 because they don't want it to be looked like they're not
4 in their office.

5 Q. Now, in your orientations for these clerks
6 are they told --

7 A. For the clerks? I don't do an orientation
8 for the clerks.

9 Q. You don't do any training for the people that
10 work within the judicial office?

11 A. They have their state computer system, and
12 they go to the state AOPC for a three-day training
13 session, and then the training is either done by the
14 floater or -- that would go into that office and help
15 train that person or by -- mostly by the people that are
16 in the court do the training.

17 Q. Was there any policy that you have published
18 for the clerks that says about confidentiality of
19 records and procedures which they, the clerks, have to
20 maintain? Is that ever told to the clerks?

21 A. I believe it's discussed during the job
22 interview. Now that I'm -- now that court admin is
23 interviewing them, we stress about confidentiality and
24 how important that is.

25 Q. If a judge is running for office and their

1 opponent is calling his employees to get information
2 about how the office is run, are the policy -- would the
3 policy that you have in Northampton County are those
4 persons supposed to respond, or should they not respond
5 to those requests?

6 A. Well, there is the Right to Know Act and
7 public information. It would depend upon the actual
8 information that they were looking for.

9 Q. Right to Know Act is written documents,
10 everything else. We're all familiar with that,
11 litigated too many of them in my life. I'm talking
12 about someone calls, I'm running against Judge Tidd,
13 Ms. Anthony, tell me about how the office is run, tell
14 me what he's doing, tell me what he's not, your clerks
15 would be told not to respond to that. Am I right?

16 A. You mean like a day-to-day --

17 Q. Yes.

18 A. If somebody would call and ask me should I
19 tell a political opponent of my judge what they're
20 doing --

21 Q. You would say no, right?

22 A. I would say no, yes.

23 Q. But more importantly you would say, tell the
24 judge. Whether they told him or not, that's something
25 they owe a duty of loyalty to their judicial officer.

1 Whether they hate him or like him, they owe a duty to at
2 least inform him, hey, your opponent just called the
3 other day or your opponent just called me twice.

4 MS. FLAHERTY: Objection. Mr. Stretton
5 is arguing within the context of his cross-examination.

6 JUDGE BARTON: Overruled. I'm not
7 hearing it as argument. Although since we've taken a
8 pause here, I'm mindful of the time and don't want to
9 end in the middle of a significant inquiry, so I'm
10 wondering whether now might be the time.

11 MR. STRETTON: This is fine.

12 JUDGE BARTON: We will be in recess. The
13 Court will issue a further order scheduling this
14 proceeding to resume consistent with our previous
15 discussions. Thank you.

16 (The proceedings adjourned at 3:38 p.m.)

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CERTIFICATION

I hereby certify that the proceedings and evidence are contained fully and accurately in. The notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

Dated in York, Pennsylvania this 3rd day of February, 2017.

Bethann M. Mulay, Notary Public
Registered Professional Reporter

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